

FILED  
Court of Appeals  
Division II  
State of Washington  
(No. 51560-1-II consolidated)

7/5/2018 2:02 PM  
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

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STATE OF WASHINGTON,

Respondent,

v.

Anthony Dewayne Parker,

Appellant.

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*In re the Personal Restraint of*

ANTHONY DEWAYNE PARKER,

Petitioner.

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Superior Court No. 13-1-00597-1

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BRIEF OF RESPONDENT

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TINA R. ROBINSON  
Prosecuting Attorney

RANDALL A. SUTTON  
Deputy Prosecuting Attorney

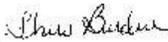
614 Division Street  
Port Orchard, WA 98366  
(360) 328-1577

SERVICE

**Lise Ellner**  
Po Box 2711  
Vashon, Wa 98070-2711  
Email: [liseellnerlaw@comcast.net](mailto:liseellnerlaw@comcast.net)

**Anthony Parker**  
#776122 Stafford Creek Corr. Ctr  
191 Constantine Way  
Aberdeen WA 98520

This brief was served, as stated below, via U.S. Mail or the recognized system of interoffice communications, *or, if an email address appears to the left, electronically*. I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED July 5, 2018, Port Orchard, WA   
**Original e-filed at the Court of Appeals; Copy to counsel listed at left.**  
**Office ID #91103 kcpa@co.kitsap.wa.us**

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**I. COUNTERSTATEMENT OF THE ISSUES**  
**REFERENCE HEARING APPEAL**

1. Whether the trial court properly concluded that Parker lacked standing to contest the seizures of the phones?

2. Whether contrary to Parker's claims, the warrants, which extensively described the investigation police had conducted of Parker's activities for months before the phones were seized, were not lacking in specificity or particularity?

3. Whether, even if Parker had standing, his claims are without merit because the phones were lawfully seized and searched?

4. Whether even if the handful of texts on the phone were suppressed, Parker fails to show it would have changed the outcome of trial?

**SECOND PRP**

1. Whether Parker fails to meet the elements of the automatic standing doctrine?

2. Whether Parker fails to show his Fourth Amendment rights were infringed?

3. Whether, even assuming there were an illegal seizure, and assuming Parker had standing to raise it, Parker fails to show the evidence

would not have been admissible under the independent source doctrine?

4. Whether contrary to Parker's claims, the warrants, which extensively described the investigation police had conducted of Parker's activities for months before the phones were seized, were not lacking in specificity or particularity?

## **II. NOTE ON RECORD REFERENCES**

Citations to the clerk's papers from Parker's direct appeal are indicated as "1CP" and those designated in the current proceeding as "2CP." The reports of proceedings from both cases are referred to by date, except for the trial transcripts, which are referenced by volume number.

## **III. STATEMENT OF THE CASE**

### **A. INTRODUCTION**

Currently before the court is an appeal from a reference hearing that the Court has consolidated with a personal restraint petition (the "second PRP"). The defendant originally appealed his judgment and sentence to the Court of Appeals. That appeal was consolidated with a personal restraint petition (the "first PRP") under Court of Appeals No. 73667-1-I ("*Parker I*").<sup>1</sup> The Court affirmed on the appeal issues, but remanded one PRP claim to the Kitsap County Superior Court for a

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<sup>1</sup> Originally opened as Nos. 45811-0-II & 46507-8-II, the direct appeal and PRP were first consolidated and then transferred to Division I for decision.

reference hearing pursuant to RAP 16.12.

In his first PRP, *see* 2CP 67-70, Parker asserted that the State illegally searched and seized Johanna Holliday's cell phones. 2CP 46. The Court ordered a reference hearing on that contention in light of *State v. Hinton*, 179 Wn.2d 862, 319 P.3d 9 (2014). *Id.* The superior court was charged with making findings of fact, as follows:

The superior court's findings of fact should include, without limitation:

1. A specification of all evidence on J.H.'s cell phones to which Parker's asserted privacy interest extended;
2. Whether such evidence was admitted at trial; and
3. If not admitted, whether such evidence led to other evidence that was admitted at trial.
4. A specification of what evidence admitted at trial, independent of that listed in paragraphs 1 to 3, supported Parker's convictions.

2CP 47.

After an evidentiary hearing, the superior court entered findings of fact on January 30, 2017. On March 31, 2017, after reviewing the findings, this Court remanded for the superior court to decide the issue:

[T]he superior court shall make its determination on the merits of Parker's claim that there was an illegal search and seizure of the cell phone of another that underlies his claim for relief. Pursuant to RAP 16.12 and the other Rules of Appellate Procedure, the court shall make its findings and conclusions with respect to that claim. In sum, the superior court shall make a full determination on the merits of this claim based on this revised instruction.

*Parker I*, Order on State’s Motion to Supplement Record, at 2 (Mar. 31, 2017).<sup>2</sup>

**B. CHARGES**

Anthony Dewayne Parker was charged by information filed in Kitsap County Superior Court with the following offenses

	OFFENSE CHARGED	AGGRAVATING CIRCUMSTANCE(S)	OTHER SPECIAL ALLEGATION(S)
I	First-degree human trafficking	Deliberate cruelty	Domestic violence; Armed with a firearm
II	First-degree promoting prostitution	Deliberate cruelty	Domestic violence; Armed with a firearm
III	Second-degree assault	Domestic violence	Domestic violence
IV	First-degree burglary	--	--
V	Second-degree assault	Domestic violence	Domestic violence
VI	First-degree kidnapping	Domestic violence	Domestic violence
VII	Second-degree assault	Domestic violence Deliberate cruelty	Domestic violence
VIII	Second-degree assault	Domestic violence Deliberate cruelty	Domestic violence; Armed with a firearm
IX	Fourth-degree assault	--	Domestic violence
X	First-degree unlawful possession of a firearm	Multiple current offenses	--
XI	Witness Tampering	--	--

1CP 252-64. Parker was found guilty by a jury of all charges and special allegations. 1CP 465-76.

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<sup>2</sup> This order is attached as Appendix 1 to the second PRP.

### **C. EVIDENCE INTRODUCED AT TRIAL**

Johanna Holliday grew up on Bainbridge Island. 5RP 446. In November of 2012, she was struggling with addiction. 5RP 446. She lost her job, got kicked out of her house, and ended up in Kitsap County Jail. 5RP 446. She was addicted to opiates, mainly heroin and Percocet. 5RP 447.

She could not make bail, and had a pending charge in King County as well. 5RP 447. She wanted to get out, and was talking to other people in jail about how she could get out and how she could make money to survive. 5RP 447. One of those people was Llamas, who went by the nicknames Angie and Crazy. Llamas lived in the same pod, and they spent a lot of time together. 5RP 447. Llamas first suggested that she could stay with Parker if she paid a little rent and took care of his laundry and cooking. 5RP 448. Llamas offered to ask Parker to bail Holliday out. 5RP 449. Llamas called Parker and told him Holliday could be “a good asset” and that she would be worth bailing out. 5RP 449. Holliday was unsure who paid the bail, but she was bailed out on December 6, 2012. 5RP 451.

She was bailed out around 1:00 a.m. and was supposed to call Parker. 5RP 451. She tried, but he did not answer his phone, so despite the cold wet weather, she began walking from Port Orchard to Parker’s house in Bremerton. 5RP 451, 453. All she had when she was released was the

clothes on her back, \$20 in cash and a dead cell phone. 5RP 451. All of her other possessions were in her car, which was impounded when she was arrested. 5RP 452. She met Parker for the first time that day. 5RP 452.

When she arrived at Parker's house, no one was there. 5RP 453. She went to a friend who lived nearby and called another friend who picked her up and stayed with her until she could get ahold of Parker. 5RP 453. Parker finally came and picked her up between 6:00 and 7:00 a.m. at the Walmart in Poulsbo. 5RP 453-54. He bought her some basic hygiene items and told her he had some clothes at the house she could wear. 5RP 454. Then they went to his house. 5RP 454.

Parker's house consisted of a kitchen, living room, two bedrooms and a single bathroom. 5RP 455-56. Romond, who went by the name Ahmad, lived in the second bedroom. 5RP 454. Downstairs was a basement with two more bedrooms and a living area which were not in use. 5RP 455. It was full of junk and the bathroom did not work. 5RP 455. There was also an outside door that led into the basement. 5RP 455. The house belonged to Llamas's family. 5RP 457.

Parker repeated what he had told her when she was in jail: he wanted to spend a week or so getting to know her so they could bond. 5RP 454. So the first day they just got to know each other and later went to a bar and had a few drinks. 5RP 456. Before they went out, Parker told her

that he did not want his friends to know her real name, so she should go by Baby Doll. 5RP 456. Parker's nickname was Baby Deuce. 5RP 457.

Although Llamas had told Holliday no one was to go into her room, Parker told her she could sleep there. 5RP 456. Holliday went to bed. 5RP 456. Later, Parker joined her and they had sex. 5RP 456. The rest of the week was pretty low key. 5RP 457.

When Holliday first bailed out, she did not really want to work as a prostitute. However, she was unable to find other work, and began to talk to Parker about it. 5RP 457. Parker told her she could make a lot of money and that they could have a good life together. 5RP 458. He told her he could give her what she needed: money, cars, clothes. 5RP 458.

She enjoyed herself the first few weeks with Parker. 5RP 462. It was good friendship or relationship. 462. She did not have any limitations, he let her use one of his cars, and he bought her things. 5RP 462. They spent a lot of time together and he took her out with his friends. 5RP 462. She came to care about him. 462. That lasted for about a month to a month and a half. 5RP 462.

Holliday started working as a prostitute about a week or two after she was released. 5RP 458. Parker sent pictures of Holliday to a friend who posted an ad on an internet site called Backpage. 458-59. It cost \$5.95 to post the ad. 5RP 459.

The ad had a phone number. 5RP 463. People would call or text her to set up a time to meet. 5RP 463. The price was usually already set up. 5RP 463. If Parker suspected she was not answering all her calls, he would switch the number in the ad to his, and set them up for her. 5RP 463.

In the beginning, her rate was \$250 per hour or \$150 for a half hour. 5RP 464. Over time the price came down because there were not enough people willing to pay that much. 5RP 464. Eventually people were paying \$50 for a few minutes. 5RP 464. The highest she received was \$800 or \$900. 5RP 464. She gave the money to Parker afterwards. 5RP 465.

She usually just performed oral sex and massage, with her being naked. 5RP 464. A handful just wanted to get high and hang out, but mostly it involved sex. 5RP 465.

Her first call was at a hotel in Silverdale with a visiting businessman. 5RP 466. Parker drove her. 5RP 466. She received \$300 and gave the money to Parker. 5RP 466. In the beginning she did not work very often. 5RP 466. She was nervous and tried to avoid it. 5RP 466. Eventually she became more comfortable. 5RP 466.

In the beginning Parker had no issue with how many calls she took. 5RP 467. After about a month, he told her she needed to work more

frequently and that it would pay off in the end. 5RP 467. It got to the point where he started offering her incentives. 5RP 467. He would tell her if she worked every day until the end of the month, he would buy her a car, and then she could have a break. 5RP 467. It never really happened, though. 5RP 467.

In the beginning she had told him that she did not want to work every day, that she wanted to be able to take breaks and see friends or rest. 5RP 467. Parker agreed, telling her that it was up to her to schedule. 5RP 467. Within two to four weeks, however, he told her she needed to work every day until they got a car or saved \$5000. 5RP 467.

She would take up to eight calls a day. 5RP 468. She took most of the calls in her bedroom. 5RP 468. Sometimes she would meet the tricks at their hotel rooms. 5RP 469. In the beginning she was making between \$500 and \$1000 a day. 5RP 468. Sometimes he would let her take just one call and then take the rest of the day off and spend time together. 5RP 468. Other times, however, he just left her at the house and told her not to leave. 5RP 468.

Their relationship began to change in January. 5RP 469. In the beginning she had a lot of privileges and he would treat her fairly. 5RP 469. He told her that when she “pushed his buttons” if she were any other “she would have had [her] ass beat by then.” 5RP 469. Some of the things

that pushed his buttons were showing up late, or telling little lies, or buying pills from his friends, which she was supposed to do through Parker. 5RP 470. He also did not want her having contact with his friends. 5RP 470.

Her drug use increased. She had access to pills through Parker, and began using more than before. 5RP 470. On occasion he would make her do tricks when she was withdrawing before he would give her the pills. 5RP 470. He also controlled how much she could have. 5RP 470.

She only left the house with Parker's permission. 5RP 471. He would ask where she wanted to go, and sometimes told her no. 5RP 471. Even if she went with a friend, he would call her after a while and tell her she needed to come home. 5RP 471.

In the beginning, when Parker had friends over, she would hang out with them. 5RP 471. At one point in January, she was talking to one of his friends and Parker became angry. 5RP 471. He told her not to talk to any of his friends anymore. 5RP 471. After that she had to stay in her room with the door locked when they came over. 5RP 471.

She gave all her money to Parker. 5RP 472. If she wanted to spend any of it, she had to steal it from him. 5RP 472. His money was mostly earned by Holliday. 5RP 472. If he caught her spending it he would berate her and call her a dope fiend. 5RP 479.

Holliday was responsible for cleaning the house. 5RP 480. Sometimes she was in withdrawal and could not physically do it. 5RP 480. He would verbally abuse her, call her a “raggedy-ass ho,” dope fiend, worthless, etc. 5RP 480.

Parker told her she was the closest thing to him, and that she was the one thing that could hurt him. 5RP 481. He told her to never have contact with the police. 5RP 481. If she was arrested he told her to say nothing and he would bail her out. 5RP 481.

She was considered Parker’s “bottom bitch” – the prostitute who had the most authority in his group. 5RP 481. It made her feel special. 5RP 481. Parker had her talk to other girls about working for him, girls they met in the bar, or that Llamas sent. 5RP 482.

In late December and early January, Holliday had court hearings in King County. 5RP 482. She knew Anthony Flewellen through Parker. 5RP 482-83. Flewellen’s nickname was Blacc Jacket. 5RP 483. After one of the hearings, Flewellen texted her and offered to pick her up. 5RP 484. One of her tricks, John, had driven her to court and she had him drop her off in Federal Way. 5RP 484, 490. She told the trick to not say anything to Parker. 5RP 485. The trick told her she should not go because it would end up bad. 5RP 485. She went anyway and waited at Wal-Mart for Flewellen to pick her up. 5RP 485.

They went to Flewellen's girlfriend Jennifer's house in Renton. 5RP 485. While she was gone, Parker called and texted her, but she did not answer or respond to the texts. 5RP 485. The next morning her phone was off because the bill had not been paid. 5RP 485. Flewellen and Jennifer did not want her to tell Parker she was with them, and would not let her use their phones. 5RP 485. Later in the evening, Flewellen told Parker she was with them. 5RP 485. Holliday returned to Parker's house the next day. 5RP 485.

Holliday asked Flewellen to go inside with her when she got there. 5RP 486. She wanted him to talk to Parker and give him the money she made. 5RP 486. When they arrived around midnight, there were several people at the house and Parker was in their bedroom. 5RP 486.

There were other people in the bedroom. 5RP 486. Flewellen went into the bedroom and Holliday stood behind him. 5RP 486. They talked and Parker told Flewellen it was OK. 5RP 487. Parker asked everyone to leave the room so he could talk to Holliday. 5RP 487. He locked the door and stood in front of it so she could not leave. 5RP 487.

Parker began yelling and hitting her. 5RP 487. She put up her hands to protect herself. 5RP 487. He told her to put her hands down and take it because she deserved it. 5RP 487. He told her she had screwed up and was being shady and disloyal. 5RP 487. He hit her mainly in the head

and face but also in her chest and legs. 5RP 487. She kept telling him she was sorry and begged him to stop hitting her. 5RP 488. It went on for about 10 minutes. 5RP 487. Then he told her to go clean herself up and to go back to the bedroom when she was done and lock the door. 5RP 488.

Afterwards he told her that their relationship should be strictly business. 5RP 489. He told her he did not trust her and did not care about her anymore. 5RP 489. He stopped taking her out of the house or doing anything with her. 5RP 489. She just stayed in the house and took calls. 5RP 489. He also told her not to have any contact with Flewellen or any of his other friends. 5RP 489.

Parker struck Holliday again within about a week. 5RP 490. She was supposed to go to a funeral with Parker, but had been up all night and decided not to go. 5RP 490. She was in withdrawal and Parker told her Flewellen would bring her a pill. 5RP 490. She questioned why in light of Parker's previous instruction not to have contact with Flewellen. 5RP 490. Parker then told her that it was all right if she remained friends with Flewellen. 5RP 490.

After Parker left for the funeral, she called Flewellen, and asked him to drive her to a few calls so she could earn some money for drugs. 5RP 491. After she got a pill they went to Flewellen's house in Bremerton. 5RP 491, 493. Her phone ran out of minutes, so she called

Parker from Flewellen's phone and told him she was calling from the 7-Eleven where she was buying a card for her phone. 5RP 491. Parker was already back in Bremerton, and told her to get out of the car and walk home immediately. 5RP 491. Then Parker said he would come get her at the 7-Eleven and she said she was already on the way and hung up. 5RP 491.

Flewellen had already left his house by then. Before he left, Holliday told him that she did not want to stay with Parker because of the way he was treating her. 5RP 492. Flewellen said she could stay with him. 5RP 492. She said she did not want to stay that day because all her belongings were in Parker's house, and she was afraid of what he would do with them. 5RP 492. Flewellen told her she needed to "choose up." She did not make a decision, so Flewellen left and went to Seattle. 5RP 492. She was there at Flewellen's house with Jennifer Prerost and Prerost's eight-year-old daughter. 5RP 492-93. Prerost had worked for Parker in the past. 5RP 492.

Parker figured out that she was at Flewellen's apartment and showed up and banged on the door. 5RP 493. They did not answer the door or say anything and he kept banging and yelled that he knew she was in there. 5RP 493. He told Prerost that was not going to hurt her and that she better let him in. 5RP 494. Holliday went into Flewellen's bedroom

and locked the door, and Prerost let Parker into the apartment. 5RP 494.

Parker broke the bedroom door down. 5RP 494. Holliday was on the floor behind the door and Parker yelled at her to get up. 5RP 495. She was crying and apologizing and begging him not to. 5RP 495. Parker grabbed her by her hair and threw her against the wall. 5RP 496. Holliday wet herself. 5RP 496. Then he smashed her head against the wall several times. 5RP 496. She was on the floor again and he kept hitting her and telling her to get up. 5RP 496. He told her to get out, so she got up and began walking out of the house. 5RP 496. She kept telling him she was sorry and begging him to stop hitting her. 5RP 496. She told him her purse was in the bedroom closet, and he responded that it did not matter, he would get it later. 5RP 497. He told her to get in the car. 5RP 497. There was a woman in the front, so she got in the back. 5RP 497.

When they dropped the woman off, Parker told her to get in the front seat. 5RP 498. She did not want to because she was afraid he would hurt her again. 5RP 499. As soon as she put her seatbelt on, he started hitting her again and banged her head against the side window. 5RP 499.

Parker told her that he was taking her to his “cousin’s” house. 5RP 499, 523. He told her that his friends would do whatever he told them, that they would rape her or kill her if he asked. 5RP 499. She was afraid. 5RP 500. When they got to the house, he hit her and made her bleed. 5RP 500.

He apologized and got her a napkin. 5RP 501. Shortly after that he started hitting her again. 5RP 501. He repeated the sequence of being nice and then hitting her several times. 5RP 501.

Parker went into the house and told Holliday to wait in the car. 5RP 501. Parker came back out and told her to come inside. 5RP 502. She said she did not want to because she had wet herself and was embarrassed. 5RP 502. He told her to put on his jacket and they went in. 5RP 502. She had bruises on her face blood dripping from a cut on her eye. 5RP 502. They walked in and Parker told her to clean her “raggedy ass” up in the bathroom. 5RP 502. She went into the bathroom to wash, but he would not let her close the door. 5RP 502. They did not stay long, Parker just said he wanted to tell his friends how awful she was. 5RP 503. Then he took her home. 5RP 503. She thought about running but was afraid of what would happen if he caught her. 5RP 504.

When they got home she changed her pants and lay down on the bed. 5RP 504. He told her she could not sleep because he was not done with her. 5RP 504. He made her sit on the couch while he periodically berated her and hit her some more. 5RP 504-05. He made her stay up all night while he played X-box and watched movies. 5RP 505. When she fell asleep he would wake her up. 5RP 505. She did not sleep until Parker fell asleep. 5RP 508.

Parker had a gun. 5RP 506. He kept it under his mattress or in the piano in the hallway. 5RP 506. At one point during that night he went and got the gun. 5RP 506. He put it to Holliday's head and asked her if she wanted to die. 5RP 507. He yelled that she needed to look at the gun while he was pointing it at her. 5RP 507. He struck her with the gun or another object several times, leaving large bumps on her head. 5RP 507.

The next day, he woke her up and told her she needed to go make some money. 5RP 509. She was weak with withdrawal and the injuries and did not fight with him about it. 5RP 509. She did several calls that day. 5RP 510.

During the following week he hit her every day. 5RP 511. On one occasion she bought a pill from one of his friends, who she was not supposed to contact, and Parker found out. 5RP 511. He pushed her down on the bed and began whipping her across the face with a wire hanger. 5RP 512.

Holliday also feared Parker because he told her he was well-placed in a gang, and they would do what he asked, including killing people. 6RP 522. He told her there was nowhere she could go where he would not find her. 6RP 526. After a while she did not even think about leaving because it did not seem like an option. 6RP 527.

Eventually they moved from Llamas's house to a garage apartment

that she was told belonged to Parker's mother. 6RP 528.

When he was in custody, Parker told Holliday that she needed to take his gun out from under the bed and put it in a bag in the garage. 6RP 531.

On April 4, 2014, Holliday and another girl went to buy some pills and got pulled over by the police. 6RP 532, 8RP 893. Detective Heffernan took her aside and talked to her. 6RP 532. He did not arrest her, but wanted information about Parker. 6RP 532. She said she was not comfortable talking about Parker. 6RP 532. Heffernan told her he would let her go if she agreed to talk to him the next day, and let him have the pills she had bought and her cell phone. 6RP 532. She turned over the phone and pills, but did not show up for the meeting. 6RP 532, 534. This phone was the ZTE, admitted as Trial Exhibit 12.

When Parker got out of jail, she told him what had happened. 6RP 535. After that, Parker became very "off and on." 6RP 536. He would tell her she was useless and tell her to leave. 6RP 536. He would push her out the front door without her shoes or purse and lock it. 6RP 536. The physical abuse continued as well. 6RP 537-38.

Finally, on April 12, she posted an ad so she could earn some money, which she hoped would placate Parker. 6RP 538. She called a cabbie she regularly used to go to the old house for the call. 6RP 540.

Parker thought she was talking to someone else and became enraged and beat her. 6RP 540. Then he made her go the store with him. 6RP 541. There she told him she needed to get to the house because her call was coming. 6RP 541. He let her go, and she called a friend to come and pick her up. 6RP 541.

Her friend took her to the Oyster Bay Inn where there was a room her friend said she could stay in until she figured out what she would do. 6RP 542. She set up some calls so she would have some money. 6RP 542. The first call ended up being a detective. 6RP 542. They arrested her and took her to jail for prostitution and for the drugs from the previous stop. 6RP 543. She subsequently entered a diversion agreement for the charges. 6RP 543. At the time she was arrested, she was using her old phone. 6RP 544. That was seized when she was arrested. 6RP 544. This phone, a Motorola, was admitted as Trial Exhibit 14.

Jennifer Prerost verified the incident where Parker attacked Holliday at Flewellen's house. 7RP 676-79, 687-88. Flewellen's landlord and her handyman verified that the door had been kicked in. 7RP 737, 8RP 775.

Afterward Prerost lived with Parker and Holliday for about a month. 7RP 681. Parker kept a gun in the house. 7RP 684. He kept it in case there was any trouble so he could protect them. 7RP 684.

Holliday was pretty naïve when Prerost first met her. 7RP 686. “She didn’t know anything about nothing” when it came to prostitution. 7RP 686.

Parker came to attention of the Bremerton police when they were investigating one of his associates. 8RP 886. They learned he had a prostitute living with him and they attempted to identify her. 8RP 886. They found her in a Backpage ad. 8RP 886. They also listened to the jail calls between Parker and Llamas. 8RP 886. They ultimately identified the prostitute as Holliday. 8RP 886.

On April 4, 2013, Detective Rodney Rauback observed Holliday in an apparent drug deal. 8RP 811-12, 893, 898-99. Holliday was a target because she was associated with Parker. 8RP 793. Rauback and Detective Ryan Heffernan contacted her. 8RP 812. They detained her and Heffernan questioned her. 8RP 813. They recovered a pill and her cell phone from her. 8RP 813. They did not arrest her because they were seeking her cooperation. 8RP 814. She did not meet with Heffernan the next day as she agreed. 8RP 890.

The police subsequently saw a Backpage ad for Holliday. 8RP 781. Sergeant Randy Plumb Plum contacted her, posing as a John and set up an appointment. 8RP 783. He met her at the Oyster Bay Inn. 8RP 784. Detectives Rauback and Heffernan went to the meeting with him. 8RP

784. She invited him into the room, and after he checked to be sure no one else was there, Plumb opened the door and the detectives came in. 8RP 784. Heffernan took her phone. 8RP 785. They arrested her. 8RP 785. After she was arrested at the Oyster Bay Inn, Heffernan and Rauback interviewed Holliday. 8RP 815. Holliday had bruises on her arms and legs and was very afraid of talking to them about Parker. 8RP 816, 838.

Police then obtained a warrant to search Parker's residence. 8RP 785. Parker refused to come out, so they called the SWAT team because they had information that he had a firearm. 8RP 786-87. Parker was ultimately arrested and the home was searched. 8RP 787. They located a gun in a bag downstairs in the garage area. 8RP 788. The gun had four rounds with it. 8RP 837. The gun was tested and found to be operable. 8RP 873.

The police also located significant evidence tying Parker to the activities in question on his Facebook and Backpage accounts. 8RP 914-15. On his phone they found instructions for managing a Backpage ad as well as a deleted email from a John. 8RP 917.

There was reference in one of the jail calls to the incident at Flewellen's house around January 23. 8RP 919. In another jail call, Parker asked Holliday to move his gun on April 3, 2013. 8RP 920. The jury heard recordings of 31 separate calls between Parker, Llamas, Holliday and

others. See 8RP 939-43, 9RP 949, 951-81, 987-988 and 1CP 122, generally. content 8RP 939-43, 9RP 951-81, 987-988.

John Buckner was originally listed as a defense witness. 10RP 1071. He met Holliday as a customer through Backpage. 10RP 1071. He was the one who drove Holliday to the Kent court date and to her meeting with Flewellen. 10RP 1072. Buckner saw Holliday three days later, which she attributed to a fight with a girl. 10RP 1075.

He met Parker about a week later. 10RP 1073. Holliday needed a ride to Bainbridge. 10RP 1073. After that he gave them both rides a couple times a week. 10RP 1074.

Later, after Parker was released from jail Buckner mentioned that Holliday owed him \$150. 10RP 1075. Parker became angry and pushed her to the floor. 10RP 1074.

Shortly before trial, Parker began sending Buckner letters. 10RP 1076-77. During trial Parker called Buckner about his testimony. 10RP 1077. One letter gave questions and answers for him to testify to. 10RP 1086.

Parker also called their roommate Ahmad Watson from jail and suggested he testify similarly about Holliday having gotten the gun. 10RP 1116.

**D. EVIDENCE ADDUCED AT EVIDENTIARY HEARING**

The superior made the following findings of fact after the reference hearing:

**I.**

That the Court of Appeals has instructed this Court to find the following facts:

1. A specification of all evidence on J.H.'s cell phones to which Parker's asserted privacy interest extended;
2. Whether such evidence was admitted at trial; and
3. If not admitted, whether such evidence led to other evidence that was admitted at trial.
4. A specification of what evidence admitted at trial, independent of that listed in paragraphs 1 to 3, supported Parker's convictions.

**II.**

That the messages to which Parker asserts a privacy interest and that were recovered from Holliday's phone and Motorola phone were admitted at trial as Exhibits 11 and 13, respectively.

**III.**

That with regard to the second specification, the above noted texts, along with texts sent by Holliday to Parker and others, and incoming texts from other individuals were admitted at trial as Exhibits 11 and 13. Additionally, Exhibit 13 also includes a photo of Holliday and a photo of a man.

**IV.**

That with regard to the third specification, it does not appear that any further evidence was obtained as a result of the information obtained from Holliday's phone.

**V.**

That with regard to the fourth specification, as noted above, only Exhibits 11 and 13 contained

information derived from Holliday's cell phones. Parker asserts that Exhibits 15, 17, and 19, also contained information that contributed to the verdict. The testimony of record and the other exhibits admitted at trial also supported Parker's conviction.

VI.

That the Court of Appeals has indicated that that the foregoing are not the exclusive findings that this Court may make, and the Court therefore also makes the following findings as may be helpful to the issues before the Court of Appeals.

VIII.<sup>3</sup>

That the police obtained Holliday's phone on April 4, 2013 and verified that it belonged to her by calling the number; the police subsequently obtained warrants. There is no evidence in the record that the police searched the phone before obtaining a warrant.

IX.

That the parties stipulated the admission of reference hearing Exhibits 1-3, 3a, 3b, and 4-7.

X.

That at the request of Parker, the Court adopts findings 1 through 13 proposed in Parker's Supplemental Memorandum on Reference Hearing--Proposed Facts for Reference Hearing, filed on November 7, 2016. The State did not oppose this adoption with the understanding that the adoption of these facts does constitute a rejection of any fact appearing in the trial testimony or exhibits or the exhibits admitted at the reference hearing.

2CP 246-48. Parker's proposed findings 1-13 read as follows:<sup>4</sup>

1. On April 4, 2013, at approximately 1900 hours, Detective Rauback observed two females, Johanna Holliday and Alisa Crettol, meeting with Travier

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<sup>3</sup> The Court struck Finding VII from the State's proposed findings on entry.

<sup>4</sup> Technically, there are 14 findings since Parker's proposal contained two findings numbered "5." *See* 2CP 242.

Stevenson (aka Little Jaccet), a male they reported sold Percocet.

See Appendix #1 -April 8, 2013 *Complaint for Search Warrant For Fruits/Instrumentalities And/Or Evidence Of Crime*, p.6.

2. After making his observations Detective Rauback followed Ms. Crettol away from the area, coordinated with patrol officers to stop the blue Ford Escort Crettol was driving, and appeared at 16th and Warren Ave. where the Escort was stopped. *Id.*
3. Detective Ryan Heffernan, the author of the April 8th *Complaint for Warrant*, responded to the location of the stop and stood by while Holliday and Crettol were placed into a patrol vehicle. Detective Heffernan explained that he was investigating a possible drug transaction that had just occurred “as well as other crimes related to prostitution.” *Id.* at 6.
4. Detective Heffernan asked Holliday how many pills she had gotten from Stevenson. Holliday told the Detective that she had gotten one Percocet pill from Stevenson. Detective Heffernan asked Holliday where she had put the pill. Holliday responded that the pill was inside of her purse, which was sitting on the passenger seat of the vehicle. Detective Heffernan went to the vehicle and withdrew the purse as well as a cell phone from the passenger seat. *Id.* at 7.
5. Detective Heffernan showed Holliday the phone located on the passenger seat and asked her whether it was her phone. She admitted it was her phone, and identified the number as (360) 908-2471. The Detective called the number, confirmed the same, and further kept the phone. *Id.* at 7.
5. Detective Heffernan also indicated that he would keep Ms. Holliday’s phone until she consented to seizure and examination of the phone, otherwise he would get a warrant. *Id.*
6. “Because Holliday was cooperative throughout the interview and agreed to meet with detectives the following day to make a recorded statement regarding

her criminal activities, she was released from custody.” *Id.* at 7. She was not arrested for drugs. See RP 812-14, 890, 1012.

7. The April 23rd affidavit in support of search warrant states as follows: “on 4/4/13, detectives observed Holliday participate in a drug transaction with Parker’s associate, Travier Stevenson (AKA Little Jacket). Detectives contacted Holliday on a traffic stop, and developed probable cause to arrest her for possession of a schedule II drug, Percocet. Holliday was in possession of a cellular phone, which detectives determined had been used to post advertisements for prostitution on backpage.com as well as to communicate with Parker and clients about prostitution. Detectives took of (sic) custody of the phone and released Holliday.” (emphasis added) (April 23, 2013 *Complaint/or Search Warrant*, p.4).
8. On 4/8/13, detectives obtained a search warrant for Holliday’s phone. Detectives examined the phone, which contained text messages - many to Parker - pertaining to prostitution and drug activity. The phone also contained photos of Holliday that has been posted on backpage.com.  
April 23, 2013 *Complaint for Search Warrant*, p. 4).
9. Ms. Holliday did not show up the next day on April 5th to interview with police. A warrant was applied for April 8th. Ms. Holliday was located on April 12th and arrested. A second phone was seized from her at this time.
10. There were three *Complaints/Affidavits* for search warrants applied for by Det. Heffernan: (1) April 8, 2013 under caption *State v. Black ZTE Cellular Phone Model Z431*, Kitsap Co. #20130160; (2) April 23, 2013 under the caption of *State v. Black Motorola Cellular Phone Model WX430*, Kitsap Co. #20130179; (3) April 23, 2013 under the caption of *State v. Samsung Cellular Phone Model SPH-M580*, Kitsap Co. #20130180 (this last warrant related to the arrest of Anthony Parker).<sup>1</sup>

<sup>1</sup> There was also a telephonic search warrant for Parker's residence on 703 1/2 So. Summit Ave. applied for April 12, 2013 and filed April 15, 2013

11. Detective Heffernan did not arrest Holliday on April 4th. As he acknowledges in his April 8th *Complaint for Search Warrant*, he was looking for information on Anthony Parker and his gang activities and used the traffic stop as a ruse to gain that information. The Detective testified that he took the phone for that very reason. He thought he would go through the phone with Holliday's consent once she showed up at the meeting that did not happen. See RP 812-14, 890, 1012; 04/08113 *Complaint For Search Warrant* at 7.
12. On April 8th, Detective Heffernan sought a warrant to search Holliday's cell phone. The affidavit to search and seize provided by Detective Heffernan was based upon assertions that evidence of human trafficking and prostitution would be found in the cell phone.
13. At no point during the April 4th traffic stop was Holliday detained for prostitution or sex crimes. Holliday did not acknowledge to the Detective that she was prostituting nor was she asked if she was in the area of the suspected drug transaction for prostitution.

2CP 240-42 (emphasis added by Parker).

#### **E. THE TRIAL COURT'S LEGAL CONCLUSIONS**

As previously noted, after the fact-finding hearing, this Court again remanded the case for the superior court to also enter conclusions of law. The superior court concluded that while Parker had a privacy interest in his own texts to Holliday's phones, he had no standing to contest the seizure of the phones themselves:

*Hinton* makes clear that a defendant has a privacy

interest in the text messages sent to another person's phone, but its analysis does not extend to the privacy interest in the phone itself. To challenge seizure of either phone, Parker must establish that he has standing to challenge the seizure. Under *State v. Jones*, 146 Wn.2d 328, 332, 45 P.3d 1062 (2002), to claim automatic standing, a defendant (1) must be charged with an offense that involves possession as an essential element; and (2) must be in possession of the subject matter at the time of the search or seizure. Because Parker meets neither of these requirements, he lacks standing to challenge the seizure of Holliday's phones.

2CP 442. The court further concluded that Parker's *Hinton* claim was unsupported, and that his challenge to the sufficiency of the warrants was without merit:

The challenge to the search of the phones, which resulted in the discovery of his texts, fails as a warrant based upon probable cause was properly obtained for the ZTE and the Motorola phones on April 8, 2013 and April 23, 2013 respectively, before the search of the phones was conducted. Parker's contention that the warrant application for the ZTE was insufficient is without merit, as the affidavit submitted by the detective was not based on generalizations, it provided extensive factual information, was specific as to the information being sought, and explicitly tied the criminal activity to the phone sought to be searched. Because the police did not search either of the phones prior to properly obtaining a warrant, Parker's privacy rights under *Hinton* were not violated by the search of the ZTE phone and the Motorola phone, and any other evidence obtained by the search of the ZTE phone is not suppressed as fruit of the poisonous tree.

2CP 443. Based on these conclusions, the court denied the remaining issue from the first PRP.

## **F. PRESENT PROCEEDINGS**

Parker timely appealed on November 20, 2017. 2CP 445. Thereafter he filed his second PRP, which this court consolidated with the pending reference hearing appeal.

## **IV. ARGUMENT: REFERENCE HEARING APPEAL**

### **A. STANDARD OF REVIEW**

The petitioner in a PRP must first prove error by a preponderance of the evidence. *In re Crow*, 187 Wn. App. 414, 420-21, 349 P.3d 902 (2015). Then, if the petitioner is able to show error, he must also prove prejudice. *Crow*, 187 Wn. App. at 421.

To obtain relief, the petitioner must show either constitutional or nonconstitutional error. *In re Cook*, 114 Wn.2d 802, 810-11, 792 P.2d 506 (1990). If the error is constitutional, the petitioner must demonstrate that it resulted in actual and substantial prejudice. *In re Woods*, 154 Wn.2d 400, 409, 114 P.3d 607 (2005). “Actual and substantial prejudice, which ‘must be determined in light of the totality of circumstances,’ exists if the error ‘so infected petitioner’s entire trial that the resulting conviction violates due process.’” *Crow*, 187 Wn. App. at 421 (quoting *In re Music*, 104 Wn.2d 189, 191, 704 P.2d 144 (1985)).

This actual prejudice standard places the burden upon the

petitioner, as opposed to the harmless error standard on direct appeal, because “[c]ollateral relief undermines the principles of finality of litigation, degrades the prominence of the trial, and sometimes costs society the right to punish admitted offenders.” *In re Hagler*, 97 Wn.2d 818, 824, 650 P.2d 1103 (1982). If the error is nonconstitutional, the petitioner must meet a stricter standard and demonstrate that the error resulted in a fundamental defect which inherently resulted in a complete miscarriage of justice. *In re Schreiber*, 189 Wn. App. 110, 113, 357 P.3d 668 (2015).

RAP 16.12 provides, in pertinent part:

Upon the conclusion of the hearing, if the case has been transferred for a reference hearing, the superior court shall enter findings of fact and have the findings and all appellate files forwarded to the appellate court. Upon the conclusion of the hearing if the case has been transferred for a determination on the merits, the superior court shall enter findings of fact and conclusions of law and an order deciding the petition.

Here, although this Court originally remanded for a reference hearing, it subsequently re-remanded the issue for decision on the merits. *See* Second PRP, App. 1.

At a RAP 16.12 hearing on the merits of a personal restraint petition, the petitioner has the burden of establishing disputed facts by a preponderance of the evidence. *In re Merritt*, 69 Wn. App. 419, 424, 848 P.2d 1332 (1993). In conducting a merits hearing, it is the province of the

trial judge to determine the weight and sufficiency of the evidence and to pass upon the credibility of witnesses. *Id.* The “substantial evidence” standard is therefore the standard of review for factual findings in PRP reference hearings. *In re Gentry*, 137 Wn.2d 378, 410, 972 P.2d 1250 (1999) (*citing* RAP 16.14(b), which provides that “A decision of a superior court in a personal restraint proceeding transferred to that court for a determination on the merits is subject to review in the same manner and under the same procedure as any other trial court decision.”). “Substantial evidence exists when the record contains evidence of sufficient quantity to persuade a fair-minded, rational person that the declared premise is true.” *Gentry*, 137 Wn.2d at 410 (*quoting Ino Ino, Inc. v. Bellevue*, 132 Wn.2d 103, 112, 937 P.2d 154, 943 P.2d 1358 (1997)). This Court defers to the trial court and will not “disturb findings of fact supported by substantial evidence even if there is conflicting evidence.” *In re Stenson*, 174 Wn.2d 474, 488, 276 P.3d 286 (2012).

The trial court’s conclusions of law are reviewed de novo. *State v. Homan*, 181 Wn.2d 102, 106, 330 P.3d 182 (2014). This Court will affirm conclusions of law that are supported by the findings of fact. *State v. Vickers*, 148 Wn.2d 91, 116, 59 P.3d 58 (2002).

**B. THE TRIAL COURT PROPERLY CONCLUDED THAT PARKER LACKED STANDING TO CONTEST THE SEIZURES OF THE PHONES**

Parker first claims that the trial court erred in concluding he lacked standing to contest the seizure of the phones. Because he lacked any privacy interest in the phone per se, this claim is without merit.

***1. The holding in Hinton.***

In *State v. Hinton*, 179 Wn.2d 862, 865, 319 P.3d 9 (2014), the Supreme Court addressed the issue of whether the defendant had a privacy interest in a text message he sent that was read on the recipient's phone. The Court concluded that he did, and thus he had standing to challenge the admission of the text messages where they were viewed without a warrant:

The Court of Appeals extended rules applied to letters directly to text messages, concluding that any privacy interest in a text message is lost when it is delivered to the recipient. *See Hinton*, 169 Wn. App. at 43 (citing *United States v. King*, 55 F.3d 1193, 1195–96 (6th Cir. 1995) (holding that where King voluntarily mailed letters to his wife, his expectation of privacy terminated upon delivery to her)). While text messages have much in common with phone calls and letters, they are a unique form of communication, and we will not strain to apply analogies where they do not fit. Courts have recognized that an individual maintains an expectation of privacy in sealed letters despite subjecting them to vulnerability in transit. *See Ex parte Jackson*, 96 U.S. (6 Otto) 727, 24 L. Ed. 877 (1877). But unlike letters, which are generally delivered to the home where they remain protected from intrusion, text messages are delivered to a recipient's cell phone instantaneously and remain susceptible to exposure because of a cell phone's mobility. Just as subjecting a letter to

potential interception while in transit does not extinguish a sender's privacy interest in its contents, neither does subjecting a text communication to the possibility of exposure on someone else's phone. We find that Hinton retained a privacy interest in the text messages he sent, which were delivered to Lee's phone but never received by Lee.

*Hinton*, 179 Wn.2d at 873.

2. ***Hinton only confers on Parker a privacy interest in the his texts, not in the physical phone itself, the seizure of which he lacks standing to contest***

“Generally, article I, section 7 rights may be enforced by exclusion of evidence only at the instance of one whose own privacy rights were infringed by government action.” *Hinton*, 179 Wn.2d at 869 n.2 (quoting *State v. Goucher*, 124 Wn.2d 778, 788, 881 P.2d 210 (1994)). Thus in *Hinton*, it was held that the defendant could challenge the police “seizure” of his text messages, because he retained a privacy interest in them.

That privacy interest in the messages has never been extended to a privacy interest in the phone itself. As alluded to in *Hinton*, rights protected by the Fourth Amendment and article I, section 7 are personal rights that may be enforced by exclusion of evidence “only at the instance of one whose own protection was infringed by the search and seizure.” *Rakas v. Illinois*, 439 U.S. 128, 138, 99 S. Ct. 421, 58 L. Ed. 2d 387 (1978); *State v. Jones*, 146 Wn.2d 328, 332, 45 P.3d 1062 (2002). To claim automatic standing, a defendant (1) must be charged with an offense

that involves possession as an essential element; and (2) must be in possession of the subject matter at the time of the search or seizure. *Jones*, 146 Wn.2d at 332. Parker meets neither of these requirements with regard to the seizure of Holliday's phones themselves. As such, he meets neither requirement that would allow him to challenge the lawfulness of their seizure.

Parker asserts that the physical seizure of the phones was “a meaningful interference in Parker’s possessory interest in the text messages” Brief of Appellant, at 9. What he fails, however, to establish, is that he had any “possessory interest” in the messages. While *Hinton* confers a privacy interest in the content of the messages, nowhere does it confer a possessory interest in the messages. And as they were contained in a cell phone that did not belong to him and was not in his possession, it is difficult to see the basis for such a claim.

### **C. THE PHONES WERE LAWFULLY SEIZED**

In any event, Parker cannot show any illegality in the seizure of the phones. The Motorola was seized at the time of Holliday’s unquestionably lawful arrest at the motel. As the Supreme Court recently noted, while the police may not search the contents of a cell phone without a warrant, they may seize it and hold it until a warrant is obtained. *State v. Samalia*, 186 Wn.2d 262, 274, 375 P.3d 1082 (2016) (*citing Riley v. California*, \_\_\_

U.S. \_\_\_, 134 S. Ct. 2473, 2486-88, 189 L. Ed. 2d 430 (2014) (noting that law enforcement may seize a cell phone to prevent the destruction of evidence)).

Although Holliday was not taken into custody at the time the ZTE was seized during the traffic stop on April 4, 2013, similar reasoning applies. In *State v. Terranova*, 105 Wn.2d 632, 645-46, 716 P.2d 295 (1986), the Washington Supreme Court held that if police officers have probable cause to search, they may seize a residence for the time reasonably needed to obtain a search warrant. This Court has since extended this rule to automobiles and other personal property. *State v. Huff*, 64 Wn. App. 641, 650, 826 P.2d 698 (1992); *State v. Lund*, 70 Wn. App. 437, 448-49, 853 P.2d 1379 (1993).

Here, as will be discussed *infra*, and as was found by a magistrate, the police had probable cause to believe that the phone contained evidence of Holliday's prostitution activities and Parker's involvement in promoting it. Holliday agreed to meet police the next day, Friday April 5. When she did not show up on Friday as agreed, they obtained a warrant on Monday April 8. The seizure and brief retention of the phone before obtaining a warrant was proper.

In view of the foregoing, the only items of evidence in which Parker may claim a privacy interest is the actual text messages he sent to

Holliday. Because the phones were not searched nor the messages retrieved until after the police obtained warrants, no privacy interest that Parker may claim was disturbed.

**D. CONTRARY TO PARKER’S CLAIMS, THE WARRANTS, WHICH EXTENSIVELY DESCRIBED THE INVESTIGATION POLICE HAD CONDUCTED OF PARKER’S ACTIVITIES FOR MONTHS BEFORE THE PHONES WERE SEIZED, WERE NOT LACKING IN SPECIFICITY OR PARTICULARITY**

Even assuming Parker had standing to challenge the warrants, his contentions regarding their validity would be without merit. Below, Parker argued that the warrant applications lacked particularity. He cited to *State v. Thein*, 138 Wn.2d 133, 977 P.2d 582 (1999) and *State v. Keodara*, 191 Wn. App. 305, 364 P.3d 777 (2015), *review denied*, 185 Wn.2d 1028 (2016).

However, unlike here, in both those cases the warrants were held invalid because they relied solely on “blanket statements” of the officers’ experience of the habits of drug dealers and gang members, respectively, in support of probable cause. *Thein*, 138 Wn.2d at 138–39; *Keodara*, 191 Wn. App. at 316. As the Court of Appeals explained, there must be a nexus between the phone and the criminal activity:

Without evidence linking Keodara’s use of his phone to any illicit activity, we find the affidavit to be insufficient

under the Fourth Amendment. Under *Thein*, more is required for the necessary nexus than the mere possibility of finding records of criminal activity.

*Keodara*, 191 Wn. App. at 316, 364 P.3d 777, 782 (2015)

Here, although Detective Heffernan did mention his training and experience, he also specifically tied Holliday's phones to the criminal activities in question. In the April 8, 2013, warrant application, Heffernan set forth the following specific facts that tied the phone to the crimes being investigated:

**PROBABLE CAUSE:** Over the course of the past several months, SOG detectives have investigated a human trafficking operation led by Anthony D Parker (6/15179) and his former girlfriend, Lorena A Llamas (5/31 /84). Llamas has been incarcerated in Kitsap County Jail since November 17, 2012. While there, Llamas has groomed inmates to work as prostitutes, and sent them out to work for Parker. Detectives identified one of these prostitutes as Johanna Holliday. Holliday used her black ZTE cellular phone model Z431, SIN 322423142390 (hereinafter referred to as the "Phone") to communicate with Llamas, Parker and clients about prostitution activities. Holliday may have also used the Phone to advertise prostitution services on backpage.com between December 2012 and April 2013. As set forth below, there is probable cause to believe that evidence of human trafficking, promoting prostitution and/or prostitution will be found in the Phone, which is currently stored in the Bremerton Police Department's secure evidence room.

Over the past several months, detectives reviewed jail phone calls that Llamas made to Parker and Holliday. All of the calls to Holliday were made to (360) 908-2471, the number associated with the Phone. The number is listed for Holliday in the jail's intelmate record database. Holliday confirmed that the number is associated with the Phone. I have called the Phone, and confirmed that the

number matches it.

During jail calls, Holliday openly discusses her prostitution activities with Llamas. Holliday tells Llamas that she (Holliday) is staying at Parker's residence, "posting" and taking calls. I know from my training and experience that the term posting refers to placing advertisements for prostitution on various websites. Through my investigation, I learned that Holliday posts ads on backpage.com.

In one instance, Holliday tells Llamas that that she (Holliday) had intercourse with a customer after giving him a hand-job with lotion. Holliday acquired a rash, and had to go to the store with Parker to buy medicated douche. In another phone call, Holliday discusses her relationship with an Asian prostitute working for Parker. Holliday states that Parker views her (Holliday) as the "top bitch" and instructed her (Holliday) to "check the Asian bitch." I reviewed a backpage.com ad featuring Holliday and an Asian female, who I identified through a review of available police databases as Rancia J Camacho (5/19/86). The ad states, "two girl special-sexy blonde and hot Asian!!" Detectives interviewed Camacho, who confirmed that Holliday worked as a prostitute. Camacho told detectives that she forwarded her photos to Holliday's Phone, which Holliday then posted on backpage.com. Camacho believed that Holliday used the Phone to post the ads. The backpage.com ad featuring Camacho and Holliday lists Parker's phone number; however the majority of Holliday's ads list the number associated with her Phone.

On 1/23/13, Parker tells Llamas that he assaulted "Baby Doll." Through the course of my investigation, I learned that Baby Doll is a moniker used by Holliday. Parker says that Holliday had been "stealing shit ... money and drugs." Parker states that Holliday "ain't going anywhere unless she wants her other eye shut up." Llamas asks Parker if he (Parker) already hit Holliday, and then says something like, "Of course you did." During a phone call on 2/2/13, Holliday describes the assault in detail. Holliday tells Llamas that Parker picked her up by the hair, threw her against a wall, ripped out a chunk of her hair and gave her a black eye. Holliday says that she "pissed herself

twice” during the assault. I later spoke with a witness, who corroborated Holliday’s account of events.

On or around 2/11/13 Parker was arrested for burglary and an outstanding DOC warrant. He (Parker) immediately calls Holliday on the Phone, and tells her, “You need to follow my orders ... what the fuck I tell you from right now until I get the fuck out of here in three days.” Parker also cautions Holliday that that “[her] money better be right when [he] gets out.” Parker instructs Holliday to help with his bail saying, “Take that little bit of chump change that you I fucking got and give it to Jaccet.” I know that Jaccet is the moniker used by Tyler F Williams (1/26/76), a well-known local gang member. When Holliday starts to sob, Parker says, “I don’t want to hear any crying bitch .... stop crying nigga, I want someone to be making fucking moves.” During telephone calls during this time period with Llamas, Holliday says that Parker keeps all of her money, and she (Holliday) is taking the opportunity while Parker is in jail to make money for herself.

On 2/12/13, Holliday speaks with Llamas, and says that she cannot talk because she (Holliday) is in the middle of a call. At the same time, Detective Rauback drove by Holliday’s residence, and observed a male, later identified as Jonathan Miller, talking on his cell phone in the yard. Detective Rauback had observed Miller parked in the area earlier. I later contacted Miller, who confirmed that he had been at the residence to meet with Holliday. Miller, who recognized Holliday from a photo, told me that he had found Holliday’s advertisement on backpage.com, and called her by phone to arrange for an erotic massage.

On 2/19/13, detectives posed as a potential customer, and sent Holliday a text message to the Phone asking if she was available for a call. Holliday, who had recently posted a new ad on backpage.com, corresponded with detectives to arrange a meeting. Detectives asked Holliday to meet at a local hotel. Holliday refused, stating that she does not do hotels. Holliday stated that she wanted to meet at a house. Holliday eventually stopped communicating with detectives. Following the failed meeting, Holliday continued to post new ads on

backpage.com with the same phone number.

On 2/22/13, detectives applied for a search warrant for Holliday's backpage.com ads. Kitsap County Superior Court Judge Jennifer Forbes issued the warrant. Detectives obtained the customer, and billing information underlying the ads which lists both Parker and Holliday's phone numbers as well as various addresses associated with both subjects.

On 3/13/13, detectives applied for a search warrant for Holliday's phone records related to the number (360) 908-2471. Kitsap County Superior Court Judge Jennifer Forbes issued the warrant, which was served on AT&T on or around 3/14/13. As of this date, AT&T has not responded to the warrant.

On 4/3/13, Parker was placed into custody on an outstanding DOC warrant. Parker calls the Phone numerous times, and gives Holliday instructions on what she needs to do while he is in custody. Holliday discusses some of her clients, and money that she is making through prostitution and saving for Parker. Parkers tells Holliday, "I need you to do what the fuck I say to a T ... Just do what you're supposed to do and stack." I know from my training and experience that "stack" means to save money. Parker talks about using the money to purchase a vehicle, and pay off debt that he owes for bail from a prior arrest. Parker also tells Holliday to take "Monster" from underneath the mattress, and put him in a duffle-bag in the shed. I know from conversations with Jaccet associates that Parker is in possession of a handgun, which was stolen and recently returned to him. I believe that "Monster" is a reference to the gun.

On 4/4/13 at approximately 1900, Detective Rauback advised me that he had observed Holliday and Alisia Crettol meeting with Travier Stevenson (AKA Little Jaccet). Stevenson is a gang member who uses, and sells Percocet pills. Detective Rauback observed Holliday meet briefly with Stevenson inside a Ford P/U truck WA license A37747M. The vehicle is registered to Stevenson's girlfriend, Janee Morgan. Holliday then returned to Crettol's vehicle, a blue Ford Escort WA license AEHI175. The meeting occurred in the area of the A&C Tavern on

Perry Ave. Detective Rauback followed Crettol away from the area, and coordinated with patrol officers to stop the vehicle in the area of 16<sup>th</sup> St and Warren Ave.

I responded to the location of the stop, and stood by while Holliday and Crettol were detained in properly fitting, and double-locked restraints. I escorted Holliday to a patrol vehicle, and explained that I was investigating a possible drug transaction that had just occurred as well as other crimes related to prostitution. I read Holliday her Miranda rights from a department issued card. Holliday acknowledged her rights, and agreed to speak with me.

I asked Holliday how many pills she had just gotten from Stevenson. Holliday was hesitant to answer, and mumbled something that I could not understand. I told Holliday that an undercover detective had observed the transaction, and asked her again how many pills she had gotten from Stevenson. Holliday told me that she had gotten one pill from him. I asked Holliday where she had put the pill. Holliday told me that she had put it inside her purse, which was sitting in the passenger seat of the vehicle. I asked Holliday for consent to retrieve the pill, and she agreed to same. It should be noted that Crettol also agreed to a search of the vehicle, and confirmed that the purse belonged to Holliday. I went to the vehicle, and withdrew the purse as well as the Phone from the passenger seat Crettol was present, and confirmed that the Phone belonged to Holliday.

I returned with the items to Holliday, and took off her hand restraint. Holliday located the pill – small, round blue pill marked A 215 – inside her purse as well as a crumpled up piece of foil. Holliday handed both items over to me. I know from my training and experience that pill users will often smoke pills on foil as a means to bypass the chemical binders in the pills, resulting in an immediate and intense high. I showed Holliday the Phone located on the passenger seat. Holliday told me that it was her Phone, and identified the number as (360) 908-2471. I called the number, confirming same. I took custody of the Phone.

Because Holliday was cooperative throughout the interview and agreed to meet with detectives the following day to make a recorded statement regarding her criminal

activities, she was released from custody. I placed the Phone into a secure evidence locker with the intent to either examine it with Holliday's consent the following day, or if necessary apply for a search warrant. I placed the pill, and foil into evidence in accordance with department procedure. Through a search of drugs.com, I identified the pill as 30 mg Oxycodone Hydrochloride, a schedule II narcotic.

On 4/5/13, Holliday failed to show up for her interview. She has not contacted detectives, and her whereabouts are unknown.

Based upon the foregoing, there is probable cause to believe that evidence of human trafficking, promoting prostitution and/or prostitution will be found in Holliday's Phone. I respectfully request that the court issue a search warrant allowing law enforcement to search and seize the following information:

1. All information stored in the above-described cellular phone that can be extracted through a forensic examination, or other means including, but not limited to images, video, contacts, conspirator phone numbers/ addresses, text messages, email messages, ledgers, financial transaction information, electronic documents, or any other stored information relating to human trafficking, promoting prostitution and/or prostitution.

Ref. Hrg. Exh. 2, at 3-8.

From the foregoing it is plain that Parker's comparison of this warrant application to those in *Thein* and *Keodara* was specious. The affidavit offered ample evidence of Holliday's prostitution activities, her use of the phone in those activities, and Parker's involvement in those activities.

For the first time on appeal, Parker also argues, citing to *State v. McKee*, 3 Wn. App. 2d 11, 413 P.3d 1049, 1055 (2018), that the warrants lacked sufficient specificity as to the items to be seized. This contention is also contrary to the record.

In *McKee*, the Court specifically noted that it was the failure of the warrant to incorporate the complaint for search warrant that rendered the warrant itself overbroad:

The detailed allegations in the Affidavit submitted in support of the search warrant could easily meet the particularity requirement. The Affidavit described the allegations related to the crimes under investigation, the video clips and photographs located on the phone, and the time frame. But “an affidavit may only cure an overbroad warrant where the affidavit and the search warrant are physically attached, and the warrant expressly refers to the affidavit and incorporates it with ‘suitable words of reference.’” *State v. Riley*, 121 Wn.2d 22, 29, 846 P.2d 1365 (1993) (quoting *Bloom v. State*, 283 So.2d 134, 136 (Fla. Dist. Ct. App. 1973) ); see also *Groh v. Ramirez*, 540 U.S. 551, 557-58, 124 S. Ct. 1284, 157 L. Ed. 2d 1068 (2004) (A court may construe a warrant with reference to a supporting application or affidavit only if the warrant attaches and incorporates the documents by reference.). Because the Affidavit was not attached or incorporated by reference, our determination of the particularity requirement is limited to the warrant.

*McKee*, 3 Wn. App. 2d at 28.

Here, the warrants specifically incorporated the complaint by reference, in its first sentence:

WHEREAS, upon the sworn complaint heretofore made and filed and/or the testimonial evidence given in the

above-entitled Court *and incorporated herein by this reference, ...*

See Ref. Hrg. Exh. 2, 5. As quoted above, the complaint in this case set out with great detail the evidence the police had obtained that showed that evidence of human trafficking and prostitution would be found on the phone.

Moreover, in *McKee*, the language in the warrant was not tied to the crimes under investigation:

Here, as in [*State v. Besola*, [184 Wn.2d 605, 359 P.3d 799 (2015),] the warrant cites and identifies the crimes under investigation but does not use the language in the statutes to describe the data sought from the cell phone. The warrant lists the crimes under investigation on page one but separately lists the “Items Wanted” on page two. As in *Besola*, the description of the “Items Wanted” is overbroad and allowed the police to search and seize lawful data when the warrant could have been made more particular.

*McKee*, 3 Wn. App. 2d at 26. Here, on the other hand, in addition to the incorporation of the lengthy complaint into the warrant itself, the language of the first warrant directly ties the items sought to the crimes under investigation:

Now, THEREFORE, in the name of the State of Washington, *you are hereby commanded, with the necessary and proper assistance, to enter and search said place and instrumentalities and/or evidence of the crime(s) of RCW 9A.88.080 Promoting Prostitution and/or RCW 9A.88.030 Prostitution, to wit—*

1. All information stored in the above described cellular phone that can be extracted through a forensic examination, or other means including, but not limited to images, video,

contacts, conspirator phone numbers/addresses, text messages, email messages, ledgers, financial transaction information, electronic documents, or any other stored information *relating to human trafficking, promoting prostitution and/or prostitution.*

Ref. Hrg. Exh. 2. (emphasis supplied). The second warrant, which also incorporated the complaint, was similarly specific:

Now, THEREFORE, in the name of the State of Washington, *you are hereby commanded, with the necessary and proper assistance, to search seize the above referenced phone for evidence of the crime(s) of RCW 9A.40.100 Human Trafficking 1<sup>st</sup> Degree, RCW 9A.88.080 Promoting Prostitution 1<sup>st</sup> Degree and/or RCW 9A.88.030 Prostitution, to wit—*

1. All information stored in the above described cellular phone that can be extracted through a forensic examination, or other means including, but not limited to images, video, contacts, conspirator phone numbers/addresses, text messages, email messages, ledgers, financial transaction information, electronic documents, or any other stored information *relating to human trafficking, promoting prostitution and/or prostitution.*

Ref. Hrg. Exh 5 (emphasis supplied). Parker fails to show that the warrant lacked either specificity or particularity. This claim should be rejected.

**E. EVEN IF THE HANDFUL OF TEXTS ON THE PHONE WERE SUPPRESSED, PARKER FAILS TO SHOW IT WOULD HAVE CHANGED THE OUTCOME OF TRIAL**

Parker completely ignores his responsibility on collateral review, detailed previously, of establishing prejudice. As such his claims, even were they supported by the record, would justify the grant of relief.

The following messages from Parker were recovered from the ZTE phone (Trial Exh. 11):

Date	Time	Message
March 28	9:22 p.m.	I'm in Seattle
March 28	9:28 p.m.	Stay ur ass in that house u can have company there
March 29	11:54 a.m.	Yes, gget that money, I'm on C st
April 1	9:31 a.m.	Go to the casino and make sure he goes, don't go outside my plans
April 1	9:59 a.m.	Did u get our money and did u buy cuz some beer and I posted ur ad so let get this money
April 1	10:07 a.m.	U r goin to be hot the dude with corvette is texting and its looking good for the kid
April 1	10:47 a.m.	No, I'm not but don't spend no money
April 1	5:00 p.m.	I don't see no money been made but u gone for hours so u can get one pill

The following messages from Parker were recovered from the Motorola phone (Trial Exh. 13):

Date	Time	Message
April 12	1:02 p.m.	U need to put money on that card when u comin baacc
April 12	3:59 p.m.	I'm tossing ur things outside bitch
?	?	Get u shit [photo of items on ground next to dumpsters]

Compared to the abundant evidence introduced in the multi-week trial, which is summarized above, the omission of these texts would not

have changed the outcome of trial. Moreover, as detailed in the April 8 complaint for search warrant, the police had been collecting the information regarding Parker's involvement in recruiting and abusing Holliday for months before the phone was seized. Nothing they learned from the first phone changed the fact that they were targeting Holliday as a means to get to Parker. There is no evidence that her detailed statement to the police could be deemed the fruit of the search of the first phone. As such, even if the handful of statements noted above had been suppressed Parker has failed to show prejudice, *i.e.*, that the outcome of his trial would have been different. His first PRP claim was properly dismissed.

## **V. RESPONSE TO PERSONAL RESTRAINT PETITION**

### **A. RESPONSE**

The State respectfully moves this court for an order dismissing the petition with prejudice because it is substantively without merit.

### **B. AUTHORITY FOR PETITIONER'S RESTRAINT**

The authority for the restraint of Anthony Parker lies within the judgment and sentence entered by the Superior Court of the State of Washington for Kitsap County, on January 14, 2014, in cause number 13-1-00597-1, upon Parker's conviction of the offenses noted above in the procedural history section of this brief.

**C. ARGUMENT: PERSONAL RESTRAINT PETITION**

In his second PRP, Parker largely repeats or expands on the arguments presented by counsel in the reference hearing appeal. As largely discussed above, and as expanded upon below, these claims are without merit.

***1. Standard of Review.***

The State has already set forth the general standards for collateral review, *supra*. Additionally, when first considering a PRP, the following additional standards apply. The petitioner must state with particularity facts that, if proven, would entitle him to relief, and he must present evidence showing his factual allegations are based on more than speculation and conjecture. RAP 16.7(a)(2); *In re Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086, *cert. denied*, 506 U.S. 958 (1992). A petitioner cannot rely on conclusory allegations. *Cook*, 114 Wn.2d at 813-14. To support a request for a reference hearing, the petitioner must state with particularity facts which, if proven, would entitle him to relief. *In re Dyer*, 143 Wn.2d 384, 397, 20 P.3d 907 (2001). If the petitioner's allegations are based on matters outside the existing record, the petitioner must demonstrate that he has competent, admissible evidence to establish the facts that entitle him to relief *Id.* If the petitioner's evidence is based on knowledge in the possession of others, he may not simply state what he thinks those others

would say, but must present their affidavits or other corroborative evidence. *Id.*

If the petitioner fails to make a prima facie showing of either actual or substantial prejudice or a fundamental defect, the Court should deny the PRP. *In re Yates*, 177 Wn.2d 1, 17, 296 P.3d 872 (2013). If the petitioner makes such a showing, but the record is not sufficient to determine the merits, the Court should remand for a reference hearing. *Yates*, 177 Wn.2d at 18. But if the Court is convinced that the petitioner has proven actual and substantial prejudice or a fundamental defect, the petition should be granted. *Id.*

As far as the State can discern, Parker alleges no new evidence in support of the claims in the second PRP. As such, he fails to justify a new reference hearing. Further, as will be discussed, Parker fails to show he is entitled to relief. His second petition should be dismissed.

**2. *Parker fails to meet the elements of the automatic standing doctrine.***

With regard to the issue of automatic standing, Parker first largely reiterates the claims in counsel's brief. He also asserts that virtually all the evidence in this case was obtained as a result of the allegedly illegal search of Holliday's phone:

In Parker's case, the warrantless seizure of the cell phone on April 4 led to Parker's arrest and seizure of a

firearm. Absent that unconstitutional seizure of the cell phone there would be no possession of a firearm, human trafficking, kidnapping, assaults, burglary, promoting prostitution, nor would there have been an arrest. for Mr. Parker.

Second PRP, at 12. This contention is simply untrue. A review of the allegations contained in the search warrant complaint for the phone seized after the drug transaction on April 4, 2013, shows that police were already well aware of, and had significant evidence of, Parker's illegal activities before the phone was ever seized or searched. *See also* Ref. Hrg. Exh 2. Additionally, some six weeks earlier, they had already applied for a search warrant directed to Backpage.com, and had received 177 pages of documentation. Ref. Hrg. Exh. 1. Police had also obtained a warrant to get phone records from AT&T and Sprint on March 13. Ref. Hrg. Exh. 7. Sprint provided call logs and account information for Parker's phone. *Id.*

Additionally, police reports also show that they were aware of the facts underlying the assault, kidnapping, and prostitution charges against Parker well before the phones were seized. On March 1, 2013, Detective Heffernan filed a report detailing the investigation against Parker:

**ANTHONY PARKER:** Anthony Parker, AKA Baby Deuce, Little Deuce, and/or Deucy, is a member of the Jaccet Gang. Until his arrest on 2/11/13, Parker lived at 1720 14th St in Bremerton Washington. Two cooperating witnesses working with SOG confirmed that Parker lived at the residence, and maintained drugs and prostitutes there. It should be noted that Parker shared the residence with his girlfriend, Lorena Llamas, AKA Crazy until her arrest for

vehicular homicide on or around 11/17/12.

While in jail, Llamas groomed inmates to work as prostitutes and sent them out to Parker as well as other Jaccet gang members. One prostitute that Llamas sent to Parker was Johanna Holliday. Holliday was in jail with Llamas at the end of November 2012. I reviewed Llamas' calls during this time period. On 11/29/12 at approximately 1216, Llamas calls Parker at (360) 551-6938. and gives him (Parker) instructions to post Holliday's bail. During the call, Holliday gets on the phone, and speaks with Parker about items she will need when she gets out. Holliday tells Parker that she needs outfits and makeup, noting that she will have to dress a certain way. During a subsequent call at 1342, Llamas tells Parker that other women in the jail were trying to take Holliday away to Tacoma. Llamas says something like, "Aint nobody taking anything ... she belong to me." Llamas says that Holliday was a good girl and came to her immediately with the information. She (Llamas) tells Parker that he is going to love her, referring to Holliday.

Llamas continues to speak with Parker and Holliday after her (Holliday's) release from jail. Both Llamas and Parker refer to Holliday, as "Jo Jo" or "Baby Doll" in the calls. Llamas contacts Holliday at (360) 908-2471. I have spoken to Holliday's mother, who confirmed that this is Holliday's cell phone number. During the calls.

Holliday tells Llamas that she (Holliday) is staying at Parker's residence, "posting" and taking calls. Holliday tells Llamas that Parker takes all the money from the calls. Holliday says she is posting Backpage ads from Parker's phone, or from the library. From my training and experience, I know that Backpage is a website commonly employed by prostitutes to advertise their services.

During the telephone calls, (Holliday) says that she is trying to fix up a basement room for calls, and have customers come in and leave the residence through a side door. Holliday tells Llamas that she recently had to go to the store with Parker to buy medicated douche because she had intercourse with a customer after giving him a hand-job with lotion. Holliday also discusses her relationship with an Asian prostitute working for Parker. Holliday states that

Parker views her (Holliday) as the “top bitch” and instructed her (Holliday) to “check the Asian bitch.” Notably, there is an Asian female linked to some of Holliday’s backpage ads during this time period. Through a search of available police data-bases, I identified the subject as Rancia Camacho. The advertisements, using Parker’s phone number (360) 551-6938 as well as (916) 410-4232 state, “two girl special -sexy blonde and hot Asian!!”

On 1/23/13, Llamas tells Parker that she (Llamas) may have another “Baby Doll” for Parker who is even more pretty. Parker tells Llamas that Baby Doll has been “stealing shit ... money and drugs.” Parker then says that Baby Doll “ain’t going anywhere unless she wants her other eye shut up.” Llamas asks Parker if he (Parker) already hit Holliday, and then says something like, “Of course you did.” On 2/2/13, Holliday describes the assault in detail to Llamas. Holliday tells Llamas that Parker picked her (Holliday) up by the hair, and threw her against a wall. Holliday says that Parker took out a chunk of her hair, gave her a black eye and “made her piss herself twice.”

On or around 2/11/13 Parker was arrested for burglary and an outstanding DOC warrant. He (Parker) immediately calls Holliday, and tells her, “You need to follow my orders ... what the fuck I tell you from right now until I get the fuck out of here in three days.” Parker also cautions Holliday that that “[her] money better be right when I get out.” Parker instructs Holliday to help with his bail saying, “Take that little bit of chump change that you fucking got and give it to Jaccet.” I know that Jaccet is the moniker used by Tyler Williams. When Holliday starts to sob, Parker says, “I don’t want to hear any crying bitch. ... stop crying nigga, I want someone to be making fucking moves.” During telephone calls during this time period with Llamas, Holliday says that Parker keeps all of her money, and she (Holliday) is taking the opportunity while Parker is in jail to make money for herself.

On 2/12/13 at 1538, Holliday speaks with Llamas, and says that she cannot talk because she (Holliday) is in the middle of a call. At the same time, Detective Rauback drove by the

14th St residence, and observed a male, later identified as Jonathan Miller, talking on his cell phone in the yard. Detective Rauback had observed Miller parked in the area earlier. I later contacted Miller, who confirmed that he had been at the residence to meet with Holliday. Miller, who recognized Holliday from a photo, told me that he had found Holliday's advertisement on Backpage, and arranged for her to give him an erotic massage.

I reviewed Holliday's Backpage ads, which use Parker's phone number (360) 551-6938 as well as Holliday's number (360) 908-2471. On 2/19/13, detectives posed as a potential customer, and sent Holliday a text asking if she was available for a call. Holliday, who had recently posted a new ad on Backpage, corresponded with detectives to arrange a meeting. Detectives asked Holliday to come to a local hotel. Holliday refused, stating that she does not do hotels. Holliday stated that she wanted to meet at her house, presumably referring to the 14th St address. During phone calls with Llamas, Holliday advises that she feels safe doing calls in the residence. Holliday eventually stopped communicating with detectives. Following the failed meeting, Holliday continued to post new ads on Backpage.

On or around 2/13/13, Parker posted bail and was released from jail. Through a review of jail phone calls, I learned that Williams, Anthony Flewellen and Holliday pooled money together for the bail. Holliday indicates in telephone calls to Parker that she obtained her portion of the bail, which was approximately \$270, from prostitution. The majority of the money, \$2,000, was posted by Williams. After being released, Parker told Llamas that he moved in with his wife, Heather Patillo, in Port Orchard. Notably, Patillo used her house for collateral for Parker's bond. On or around 2/14/13 and 2/15/13, I observed vehicles registered to Patillo parked outside of the 14th St residence. I learned through a review of subsequent telephone calls that Parker moved out of Patillo's residence and into a house owned by his mother on Summit Ave. I spoke to a Jaccet member, who provided a description of the residence. Detective Rauback located the residence, which was identified as 701 or 703 S Summit Ave in Bremerton, Washington. Both addresses are on the same piece of property, which is owned by James and Patricia Battle. I

believe that Patricia is Parker's mother. I-leads lists Patricia's address as 1240 E California Ave in Port Orchard, Washington. Parker reportedly lives in an apartment over the garage on the property.

On 2/22/13, I applied for a search warrant for the Backpage ads and underlying information – billing information, methods of payment, associated credit card information, e-mail information, associated phone numbers, internet logs and IP address information - related to the Backpage ads of, among others, Johanna Holliday. Kitsap County Superior Court Judge Jennifer Forbes issued the warrant, which is attached to this report.

Johanna Holliday's postings list four different names in the customer section - Johanna Holliday, Tony Parker, Rancia Camacho, Jaime Richins, Heather Patillo, and Heather Parker. I know that Patillo is Parker's wife. The ads list the following addresses, 2007 2nd Ave in Bremerton, 1240 E California Ave in Port Orchard, 6018 NE Bligh Ct in Bainbridge Island, 1022 Tacoma Ave in Port Orchard. Notably, 6018 NE Bligh Ct is Holliday's listed address in I-leads. I have spoken to Holliday's parents, who reside there. They confirmed that Holliday has been staying with "Tony" in Bremerton. I-leads lists 1022 Tacoma Ave as both Patillo and Parker's residence - 1240 E California Ave is listed as Parker's mother's residence. All of the ads list the email address tpabc77@Gmail.com, which presumably belongs to Parker. This email address is listed as the customer ID for the ads. The billing data for some of the ads list Parker's address at 1720 14th St.

This concludes my investigation as of 2/27/13.

App. A.

On March 12, 2013, the police interviewed Prerost, who verified Parker's assault and kidnapping of Holliday. App. B. The next day, Heffernan reported that he had reviewed a recording of a jail visit where Parker and Llamas discussed pimping out Holliday and another woman.

App. C. Heffernan also interviewed the woman, who confirmed Parker's activities with her. *Id.*

Moreover, Parker misreads the automatic standing rule. That he was subsequently charged with unlawful possession of a firearm does not confer automatic standing to contest the seizure of the phone. The automatic standing doctrine is grounded in the tension between defendants' Fourth and Fifth Amendment rights:

The defendant's ability to challenge that entry does not depend upon his admission to possession of contraband or to any other illegal activity. We cannot agree that the automatic standing rule as originally conceived by the Supreme Court would have any application where there is no conflict in the exercise of his Fourth and Fifth Amendment rights. Moreover, as expressed by the plurality opinion in *Simpson*, *the automatic standing rule may not be used where the defendant is not faced with "the risk that statements made at the suppression hearing will later be used to incriminate him albeit under the guise of impeachment."* *Simpson*, 95 Wn.2d at 180, 622 P.2d 1199. Automatic standing is not a vehicle to collaterally attack every police search that results in a seizure of contraband or evidence of a crime.

*State v. Williams*, 142 Wn.2d 17, 23, 11 P.3d 714 (2000) (emphasis supplied). Here the gun in question was seized when the police executed a search warrant of Parker's home weeks after the first phone was seized. Challenging the seizure of the phone would in no way require Parker to make incriminating statements regarding the possession of the gun. As such neither the possession element of the automatic standing doctrine nor

its underlying purpose have been met. Automatic standing does not apply to the seizure of the phone.

**3. *Parker fails to show his Fourth Amendment rights were infringed.***

Parker also claims standing under the Fourth Amendment because he alleges he had a reasonable expectation of privacy in some of the contents of the phone. However, the police obtained a warrant before they searched those contents. As the Supreme Court has noted, officers may seize and secure “cell phones to prevent destruction of evidence while seeking a warrant.” *Riley v. California*, \_\_\_ U.S. \_\_\_, 134 S. Ct. 2473, 2486, 189 L. Ed. 2d 430 (2014). Thus, even if Parker’s Fourth Amendment expectation of privacy extended beyond the messages to the physical phone itself, he fails to show any Fourth amendment violation.<sup>5</sup>

**4. *Even assuming there were an illegal seizure, and assuming Parker had standing to raise it, Parker fails to show the evidence would not have been admissible under the independent source doctrine.***

Parker next asserts that the warrant did not cure the allegedly illegal seizure of Holliday’s phone. As previously discussed, Parker lacks standing to challenge that seizure. Furthermore, as also discussed, the seizure of the phone while the police obtained a warrant was also lawful. Nevertheless even if neither of those facts were true, Parker would still fail

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<sup>5</sup> As previously discussed, such a seizure is also lawful under Art. 1, § 7. *See Samalia*,

to demonstrate that evidence on the phone, or at the very least the remaining very significant amount of evidence presented at trial would not have been admissible under the independent source doctrine.

The following warrants were obtained after the ZTE phone seized on April 4 was searched: for Parker's house, Ref. Hrg. Exh. 3 & 3b, Parker's Samsung phone, Ref. Hrg. Exh. 4, for Holliday's Motorola phone, Ref. Hrg. Exh. 5, and for Facebook records, Ref. Hrg. Exh. 6. In his lengthy recorded testimony in support of the warrant to search Parker's house, Heffernan did not even mention Holliday's phone:

Over the course of the last several months five detectives have investigated the criminal activities of the Jackets, uh, street gang. Detectives identified Anthony Parker, aka Baby (Dues) as a member of the gang. Parker's criminal history includes the following. He has seven felony convictions for the crimes of assault 3rd degree, uh, two counts, controlled substance, no prescription, (Loxen) manufacture, (unintelligible) possession, (Loxen) possession. Burglary second degree and taking a motor vehicle without permission. Parker has 11 gross misdemeanor convictions for obstructing a law enforcement officer, uh, four counts of that. Assault fourth degree, three counts. DUI, DV protection order violation. Harassment and theft. Parker also has three misdemeanor convictions and four classification unknown convictions. Through the course of the investigation detectives learned that Parker's former girlfriend, Lorena Llamas, groomed women to work as prostitutes for Parker while she was incarcerated in Kitsap County Jail. Detectives identified one of these prostitutes as Johanna Holliday. Holliday has no felony convictions and five gross misdemeanor convictions for (sef)- theft third degree, minor in

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186 Wn.2d at 274.

possession, three counts, and driving under the influence. (Deruv)- uh, review of jail phone calls as well as contact with confidential informants and Jacket associates, detectives learned that Parker bailed Holliday out of jail in and around December 2012. And since that time has been involved in a dating relationship with her and acted as her pimp. Holliday performed prostitution services at 1720 - 14th Street, a residence owned by Llamas' family that Parker lived in with Holliday. As well as another residence, 703-1/2 South Summit Avenue which is the subject of this warrant. Holliday turned the money she earned as a prostitute over to both Parker and Llamas. Detective reviewed Holliday's advertisements for prostitution on Backpage.com. On 4- 12-13 detectives responded to the ads posing as a potential customer and Holliday agreed to meet with detectives at the Oyster Bay Inn on Kitsap Way in Bremerton. Detectives met with Holliday and placed her into custody for prostitution and then outstanding warrant. After being provided with her Miranda Rights Holliday agreed to speak with detectives. Holliday provided a taped statement detailing her relationship with Llamas and Parker. Holliday confirmed that Parker has acted as her pimp since he bailed her out of jail approximately four months ago. Holliday told detectives that she was terrified of Parker who beat her up on numerous occasions. Holliday recounted one instance in or around the middle of January where Parker became infuriated that she had been with Anthony Flewellen, another local Jack- uh, local Jacket gang member and pimp. Parker located Holliday at Flewellen's residence on Pleasant Avenue. Uh, detectives have independently confirmed the location of the residence. Holliday told detectives that Parker came to the residence and demanded to be let in. Jennifer Prerost, who is also present at the residence with her daughter, allowed Parker inside over Holliday's protests. Holliday huddled up in Flewellen's locked bedroom. Parker came inside and broke down the door. Parker picked Flewel- Parker picked Holliday up by the hair and threw her against the wall and beat her face. Holliday was so terrified that she urinated in her pants on two occasions. Detectives have spoken to Prerost who independently confirmed this account of events. Detectives have also reviewed jail phone calls in which Parker tells Llamas that he beat Holliday for stealing

money and shit. Detectives have - detectives have also reviewed jail phone calls in which Holliday describes the assault in the same manner she described to - the assault to us tonight to Llamas. Park- Parker took Holliday from the present - Pleasant house against her will to an unknown residence on Houston Avenue. He continued to beat her about the head and face in the car on the ride over. Holliday told detectives that she briefly passed out at one point after Parker slammed her face into the door. Parker told Holliday that he planned to have his cousins torture her at that residence. Parker took Holliday inside where he got a towel for her to clean the blood from her face. Parker then took Holliday back to Llamas' residence at 1720 - 14th Street where he continued to abuse her for the next several hours. Holliday said that Parker's mood varied dramatically upon their return to the residence. At one point Parker took a handgun and held it to Holliday's head asking if she was ready to die. Parker made Holliday look down the chamber of the gun which he pointed at her face. Holliday told detectives that she was terrified for her life. Holliday was familiar with the gun and she believed that it was real. Holliday told detectives that Parker calls the gun monster, or little monster. And Holliday described the gun as a small handgun with a large light on it. Holliday, who isn't very familiar with guns, noted that the appearance was similar, uh, to that of a semi-automatic handgun carried by a detective. It should be noted that Prerost has also confirmed seeing Parker's gun at the 14th Street residence in or around this period of time. Prerost believed that it was a 9 millimeter handgun. Both Prerost and Holliday also independently provided information that the gun was stolen from the residence and later returned to Parker. Parker eventually put the gun away but continued to torment Holliday for the next several days periodically beating her and demanding that she continue to see clients at his request. Approximately one month ago Holliday and Parker moved from their 14th Street house to the above-referenced residence, that being the 1703-1/2 South Summit Avenue residence which is the subject of the warrant. Holliday confirmed that Parker took the gun with him to the new house. Parker typically stored the gun under the mattress. On or around 4-5-13 Parker was placed into custody on a DOC warrant. During a jail phone call on or around 4-6-13

with Holliday Parker tells her that he's concerned about monster and directs her to put it downstairs in a duffel bag. Holliday told detectives that the reference pertained to Parker's handgun. Holliday followed Parker's instructions and moved the handgun to the, uh, to the shed unit, or lower garage unit, which is attached to the, uh, apartment. Holliday placed the handgun inside a blue Victoria Secret bag in the shed. Holliday believes that the handgun is either still inside the bag or has been moved by Parker back into the residence. Based upon the foregoing we believe there's probable cause that there's gonna be, um, sorry -- evidence of the crimes of DV assault, first degree, and/or felon and possession of a firearm currently stored at the above, uh, reference residence. And that being just the - the gun is - is all we're lookin' for. The gun and Parker himself Detectives observed a male matching Parker's description, black male approximately 5'8", 175 pounds, wearing a white tank top going in and out of the residence throughout the day today. And have seen him there within he last hour. Based upon Holliday's statements our understanding is that only Parker and Holliday lives at the residence and that this individual is Parker.

Ref. Hrg. Exh. 3b.

Similarly, the complaint for the search of Parker's phone, which was taken from him on arrest, contains only the following brief reference to the Holliday's first phone:

On 4/4/13, detectives observed Holliday participate in a drug transaction. with Parker's associate, Travier Stevenson (AKA Little Jaccet). Detectives contacted Holliday on a traffic stop, and developed probable cause to arrest her for possession of a schedule II drug, Percocet. Holliday was in possession of a cellular phone, which detectives determined had been used to post advertisements for prostitution on backpage.com as well as to communicate with Parker and clients about prostitution. Detectives took of [sic] custody of the phone, and released Holliday.

On 4/8/13, detectives obtained a search warrant for Holliday's phone. Detectives examined the phone, which contained numerous text messages - many to Parker pertaining to prostitution and drug activity. The phone also contained photos of Holliday that had been posted on backpage.com.

Ref. Hrg. Exh. 4 (Complaint at 4). The remainder of the complaint provided information that would have abundantly supported probable cause:

**PROBABLE CAUSE:** Over the course of the last several months, SOG detectives have investigated the criminal activities of Anthony Parker (AKA Baby Deuce). Parker has an extensive criminal history including seven felony convictions, eleven gross misdemeanor convictions, three misdemeanor convictions and four "classification unknown" convictions. Through the course of the investigation, Detectives learned that Parker's former girlfriend, Lorena Llamas (AKA Crazy), groomed women to work as prostitutes for Parker while she (Llamas) was incarcerated in the Kitsap County jail. Detectives identified one of these prostitutes as Johanna Holliday. Holliday has no felony convictions, and five gross misdemeanor convictions for the following: Theft 3<sup>rd</sup> degree, Minor in Possession/Consumption (three counts) and DUI. As set forth below, Parker used his Samsung Cellular phone model SPH-M580, S/N DEC268435460810632413 (hereinafter referred to as the "Phone") to communicate with Holliday, Llamas and clients about prostitution activities. There is probable cause to believe that evidence of human trafficking, promoting prostitution and/or prostitution will be found in the Phone, which is currently be stored in the Bremerton Police Department's secure evidence room.

Through a review of jail phone calls as well as contact with confidential informants and Jaccet associates, Detectives learned that Parker bailed Holliday out of jail .in or around December 2012, and since that time has been involved in a dating relationship with Holliday and acted as

her pimp. Detectives reviewed Holliday's ads for prostitution on backpage.com, which list phone numbers and addresses associated with Parker. Detectives performed surveillance, and confirmed that Holliday was living with Parker, and performing acts of prostitution at 1720 14th St in Bremerton Washington. The residence is believed to be owned by a family member of Llamas. Parker and Holliday have since moved to a residence at 703 S Summit Ave in Bremerton, Washington.

[paragraphs quoted above]

Upon her release, Holliday obtained a new phone and continued to post advertisements for prostitution on backpage.com listing the number (360) 551-9523. Detectives reviewed an advertisement Holliday posted on April 11th, 2013 at approximately 1828 hours. In that advertisement, Holliday posts six photographs of herself scantily-clad and in provocative poses. Her "screen name" on this advertisement is "Baby Doll."

Using a texting application with a fictitious name and phone number, detectives contacted Holliday at the new number, and inquired if she was available. Holliday told detectives that she was available, advising that the cost was \$200 per hour. Holliday also provided pricing information for two girls - "125 per person," for each half hour and "200 \_each" for an hour. Holliday said that she was available to meet at the Oyster Bay Inn, and asked detectives to "grab some condoms" and "lube. Detectives met with Holliday, and placed her into custody for possession of a schedule IT drug, Percocet, and an outstanding warrant. At the time of her arrest, Holliday was in possession of a cellular phone, and received a call from Parker. Detectives believe that Parker called Holliday from the above-described Phone.

After being provided with her Miranda rights, Holliday agreed to speak with detectives. Holliday provided a taped statement, detailing her relationship with Llamas and Parker. Holliday confirmed that Parker has acted as her pimp and boyfriend since he bailed her out of jail approximately four months ago. Since that time, Holliday has lived with Parker and maintained a dating relationship with him. Holliday told detectives that Parker

helped place her ads on backpage.com, responded to customers and kept nearly all of the money she made through prostitution. Parker saw it all as his money, and gave it out to Holliday as he saw fit. Although Parker was initially nice to Holliday and courted her as his girlfriend, he later forced her to work as a prostitute seven days a week, and left her alone for days at a time in the house demanding that she not spend time with her friends and family. Holliday told detectives that she lost everything she ever had - friends, family, possessions etc. over the last several months at the hands of Parker.

Holliday told detectives that she was terrified to leave Parker, and was isolated with nowhere else to go. When Holliday disobeyed Parker, he verbally abused her and often beat her severely. Detectives have reviewed numerous jail phone calls in which Parker berates Holliday, screaming, "You need to follow my orders ... what the fuck I tell you from right now until I get the fuck out of here in three days." Parker also cautions Holliday that that "[her] money better be right when I get out." Parker instructs Holliday to help with his bail saying, "Take that little bit of chump change that you fucking got and give it to Jaccet." I know that Jaccet is the moniker used by Tyler Williams, the leader of the gang. When Holliday starts to sob, Parker says, "I don't want to hear any crying bitch. ... stop crying nigga; I want someone to be making fucking moves."

In addition to verbal abuse and threats, Holliday recounted numerous instances in which Parker assaulted, and imprisoned her in an effort to prevent her from leaving him. In one instance in or around the middle January, Parker became infuriated that Holliday had been with Anthony Flewellen, another Jaccet gang member and pimp. After scolding Holliday over the phone, Parker located Holliday at Flewellen's apartment at 901 Pleasant Ave in Bremerton. Parker came to the residence, and demanded to be let in. Jennifer Prerost, who was present at the residence with her (Prerost's) young daughter, allowed Parker inside the residence over Holliday's protests. Holliday huddled on the ground in Flewellen's locked bedroom. Parker came inside the residence, and broke down the bedroom door. Parker picked Holliday up off the ground by the hair, threw her against the wall and beat her face. Holliday was so

terrified that she urinated in her pants. She later discovered large clumps of her hair missing. Detectives spoke to Prerost, who independently confirmed this account of events, telling detectives that it was one of the worst beatings she had ever witnessed. Detectives have also reviewed jail telephone calls, in which Parker tells Llamas that he beat Holliday for stealing from him. In addition, Detectives reviewed jail calls in which Holliday describes this portion of the assault in great detail to Llamas, who appeared more concerned about damage to the wall (Llamas mistakenly believed that the assault occurred in her residence).

Holliday told detectives that Parker took her from Flewellen's residence against her will to an unknown house on Houston Ave. Parker continued to beat Holliday about the head and face while in the car, which caused her to temporarily black out. Parker told Holliday that he planned to have his cousins tie her down, and torture her at the residence. Instead, Parker took Holliday inside and retrieved a towel for her to clean the blood from her face. Parker then drove Holliday back to 1720 14<sup>th</sup> St where he continued to abuse her for the next several hours.

At one point, Parker took a handgun and held it to Holliday's head asking if she was ready to die. Parker made Holliday look down the chamber of the gun, which he pointed directly at her face. Holliday broke down in tears as she told detectives that she was terrified for her life. Parker eventually put the gun away, but continued to torment Holliday for the next several days, periodically beating her and demanding that she continue to see clients despite having a black eye, significant bruising and limited function of one of her arms.

Although this was the worst beating that Parker inflicted on Holliday, it was far from the last. He continued to beat her, often for no reason, in an effort to maintain her as a prostitute under his control. Parker assaulted Holliday as recently as 4/12/13, crushing her cheek against the wall of their apartment with his fist. Parker applied such a degree of pressure that Holliday feared he would break bones in her face. Holliday said that Parker treated her like a piece of property, and made it clear that he could leave her

at any time. He expected complete obedience from Holliday, saying that she needed to always be on point, and Holliday lived in constant fear of being assaulted, or possibly killed if she could not perform to his expectations.

Holliday spoke extensively about Parker's gun, which she described as a small handgun with a large light on the barrel. Holliday, who is not familiar with guns, noted that it was similar in appearance to a semi-automatic handgun carried by a detective. Holliday told detectives that Parker referred to the gun as "Monster", and usually kept it hidden under his mattress. Holliday confirmed that Parker took the gun to the couple's new residence on S Summit Ave. Holliday told detectives that Parker asked her to move the gun from under the mattress to a bag in the garage. Parker made the request in a phone call from the jail. Detectives reviewed the call which occurred on or around 4/3/13 in which Parker tells Holliday to move "Monster" from under the mattress to a duffel bag in the attached garage. Holliday told detectives that she followed Parker's instructions, and placed the gun in a blue Victoria Secret clothing bag in the garage.

On 4/12/13 Detectives applied for a telephonic search warrant for Parker's residence. The Honorable Kitsap County Judge Jennifer Forbes issued the warrant allowing law enforcement to enter the residence to effectuate the arrest of Parker, and search for the firearm.

On 4/13/13 at approximately 1200, detectives and patrol officers went to the residence to serve the warrant. Parker, who could be seen inside the residence, refused repeated demands to exit. Because of the severity of the crimes and safety concerns associated with the handgun, the SWAT team responded to the scene. Parker came out of the residence at approximately 1500, and was placed into custody. During a search of the residence, detectives located a confirmed stolen Taurus 45 caliber semi-automatic handgun S/N NBO91701 equipped with a light on the barrel in a clothing bag in the garage.

At the time of his arrest, Parker was holding the above-described cellular Phone. The Phone was on, and connected to "Lil Jac" or "Lil Jaccet," which I know to be Travier Stevenson. Detectives believe that Parker also used

the phone to call Holliday while she was being placed into custody hours earlier. In addition, Detectives believe that Parker used the Phone to communicate with Llamas, advertise for prostitution on backpage.com, respond to customers on Holliday's behalf and/or otherwise further his criminal activities. Based on the foregoing, there is probable cause to believe that evidence of human trafficking 1st degree, promoting prostitution 1st degree and/or prostitution is currently being stored in the Phone.

Ref. Hrg. Exh. 4. The complaint for the warrant to search Holliday's second phone is almost verbatim to the complaint to search Parker's phone. *See* Ref. Hrg. Exh. 5. Finally, the complaint for the warrant directed to Facebook was virtually the same as those for the Parker's phone and for Holliday's second phone. *See* Ref. Hrg. Exh. 6 (Complaint at 3-7). It contained the following additional information, which, again, was not related any information derived from the search of Holliday's first phone:

Following his arrest, detectives reviewed Parker's Facebook.com page, which contains numerous references to his status as a pimp as well as his gang affiliation, and ongoing conflict with rival gang members. Attached is a photo posted on Parker's Facebook.com page from New Years Eve that depicts Parker wearing blue clothing which is associated with the Crip gang, and shirt bearing the name, "CRIP." The photo is taken with rival gang member, drug dealer and pimp, Anthony Flewellen before their falling out. In the work and educations section of his account, Parker lists, "Sell-A-Hoe," and "Pimp UR." Parker posts numerous references to his gang affiliation and/or prostitution activities including the following:

3/17/13 I hope a nigga ain't sayin I'm saving hoes or got one pregnant. Ain't no bitch in ME cuz and the only thing I got pregnant is the top of my

chamber.....

3/15/13 I wrote something that hurt my heart and I apologize cause my heart spoke to loud, not because I'm a bitxh (sic) cuz I'm a Crip

3/12/13 Here is something weird, I didn't even get to go to my cuzsin c day. Its gravy cuz I know where my loyalties lay but dam cuz that's how we serve lit ..... That ain't Crippin so fucc me, fucc u niggas

2/19/13 Niggas be acting like they MONSTERS but scared to carry a MONSTER or be in the peni with MONSTERS .... DUICEE FAM is MONSTERS and WE will be in ur closet, under ur bed, in ur bushes eating Frosty Flakes .... BOO scary ass niggas..

2/16/13 For a team to get together everyone has to have the same goal ... And that's to rise .... If one can't eat from my hands then he won't eat at all ..... Duicee Loc.....

1/25/13 Duicee Family, fucc with US ain't not fair ones, better get a tool ....

Parker's reference to "saving hos, or [getting] one pregnant" addresses rumors that Parker impregnated Holliday, and treated her like a girlfriend rather than a prostitute. The terms "MONSTER" in the context of "Carry a MONSTER" and "tool" refer to a gun. Parker uses the same terms to refer to his gun in jail calls with Llamas and Holliday. The reference to "Duicee Fam" refers to Parker's particular gang set association. Notably, all of the messages use "CC" opposed to "CK", which denotes Crip Killer. The messages also frequently use the term "Cuz", which denotes other associated gang members. Parker also uses the term "Loc" which is commonly used by gang members in place of the term Cuz, or to denote the leader of a particular set.

Ref. Hrg. Exh. 6 (Complaint at 7-9).

In *State v. Coates*, 107 Wn.2d 882, 735 P.2d 64 (1987), the police

obtained a search warrant that included statements from the defendant that had been obtained after he had invoked his right to counsel. The police, pursuant to the warrant, recovered the knife the defendant had used in an assault. On appeal, the defendant argued that the knife should have been suppressed, because the inevitable discovery doctrine was inconsistent with art. 1, § 7. *Coates*, 107 Wn.2d at 884-86.

The Court declined to decide that issue,<sup>6</sup> and instead applied the independent source doctrine. *Coates*, 107 Wn.2d at 886-87. Under that doctrine, analogous to the procedure followed in *Franks v. Delaware*, 438 U.S. 154, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978), the warrant will be considered valid, and its fruits admissible at trial, if after excising the unlawfully obtained information, there remains probable cause to search. *Coates*, 107 Wn.2d at 888.

The Court reiterated this holding in *State v. Gaines*, 154 Wn.2d 711, 720, 116 P.3d 993 (2005), observing that the “remedy finely balances the rights of the accused with society's interest in prosecuting criminal activity and ensures that the State is placed in neither better nor worse position as a result of the officers' improper actions.” In *Gaines*, the police performed an illegal warrantless search of the trunk of the defendant's car,

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<sup>6</sup> Some 20 years later, the Court resolved that issue, rejecting the inevitable discovery doctrine under the state constitution. *State v. Winterstein*, 167 Wn.2d 620, 636, 220 P.3d 1226, 1233 (2009).

during which officers saw what appeared to be the barrel of an assault rifle and numerous rounds of ammunition. *Gaines*, 154 Wn.2d at 714. Rather than seizing the items, officers immediately closed the trunk without disturbing the contents. *Id.* The following day, the police sought a search warrant for the defendant's trunk, which included a single reference to the officer's observation of the weapon, as well as other evidence to establish probable cause. *Gaines*, 154 Wn.2d at 714-15. After obtaining the warrant and searching the vehicle, the police recovered the rifle and ammunition from the trunk of the defendant's car. *Gaines*, 154 Wn.2d at 715. The Court concluded that this conduct violated art. 1, § 7 and that the appropriate remedy was to strike all references to the initial illegal search from the warrant affidavit when assessing whether probable cause existed to issue the original warrant; after doing so, the Court held that the evidence was ultimately seized pursuant to a lawful warrant. *Gaines*, 154 Wn.2d at 720, 722. The Court again examined and reaffirmed the doctrine recently in *State v. Betancourth*, 190 Wn.2d 357, 413 P.3d 566 (2018).<sup>7</sup>

Here, as set forth above, the police set forth ample probable cause

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<sup>7</sup> *Betancourt* expanded the doctrine somewhat in ways that are not germane here. There, the police obtained Verizon phone records via a district court warrant subsequently determined to be beyond the jurisdiction of the district court. *Betancourth*, 190 Wn.2d at 361. Upon that determination, they applied for a second, valid warrant in superior court. *Id.* Because the second warrant relied on the same information as the first, the Court deemed that the documents, which had been produced pursuant to the district court warrant, were untainted by the illegality of the first warrant, and the State did not need to go through the pointless exercise of reobtaining them for them to be admissible in court. *Betancourth*, 190 Wn.2d at 370-71.

for the various warrants they obtained. Most of them contain no reference to Holliday's first phone. In the remainder, the reference is brief and its excision would not defeat probable cause. As such, even if the contents of Holliday's first phone were unlawfully obtained, nothing in that alleged illegality tainted any other evidence obtained and introduced at trial. As discussed previously, Parker fails to show that the exclusion of a handful of mostly innocuous text messages would have changed the outcome of trial. Parker would thus fail to establish prejudice even if were able to show that the first phone was unlawfully seized.<sup>8</sup>

***5. Contrary to Parker's claims, the warrants, which extensively described the investigation police had conducted of Parker's activities for months before the phones were seized, were not lacking in specificity or particularity.***

Finally, Parker raises the issue of the particularity and specificity of the warrants. He does not appear to raise any issue not addressed in counsel's brief, and the State will rely on its response thereto, *supra*.

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<sup>8</sup> Parker's reliance on *State v. Hummons*, 227 Ariz. 78, 253 P.3d 275 (2011), is misplaced. That case was discussing arrest, not search, warrants, and is otherwise factually inapposite.

**VI. CONCLUSION**

For the foregoing reasons, the decision of the court below should be affirmed and Parker's second personal restraint petition should be dismissed.

DATED July 5, 2018.

Respectfully submitted,  
TINA R. ROBINSON  
Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'RS', with a long horizontal line extending to the right.

RANDALL A. SUTTON  
WSBA No. 27858  
Deputy Prosecuting Attorney  
kcpa@co.kitsap.wa.us

# **APPENDIX A**

SUPPLEMENTAL REPORT

Bremerton Police Dept

OCA B13001589

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: (462) HEFFERNAN, RYAN M

Date / Time: 3/1/2013 12:25

Friday

Supplement Type: SUPPLEMENTAL REPORT

Race: Sex: DOB: Age:
Employer:

Home Phone:

INFORMATION/VENUE: I am a detective assigned to the Bremerton Police Department's Special Operations Group (SOG), For the past several weeks, I have participated in an investigation regarding the illegal activities of local gang members associated with the "Jaccet" Organization. These activities involve, but are not limited to human trafficking and the delivery of narcotics. This supplement pertains to the prostitution activities of known Jaccet gang member Anthony Parker.

BACKGROUND: Through conversations with confidential informants, Jaccet associates and other SOG detectives, I learned that the Jaccets are a well-known Kitsap County street gang with a loose affiliation to the California based Acacia Blocc Compton Crips. SOG conducted recent investigations pertaining to narcotics activity by known Jaccet members. During the course of these investigations, SOG developed confidential informants who purchased narcotics from Jaccet members, and provided detailed information on the nature of the Jaccet's organization, and criminal enterprises. Based upon the criminal histories of known Jaccet members, ongoing investigation into the gang's activities, I know that the Jaccets are currently involved with the distribution of narcotics and promotion of prostitution.

ANTHONY PARKER: Anthony Parker, AKA Baby Deuce, Little Deuce, and/or Deucy, is a member of the Jaccet Gang. Until his arrest on 2/11/13, Parker lived at 1720 14th St in Bremerton Washington. Two cooperating witnesses working with SOG confirmed that Parker lived at the residence, and maintained drugs and prostitutes there. It should be noted that Parker shared the residence with his girlfriend, Lorena Llamas, AKA Crazy until her arrest for vehicular homicide on or around 11/17/12.

While in jail, Llamas groomed inmates to work as prostitutes and sent them out to Parker as well as other Jaccet gang members. One prostitute that Llamas sent to Parker was Johanna Holliday. Holliday was in jail with Llamas at the end of November 2012. I reviewed Llamas' calls during this time period. On 11/29/12 at approximately 1216, Llamas calls Parker at (360) 551-6938, and gives him (Parker) instructions to post Holliday's bail. During the call, Holliday gets on the phone, and speaks with Parker about items she will need when she gets out. Holliday tells Parker that she needs outfits and makeup, noting that she will have to dress a certain way. During a subsequent call at 1342, Llamas tells Parker that other women in the jail were trying to take Holliday away to Tacoma. Llamas says something like, "Aint nobody taking anything . . . she belong to me." Llamas says that Holliday was a good girl and came to her immediately with the information. She (Llamas) tells Parker that he is going to love her, referring to Holliday.

Llamas continues to speak with Parker and Holliday after her (Holliday's) release from jail. Both Llamas and Parker refer to Holliday as "Jo Jo" or "Baby Doll" in the calls. Llamas contacts Holliday at (360) 908-2471. I have spoken to Holliday's mother, who confirmed that this is Holliday's cell phone number. During the calls, Holliday tells Llamas that she (Holliday) is staying at Parker's residence, "posting" and taking calls. Holliday tells Llamas that Parker takes all the money from the calls. Holliday says she is posting Backpage ads from Parker's phone, or from the library. From my training and experience, I know that Backpage is a website commonly employed by prostitutes to advertise their services.

During the telephone calls, (Holliday) says that she is trying to fix up a basement room for calls, and have customers come in and leave the residence through a side door. Holliday tells Llamas that she recently had

## SUPPLEMENTAL REPORT

Bremerton Police Dept

OCA B13001589

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to go to the store with Parker to buy medicated douche because she had intercourse with a customer after giving him a hand-job with lotion. Holliday also discusses her relationship with an Asian prostitute working for Parker. Holliday states that Parker views her (Holliday) as the "top bitch" and instructed her (Holliday) to "check the Asian bitch." Notably, there is an Asian female linked to some of Holliday's Backpage ads during this time period. Through a search of available police data-bases, I identified the subject as Rancia Camacho. The advertisements, using Parker's phone number (360) 551-6938 as well as (916) 470-4232 state, "two girl special -sexy blonde and hot Asian!!"

On 1/23/13, Llamas tells Parker that she (Llamas) may have another "Baby Doll" for Parker who is even more pretty. Parker tells Llamas that Baby Doll has been "stealing shit . . . money and drugs." Parker then says that Baby Doll "ain't going anywhere unless she wants her other eye shut up." Llamas asks Parker if he (Parker) already hit Holliday, and then says something like, "Of course you did." On 2/2/13, Holliday describes the assault in detail to Llamas. Holliday tells Llamas that Parker picked her (Holliday) up by the hair, and threw her against a wall. Holliday says that Parker took out a chunk of her hair, gave her a black eye and "made her piss herself twice."

On or around 2/11/13 Parker was arrested for burglary and an outstanding DOC warrant. He (Parker) immediately calls Holliday, and tells her, "You need to follow my orders . . . what the fuck I tell you from right now until I get the fuck out of here in three days." Parker also cautions Holliday that that "[her] money better be right when I get out." Parker instructs Holliday to help with his bail saying, "Take that little bit of chump change that you fucking got and give it to Jaccet." I know that Jaccet is the moniker used by Tyler Williams. When Holliday starts to sob, Parker says, "I don't want to hear any crying bitch. . . . stop crying nigga, I want someone to be making fucking moves." During telephone calls during this time period with Llamas, Holliday says that Parker keeps all of her money, and she (Holliday) is taking the opportunity while Parker is in jail to make money for herself.

On 2/12/13 at 1538, Holliday speaks with Llamas, and says that she cannot talk because she (Holliday) is in the middle of a call. At the same time, Detective Rauback drove by the 14th St residence, and observed a male, later identified as Jonathan Miller, talking on his cell phone in the yard. Detective Rauback had observed Miller parked in the area earlier. I later contacted Miller, who confirmed that he had been at the residence to meet with Holliday. Miller, who recognized Holliday from a photo, told me that he had found Holliday's advertisement on Backpage, and arranged for her to give him an erotic massage.

I reviewed Holliday's Backpage ads, which use Parker's phone number (360) 551-6938 as well as Holliday's number (360) 908-2471. On 2/19/13, detectives posed as a potential customer, and sent Holliday a text asking if she was available for a call. Holliday, who had recently posted a new ad on Backpage, corresponded with detectives to arrange a meeting. Detectives asked Holliday to come to a local hotel. Holliday refused, stating that she does not do hotels. Holliday stated that she wanted to meet at her house, presumably referring to the 14th St address. During phone calls with Llamas, Holliday advises that she feels safe doing calls in the residence. Holliday eventually stopped communicating with detectives. Following the failed meeting, Holliday continued to post new ads on Backpage.

On or around 2/13/13, Parker posted bail and was released from jail. Through a review of jail phone calls, I learned that Williams, Anthony Flewellen and Holliday pooled money together for the bail. Holliday indicates in telephone calls to Parker that she obtained her portion of the bail, which was approximately \$270, from prostitution. The majority of the money, \$2,000, was posted by Williams. After being released, Parker told Llamas that he moved in with his wife, Heather Patillo, in Port Orchard. Notably, Patillo used her house for collateral for Parker's bond. On or around 2/14/13 and 2/15/13, I observed vehicles registered to Patillo parked outside of the 14th St residence. I learned through a review of subsequent telephone calls that Parker moved out of Patillo's residence, and into a house owned by his mother on Summit Ave. I spoke to a Jaccet

SUPPLEMENTAL REPORT

Bremerton Police Dept

OCA B13001589

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member, who provided a description of the residence. Detective Rauback located the residence, which was identified as 701 or 703 S Summit Ave in Bremerton, Washington. Both addresses are on the same piece of property, which is owned by James and Patricia Battle. I believe that Patricia is Parker's mother. I-leads lists Patricia's address as 1240 E California Ave in Port Orchard, Washington. Parker reportedly lives in an apartment over the garage on the property.

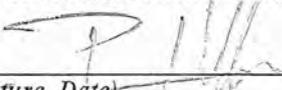
On 2/22/13, I applied for a search warrant for the Backpage ads and underlying information - billing information, methods of payment, associated credit card information, e-mail information, associated phone numbers, internet logs and IP address information - related to the Backpage ads of, among others, Johanna Holliday. Kitsap County Superior Court Judge Jennifer Forbes issued the warrant, which is attached to this report.

Johanna Holliday's postings list four different names in the customer section - Johanna Holliday, Tony Parker, Rancia Camacho, Jaime Richins, Heather Patillo, and Heather Parker. I know that Patillo is Parker's wife. The ads list the following addresses, 2007 2nd Ave in Bremerton, 1240 E California Ave in Port Orchard, 6018 NE Bligh Ct in Bainbridge Island, 1022 Tacoma Ave in Port Orchard. Notably, 6018 NE Bligh Ct is Holliday's listed address in I-leads. I have spoken to Holliday's parents, who reside there. They confirmed that Holliday has been staying with "Tony" in Bremerton. I-leads lists 1022 Tacoma Ave as both Patillo and Parker's residence - 1240 E California Ave is listed as Parker's mother's residence. All of the ads list the e-mail address tpabc77@gmail.com, which presumably belongs to Parker. This email address is listed as the customer ID for the ads. The billing data for some of the ads list Parker's address at 1720 14th St.

This concludes my investigation as of 2/27/13.

DISPOSTION: Report to remain at SOG.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

 2/1/13

(Signature, Date)  
(462) HEFFERNAN, RYAN M  
KITSAP COUNTY, WA

# **APPENDIX B**

SUPPLEMENTAL REPORT

Bremerton Police Dept

OCA B13001589

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: (462) HEFFERNAN, RYAN M

Date / Time: 3/12/2013 14:46

Tuesday

Supplement Type: SUPPLEMENTAL REPORT

Race: Sex: DOB: Age:
Employer:

Home Phone:

INFORMATION/VENUE: On 3/11/13, I was working as a detective assigned to the Bremerton Police Department's Special Operations Group. On this date, I spoke with Jennifer Prerost by phone regarding her observations of an assault that occurred between Anthony Parker and Johanna Holliday. This supplement documents the conversation.

BACKGROUND: During the course of my investigation into Anthony Parker's criminal activities, I learned that he is actively engaged in promoting prostitution. I identified one of Parker's prostitutes as Johanna Holliday. Parker's girlfriend, Lorena Llamas, was incarcerated with Holliday in the Kitsap County Jail, and groomed her (Holliday) to work for Parker. I reviewed a 1/23/13 jail telephone call in which Parker tells Llamas that Holliday - who Parker refers to as Baby Doll - "ain't going anywhere unless she wants her other eye shut up." On 2/2/13, Holliday describes the assault in detail to Llamas, stating that Parker ripped out a chunk of her hair, threw her against a wall and "made [her] piss [herself] twice." The assault reportedly occurred at 901 Pleasant Ave, Apt 2 in Bremerton, Washington.

CONTACT WITH PREROST: On 3/11/12, I spoke with Prerost by phone. I asked Prerost if she knew anything about the assault between Parker and Holliday. Prerost told me that she had witnessed it. Prerost said that she drove Holliday to Anthony Flewellen's Pleasant Ave apartment earlier in the day at the request of Holliday and Flewellen. Parker had been away from the area at a funeral in Tacoma. Up until that time, Holliday had been working as a prostitute for Parker, and staying at his residence, 1720 14th St. Parker was in the midst of a feud with Flewellen - a well-known area gang member and pimp - over control of Holliday.

Parker returned to Bremerton, and went to Flewellen's residence to locate Holliday. Prerost, who was at the residence with her young daughter, told me that Parker was irate. Parker banged on the door and demanded to be let inside. Prerost told Parker not to do anything in front of her daughter. Prerost said that she moved her daughter out of the way, and then allowed Parker inside the residence. Parker located Holliday inside a locked bedroom. When she refused to come out, Parker broke the door down causing damage to the door and frame. Prerost witnessed Parker violently assault Holliday, and physically drag her (Holliday) from the residence. Prerost said that Holliday appeared terrified during the encounter.

Prerost has maintained contact with Holliday, and knows that she is still working as a prostitute for Parker. Flewellen has moved from the residence, and is now living in Renton.

DISPOSITION: Report to remain at SOG.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

(Signature, Date)
(462) HEFFERNAN, RYAN M
KITSAP COUNTY, WA

3-12-13

# **APPENDIX C**

# SUPPLEMENTAL REPORT

Bremerton Police Dept

OCA B13001589

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Investigator: (462) HEFFERNAN, RYAN M

Date / Time: 3/13/2013 17:34

Wednesday

Supplement Type: SUPPLEMENTAL REPORT

Race: Sex: DOB: Age:  
Employer:

Home Phone:

INFORMATION/VENUE: I am a detective assigned to the Bremerton Police Department's Special Operations Group (SOG). Over the past several months, I have been investigating the prostitution activities of Anthony Parker and his girlfriend, Lorena Llamas. Llamas is currently incarcerated in the Kitsap County Jail. This supplement documents Parker's 2/21/13 visitation with Llamas, which was downloaded to CD and placed into evidence.

2/21/13 VISITATION: Llamas and Parker openly discuss prostitution throughout the visit. Llamas tells Parker that she intends to send out another girl by the name of "Heaven." I have learned through the course of this investigation that Heaven is the moniker employed by Trista Chisholm, an admitted prostitute who is currently incarcerated with Llamas. Llamas tells Parker that Chisholm has "already been doing that, you know Baby Doll, and has a website you should check out." I have learned through the course of my investigation that "Baby Doll" is the moniker employed by Johanna Holliday, a prostitute who Llamas groomed in the jail to work for Parker.

I know from reviewing Llamas' telephone calls that she (Llamas) is upset with Parker because he had sex with Holliday on numerous occasions. Llamas tells Parker "not to ever put a bitch before me," referring to Holliday. Parker responds by saying something like, "That bitch makes sure you got money on her books." Parker goes on to say that whatever he gets from her, referring to Holliday, he gives to Llamas. I am aware from reviewing the deposit records, and telephone calls that Holliday also put money onto Llamas' books that she has received from prostitution.

Llamas then discusses the arrangement with Chisholm. Llamas says she spoke with Chisholm, who needed a place to stay upon her release from jail. Llamas responded to Chisholm by saying, "I got that, but you need to pay my nigga half that for the rent and for eating . . . you feel me." Llamas tells Parker that it is the same "Baby Doll" bit. Llamas tells Parker that Chisholm is on TNABoard, and suggests that Parker try posting ads for Baby Doll on Eros, another well-known website for prostitutes.

Llamas then calls to Chisholm off camera, and asks if there is a specific name that Parker should look for on TNABoard. Chisholm eventually provides her username, and password for the website, which is her son's name and birthday. Parker tries to access the website on his phone while he is speaking with Llamas. Llamas tells Parker, "Don't try to eliminate me out of the equation on this one . . . I've been without money in here for two weeks." Llamas tells Parker again that he should put "Baby Doll's ugly ass on Eros."

Llamas continues to talk about Chisholm's potential as a prostitute, telling Parker that she "already knows everything . . . everything so you don't even gotta do it how it was done with this other little one." Llamas says that Chisholm is 28, and getting out of jail sometime in March.

This concludes the visitation.

DISPOSITION: Ongoing investigation; Report to remain at SOG.

R\_Supp3

Page: 1

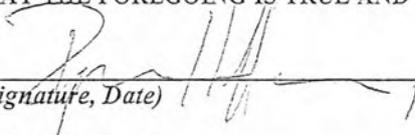
SUPPLEMENTAL REPORT

Bremerton Police Dept

OCA B13001589

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I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

 3-15-13  
\_\_\_\_\_  
(Signature, Date)

KITSAP COUNTY, WA

1 RP: The date is March 21<sup>st</sup>, 2013. The time right now is 1516 hours and I'm Detective Sergeant Randy  
2 Plumb with Bremerton Police. I understand this conversation is being recorded and I consent to that  
3 recording.

4 CG: Crystal Gray, detective with Bremerton. I also understand its being recorded and consent.

5 TC: Trista Chisholm, recorded, consent, yeah.

6 RH: Speak up a bit.

7 TC: Okay.

8 RH: Roger Hunko, I understand it's being recorded and give my consent.

9 Ryan: Detective Ryan Heffernan with the Bremerton Police Department. I understand this is being  
10 recorded and I give my consent.

11 CS: Coreen Schnepf, deputy prosecutor, permission to record.

12 RP: Okay Trista, let's go over again, real quick who it was that introduced you to Allix Park?

13 TC: Uh, Cindy.

14 RP: Okay, what's her real name?

15 TC: I don't see how this even matters. It's, its Aurora.

16 RP: Okay.

17 TC: I know you all already know. I just, I'm here because I (unintel) to it. I don't feel I need to bring  
18 people into it that have nothing to do with what's going on.

19 RP: Okay. And what's Aurora's last name?

20 TC: Oh fuck, like Cartie or Artie or something.

21 RP: Okay. And how long have you known her?

22 TC: Um, probably getting close to a year. I met her last Spring or Summer I think.

23 RP: Okay. So can we go over, real quick, what happened when she got a hold of you? What was the  
24 conversation there? What was the content of the conversation?

25 TC: Um, she basically told me that a friend of hers had two friends that were in a dangerous home  
26 situation and wanted to make money real quick to get out of it and asked her about the safest way to  
go about prostituting and, seeing as how she doesn't do it and I do she referred him to me.

1 RP: Okay. And was that in close, in close time frame to when?  
2 TC: Within a couple days of her bring him over.  
3 RP: Okay. Was that a face to face conversation or over the telephone?  
4 TC: No, I think it was over the phone.  
5 RP: Okay. So she's not involved in prostitution activity at all?  
6 TC: No, she always worries about (unintel)  
7 RP: How does she know Allix?  
8 TC: No clue.  
9 RP: Can you think of anything else?  
10 CG: Do you know where she stays or where she lives?  
11 TC: She just got a new house somewhere in Port Orchard.  
12 CG: And where at in Port Orchard?  
13 TC: I don't know Port Orchard at all.  
14 CG: Have you been to the house?  
15 TC: Once when she first moved there but I, there was trees and seriously I don't know the area.  
16 CG: Okay. And is she married or?  
17 TC: I don't think so.  
18 CG: Okay.  
19 TC: She's always got a boyfriend so that's why we broke up. That's part of the reason I broke up with  
20 her.  
21 CG: Okay.  
22 RP: I'm good.  
23 CG: Me too.  
24 RP: Detective Heffernan?  
25 Ryan: I didn't realize you were cell mates with Lorraina.  
26 TC: Well I mean not like in the same cell but it was 'D' pod so we were out at the same time. So you  
were only out for half of the day with four or five other people you tend to (unintel)

1 Ryan: And are you still in the same pod now or?

2 TC: Em em. (Negative)

3 Ryan: When you were with her did you ever talk to her about prostitution?

4 TC: Not really. She asked me what I did and she said she's never done it and she could never do it but  
5 she wouldn't knock me for doing it cuz tons of girls sleep around for free all the time so.

6 Ryan: And that was the extent of the conversation?

7 TC: Pretty much.

8 Ryan: Did you ever tell her where you advertise for prostitution?

9 TC: I don't know, I mean it might have come up in the conversation. I mean I'm a pretty open book.

10 Ryan: Did you ever tell her what your name was when you were a prostitute?

11 TC: Probably.

12 Ryan: Did you ever tell her how to log into the website that you?

13 TC: Well I know her, her boyfriend was, was uh, gonna see about bailing me out or whatever and he was  
14 trying to see if he knew me, he'd like recognize my name or something so I gave her the  
15 information to give him on how to look me up on 'T and A' where my pictures are so he could see if  
16 he recognized me.

17 Ryan: When was that?

18 TC: When did she get moved downstairs? Um, not to be a smartass but about a month ago maybe, I  
19 mean it's been six weeks of the same thing every day.

20 Ryan: Why would, why would you talk to her about having her boyfriend bail you out? It seems.

21 TC: Cuz I don't want to be here and she had money.

22 Ryan: Well why would her boyfriend bail you out? What's the?

23 TC: Um, because I was gonna make sure she had money on her books and help with rent cuz her  
24 boyfriend's kind of been losing it.

25 Ryan: Who's, do you know her boyfriend's name?

26 TC: Tony or something.

Ryan: And how would you be able to help with rent and put money on her books?

- 1 TC: I was gonna get on SSI after I got a (unintel) to get me started.
- 2 Ryan: Did you tell her that?
- 3 TC: Yeah. I told her that I had a friend that got on SSI that was gonna give me the name of the lawyer he  
4 used because I've been denied a couple times.
- 5 Ryan: Why would you help her with rent?
- 6 TC: Because it was a place to live that's in Bremerton so I could go to treatment and not have to  
7 commute from far away. I don't know that many people in Bremerton.
- 8 Ryan: So you would actually live at her house in Bremerton?
- 9 TC: Yeah, she said she had like multiple bedrooms and stuff and, and with her gone, it's her cousin's  
10 house or something. She needed people to pay rent and she's trying to clean it up cuz her boyfriend  
11 like turned it into a drug house or something so she was trying to like get people in there with legit  
12 jobs and what not.
- 13 Ryan: Is, do you know of anyone she got in there with legit jobs?
- 14 TC: No, last I heard she was still working on it.
- 15 Ryan: Do you know of anyone else that she's talked to in the jail about living in, in that house?
- 16 TC: She talks to everyone about it. I don't know who actually went there though.
- 17 Ryan: Who else has she talked to about it that you know of?
- 18 TC: Um, I know Jessica went there.
- 19 Ryan: Jessica?
- 20 TC: Briefly, you know she, she was out in less than a week.
- 21 Ryan: Um hum, and anybody else?
- 22 TC: No, most of the people that she's talked to me about either left right before I got here or, well no,  
23 they just left right before I got here or got transferred to another unit or something.
- 24 Ryan: Were you actually; were you there when she met with Tony, when she had that visitation?
- 25 TC: She was upstairs, no. No I think I was, yeah. Cuz I came over and said hi real quick but then I went  
26 back to the phones or something.

- 1 Ryan: Cuz it, in parts of the visitation it looks like, cuz I watched it, it looks like she turns and asks you  
2 some questions.
- 3 TC: Yeah, I think I went over there and gave her the information cuz she was having issues with it and  
4 then I went back to the phone or whatever.
- 5 Ryan: But throughout that conversation with Tony all she talks about is having you come out and work as  
6 a prostitute. There isn't any mention of you getting SSI.
- 7 TC: I might have let her come to that conclusion.
- 8 Ryan: Well how, what did you tell her that would have?
- 9 TC: She knew what I did and she knew I needed the money.
- 10 Ryan: And what did she ask?
- 11 TC: I told her that I'd make sure my part of the rent was paid and that you know? I'd put money on her  
12 books every now and then cuz I know what it feels like to be hungry.
- 13 Ryan: What, what did she ask you to do? What was her expectation?
- 14 TC: To get money.
- 15 Ryan: Yeah I mean that's what I'm getting at.
- 16 TC: Yeah, yeah and I'm not denying the fact that I let her assume that and didn't discourage it.
- 17 Ryan: Okay.
- 18 TC: I mean this place sucks, I want out.
- 19 Ryan: I hear what you're saying. I mean its Lorraine I'm interested in and so I want to get away from.
- 20 TC: Yeah, well I'm not denying the fact that I led her to believe that and let her believe that.
- 21 Ryan: Okay, so what, what was the actual arrangement from her perspective as far as having Tony bail you  
22 out of jail?
- 23 TC: That I was gonna work for her or for him or I'm not really sure how they worked that out.
- 24 Ryan: And in your mind when you had those discussions how would that, how would that kind of work  
25 out?
- 26 TC: It changed a lot. Sometimes she'd say well you know, half of whatever you make will go towards  
the household and he'll make sure there's food and everything and rent's paid.

1 Ryan: Right.

2 TC: And then other times she talked about the different prices for the different bedrooms cuz there's a  
3 big bedroom that might be a little more expensive, the little bedroom.

4 Ryan: Right.

5 TC: We never really settled on anything. I just kind of smiled and nodded.

6 Ryan: And was the understanding that you would work for her or you would work for him?

7 TC: I don't know they fought on that one a lot actually.

8 Ryan: They fought over it?

9 TC: So I just stayed out of it.

10 Ryan: Did you ever hear any of their conversations on the phone or anything or she just told you that?

11 TC: It's hard not to hear Lorraine talk.

12 Ryan: Um hum, yeah. She can go a little loud.

13 TC: I assume you've all met her. Um, I even had to tune her out.

14 Ryan: Yeah.

15 TC: I just, I got to the point actually where she gave me permission to hang up the phone when she  
16 started arguing with him for the sake of everybody in the (unintel).

17 Ryan: What, you know, I assume you talked to her a lot about or you knew what they were arguing about.

18 What were they arguing about for the most part?

19 TC: Oh some girl I guess that got pregnant.

20 Ryan: What's her name?

21 TC: I really don't know. Um, they used a nickname. They used Baby or little something or, I don't  
22 know.

23 Ryan: And do you know?

24 TC: It was drama.

25 Ryan: Yeah. Do you know what, like who that girl was?

26 TC: I never met her before.

Ryan: But I mean was she a prostitute, that's what I'm getting at?

- 1 TC: I assume so, yeah.
- 2 Ryan: Why?
- 3 TC: It's the impression I got.
- 4 Ryan: Why did you assume that she was a prostitute?
- 5 TC: I don't know, just once in a while I heard the word like trick over the phone and her arguing. There  
6 was some debate over whether the baby was his or. Yeah, like I said drama. I don't do drama.
- 7 Ryan: Do you know how she knew that girl?
- 8 TC: From here I guess.
- 9 Ryan: How do you know that?
- 10 TC: Because she bailed, or she had him bail her out and that's why I was hopeful that I would get out.
- 11 Ryan: All right. So is your understanding that she had Tony bail her out to do the same thing, to be a  
12 prostitute basically in the same way that?
- 13 TC: That's what I assumed. I mean we didn't really discuss it that much. Every time the subject of her  
14 came up it ended in a screaming phone match with Tony.
- 15 Ryan: All right. Do you know if she talked to anybody else in the jail about doing that type of thing?
- 16 TC: No I don't.
- 17 Ryan: Did you ever hear her talk about that?
- 18 TC: Not really.
- 19 Ryan: Did you ever hear her talk about sending out somebody to somebody other than Tony?
- 20 TC: No. I mean I don't know any of the people she knows so all the names just kind of, if I had a face to  
21 go with 'em and with me not really caring.
- 22 Ryan: Did you ever let her use your phone account?
- 23 TC: Is that a whole new charge right there?
- 24 Ryan: No that's not why I'm asking you. I don't know if it's a new charge.
- 25 CS: It's not a charge.
- 26 TC: Yeah I did.
- Ryan: Is there a particular reason she would use your phone account?

- 1 TC: I've let a couple people use it. They say they have to get a hold of their kids. They say that they  
2 don't have money on their phone and somebody's worried. That's how it was when I first got here.  
3 My sister didn't know where I was, if I didn't have money on my phone and I had her number I  
4 would have been begging people to let me use theirs.
- 5 Ryan: Is there a particular reason though that you know that she might use your phone account as opposed  
6 to just use her own?
- 7 TC: Not specifically. I assumed she just didn't have money on it.
- 8 Ryan: Do you know of any other criminal activity involving Lorraine and either Tony or somebody  
9 associated with Tony?
- 10 TC: No, not really.
- 11 Ryan: Have you heard her talk about?
- 12 TC: I know she's got a history with drugs.
- 13 Ryan: Have you heard her talk about drug activity with anybody?
- 14 TC: Just that she has a history and, and (unintel) she'd mentioned she's not sure she's done but she,  
15 she's glad that she was sober when she got in the accident and that's about it.
- 16 Ryan: Have you ever had a conversation with her about her drug connections?
- 17 TC: Something about cousins. I don't know, I mean I really don't pay much attention because it's, one  
18 none of my business, two not my problem and three there's much better things for me to be focusing  
19 on.
- 20 Ryan: Yeah, well I know Lorraine can be loud when she's talking and when she's talking on the phone  
21 with you so.
- 22 TC: Yeah and that's why I get really good real quick at tuning her out or I'd never sleep.
- 23 Ryan: Have you ever heard her talk about her cousins on the phone to anybody?
- 24 TC: Um, yelling at Tony about them wanting their house back.
- 25 Ryan: Wanting their house back?
- 26 TC: Their rent.
- Ryan: What about wanting their money back? Have you heard that?

1 TC: Money for rent's the only thing I've heard about.

2 Ryan: For rent? Okay.

3 TC: Sorry.

4 Ryan: I think that was it.

5 RP: Anything else?

6 CG: I can't think of anything.

7 RP: Okay, the time is 1529 hours.

8 ts:cb

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**KITSAP COUNTY PROSECUTOR'S OFFICE - CRIMINAL DIVISION**

**July 05, 2018 - 2:02 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 51180-1  
**Appellate Court Case Title:** State of Washington, Respondent v. Anthony D. Parker, Appellant  
**Superior Court Case Number:** 13-1-00597-1

**The following documents have been uploaded:**

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