

IN THE COURT OF APPEALS OF
THE STATE OF WASHINGTON
Division II

No. 51180-1-II

In re PERSONAL RESTRAINT PETITION of:

Anthony D. Parker
Petitioner

Personal Restraint Petition

On Appeal From the
Kitsap County Superior Court
THE HONORABLE LEILA MILLS

Petitioner's Response to State's Brief

Anthony D. Parker #776122
Stafford Creek Corr. Ctr.
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DIVISION II
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STATE OF WASHINGTON
BY _____ DEPUTY

A. FACTS

On April 4, 2013, Detective Rauback observed two females, Johanna Holliday and Alisia Crettol, meet with one Travier Stevenson, a man they reported sold and used Percocet pills. Holliday got in the truck with Stevenson, and minutes later returned to Ms. Crettol's car. They drove away. Detective Rauback followed them and coordinated with patrol officers to stop the Ford Escort Crettol was driving. Detective Heffernan responded to the location of the stop, escorted Holliday to a patrol vehicle, and explained that she was pulled over for a possible drug transaction that had just occurred "as well as other crimes related to prostitution."

Detective Heffernan asked Holliday how many pills she had gotten from Stevenson. Holliday answered that she had gotten one pill from Stevenson. Det. Heffernan asked her where she had put the pill, and Holliday responded that it was in her purse, which was sitting on the passenger seat of the vehicle. Det. Heffernan went to the vehicle and withdrew the purse as well as a cell phone. He showed Holliday the phone and asked if it was hers. She responded that it was. She was asked to identify the phone number. The detective called the number, confirmed it, and took the phone.

Because Holliday agreed to meet with detectives the

following day to make a recorded statement regarding her criminal activities, she was released from detainment and allowed to drive away, even though she was in possession of drugs.

Holliday did not show up on April 5th to interview with the police. A warrant was applied for four days later on April 8. The contents of the cell phone revealed Parker's email account with Backpage, pictures of Holliday, and text messages sent from Parker. After the search of the cell phone, detectives set up a sting to arrest Holliday. On April 12, 2013, a detective posing as a client met with Holliday at a motel where she was arrested. A second cell phone was seized. Holliday spoke with the detective and on that occasion made incriminating statements against Parker. A warrant was issued and Mr. Parker was arrested April 13, 2013, for human trafficking and possession of a firearm. Mr. Parker's cell phone was seized at that time.

In sum, at no point during the traffic stop on April 4, 2013, 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. Neither Holliday nor Stevenson were arrested on drug charges. Thus, the seizure of the phone on April 4 could not have been incident to an arrest. In addition, the seizure of the

other phone on April 12, 2013, incident to Holliday's arrest, and her giving statements of other crimes, was the direct result from the initial seizure and examination of the cell phone on April 4th. There were no police reports produced to support Parker's charges of burglary, possession of a firearm, kidnapping, or assaults.

The defense asserts that but for the seizure of the cell phone during the April 4 traffic stop, the officer would not have had evidence of Parker's alleged involvement at that particular time. In other words, there was no other evidence to support those convictions independent of the evidence from the cell phone that allegedly linked Parker to prostitution and human trafficking.

B. Argument

Article 1, Section 7

Washington's Constitution states that "No person shall be disturbed in his private affairs... without authority of law." Wash. Const. Art. 1, Sec 7 encompasses the privacy expectations protected by the Fourth Amendment to the United States Constitution and, in some cases, may provide greater protection than the Fourth Amendment because its protections are not confined to the subjective privacy expectations of citizens. State v. Myrick, 102 Wn.2d 506, 510-11, 688 P.2d 151 (1984). Under Art 1, Sec 7, in its protection of "private affairs," a search occurs when the government disturbs 'those privacy interests which citizens of this state have held and should be entitled to hold, safe from government trespass absent a warrant.'" State v. Hinton, 174 Wn.2d 862, 868, 319 P.3d 9 (2014)(quoting Myrick, 102 Wn.2d at 511)). "The authority of law required by Art 1, Sec 7 [to search or seize an item classified as a 'private affair'], is a valid warrant unless the state shows that a search... falls within one of the jealously guarded and carefully drawn exceptions to the warrant requirement." Id. at 868-69.

The State claims Parker fails to meet the elements of Automatic Standing. This contention is simply wrong.

On April 4th, 2013, Ms. Holliday was stopped and questioned about a drug transaction that occurred. The officer had consent to retrieve the purse where the drugs were in the car, the officer then retrieved the purse and Ms. Holliday's phone. The officer then obtained the drugs from Ms. Holliday's purse and told her he was keeping her cell phone. Ms. Holliday was released to drive away even though she was in possession of drugs. See Exhibit A, Complaint for Search Warrant, dated April 8, 2013, pg. 7, line 18 in Appendix #1.

What the State seems to misinterpret is regarding Parker's text messages, email account with Backpage, and pictures of Holliday, which are private contents inside the phone. The text messages are part of the phone, so when the cell phone was illegally seized, so was Parker's private affairs which are protected by Art 1, Sec 7 and the Fourth Amendment.

The right to be free from searches by government agents is deeply rooted in our nation's history and law, and it is enshrined in our State and National Constitutions. The United States Constitution prohibits unreasonable searches and seizures; our State Constitution goes further and requires actual authority of law before

the state may disturb the individual's private affairs.
U.S. Const. Amend. IV; Wash. Const. Art. 1, Sec 7; see also
State v. Evans 159 Wn.2d 402, 150 P.3d 105 (2007); State v.
Boland, 115 Wn.2d 571, 577-78, 800 P.2d 1112 (1990); State
v. Myrick, 102 Wn.2d 506, 510, 688 P.2d 151 (1984).

Generally, officers of the State must obtain a warrant
before intruding into the private affairs of others, and we
presume that warrantless searches violate both constitu-
tions. State v. Day, Wn.2d 889, 894 168 P.3d 1265 (2007).

The State wants this court to believe that the
investigation had evidence against Mr. Parker, but the
facts show (see complaint for search warrant dated April 8,
2013, pg. 7) that unlawful seizure of Holliday's cell phone
on April 4, 2013, which held Parker's text messages and
email account, gave the officer the evidence needed of
Parker's involvement with Holliday and prostitution.

Without the unlawful seizure, the officer would not have
Parker's text messages or email account with pictures of
Holliday and Backpage ads. Also, the need to apply for a
warrant on April 8th disappears, Holliday arrest on April
12th, 2013, disappears, the seizure on Holliday's second
call on April 12 disappears, and so does the warrant dated
April 23, 2013. Additionally, Holliday's statements she
made after her arrest (see Appendix #1, Complaint for
Search Warrant, dated April 23, 2013, pg. 4-7) incrimina-

ting Parker for multiple criminal offenses disappears, and the arrest warrant for Mr. Parker and a firearm disappears. The state is left only with an investigation because the officer never had Ms. Holliday or her corroboration until after the unlawful seizure on April 4, 2013.

Art 1, Sec 7 of the Washington State Constitution requires exclusion of evidence seized during an illegal search or seizure. State v. Gaines, 154 Wn.2d 711, 716-17, 116 P.3d 993 (2005). To prevent the government from benefiting from such unlawful activity, Art 1, Sec 7 also requires suppression of evidence derived from an illegal search or seizure under the "fruit of the poisonous tree doctrine" (citing State v. O'Bremsk, 70 Wn.2d 425, 428, 423 P.2d 530 (1967)).

The constitutional restraints (both U.S. Const. Amend IV, and Wash. Const. Art 1, Sec 7) against unreasonable searches and seizures extend not only to evidence directly obtained, but also to derivative evidence. Silverthorne Lbr. Co. v. United States, 251 U.S. 385, 64 L.Ed. 319, 40 Sup.Ct. 182, 24 A.L.R 1426 (1920); Nardone v. United States, 308 U.S. 338, 84 L.Ed. 307, 60 Sup.Ct. 266 (1939); Wong Sun v. United States, 371 U.S. 471, 9 L.Ed.2d 441, 83 Sup.Ct. 407 (1963).

If police are not required to obtain a warrant under Art 1, Sec 7 before seizing cell phones as evidence from

non-arrested individuals, then there is no limitation on the State, and any person is subjected to this intrusion, whether criminal activity is suspected or not. The resulting trespass into private affairs of Washington citizens is precisely what Art 1, Sec 7 is intended to prevent.

FOURTH AMENDMENT

The State claims Parker failed to show his Fourth Amendment rights were infringed, citing Riley v. California, ___ U.S. ___, 134 S.Ct. 2473, 2486, 189 L.Ed.2d 430 (2014). The State's argument is that the police obtained a warrant before they searched those contents.

However the officer did not secure a warrant before he took the cell phone from a non-arrested individual, nor did ~~the officer have Holliday's consent.~~

The police may seize an individual's phone pursuant to a lawful search incident to arrest to prevent the destruction of evidence. State v. Valdez, 167 Wn.2d 761, 766, 224 P.3d 751 (2009).

In Flores, the Appellate Court addressed the issue of whether police officers have probable cause to search or seize from a non-arrested individual. State v. Flores, 2015 WL 3915782 (Wash. App. Div. 3)(2015). The court held that "where the suspect was not arrested," probable cause to search did not justify search of the vehicle.

Here, Parker's Fourth Amendment rights to be free from unreasonable search and seizures were intruded upon when the officer unlawfully seized a cell phone that held a wealth of Parker's private affairs (text messages, email). As stated, on April 4th, Ms. Holliday's cell phone was seized without her consent, without a warrant, nor was it obtained incident to arrest. Parker's text messages and email account was used at trial to show Parker's involvement in human trafficking and prostitution (see Appendix #2, Private Information).

The Fourth Amendment of the U.S. Constitution protects individuals against unreasonable searches and seizures. Searches and seizures that offend the Fourth Amendment are unlawful, and evidence obtained as a direct or indirect result of such invasions is considered 'fruit of the poisonous tree' and is inadmissible under the exclusionary rule. United States v. McClendon, 713 F.3d 1211, 1215 (9th Cir.2013).

The essence of the constitutional provision prohibiting unlawful searches and seizures is not merely that evidence so acquired may not be used before a court, but that it shall not be used at all. Wong Sun v. United States, U.S. at 485.

Subsequent Warrant

In The State's brief pg. 35, it states: "Although

Holliday was not taken into custody at the time the cell phone was seized during the traffic stop on April 4, 2013, similar reasoning applies." The state cites State v. Terranova, 105 Wn.2d 632, 645-46, 716 P.2d 295 (1986); 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). 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 warrant. This Court has since extended this rule to automobiles and other personal property. This contention fails for the following reasons:

First, Terranova, (*supra*), Huff, (*supra*), and Lund (*supra*), were arrested on the spot, and the officers in Terranova's case requested the warrant the same day of Terranova's arrest. Huff was arrested and his car was impounded while the officers went and made preparation to get a search warrant. Lund was stopped in an elevator by officers, and when questioned by the police about her bringing drugs into the jail for an inmate, Lund produced the marijuana from her purse and was arrested.

Here in Parker's case Holliday was not arrested on April 4, 2013, when her cell phone was unlawfully seized. If officers would have arrested Holliday for possession of drugs, then officers would have had the 'authority of law'

to seize any item connected to that drug. But since Holliday was not arrested, the officer acted without the authority of law. Also the officers waited four days to secure a warrant, which is not "reasonable."

An arrest provides the legal authority required by Art 1, Sec 7 of the Washington State Constitution. State v. O'Neill, 148 Wn.2d at 585. If the State obtains the evidence without the 'authority of law,' then the evidence is not admissible in court. State v. Day, 161 Wn.2d at 894; State v. Kirwin, 165 Wn.2d at 824, 203 P.3d 1044 (2009).

The constitutional requirement that searches and seizures be made only pursuant to 'authority of law' is complied with where such search and seizure is made incident to a lawful arrest. Thus, it is the general rule that, where a person is legally arrested, the arresting officer has a right to search such person and take from his possession money or goods which the officer reasonably believes to be connected with the supposed crime, and discoveries made in this lawful search may be shown in evidence at trial. State v. Micheals, 60 Wn.2d at 643.

Also, the state has elected to expand the rule in State v. Huff, 64 Wn.App. at 651. Yes, the Court of Appeals has extended this rule to automobiles, but the state has erroneously expanded this rule to include personal property.

The best source of 'authority of law' is a warrant.
State v. Day, 161 Wn.2d 889, 893, 168 P.3d 1265 (2007).

Thus, if any of the property taken into police custody was taken in violation of the Fourth Amendment, the warrant, which was obtained after the seizure, did not convert an unlawful seizure into a constitutionally valid one. State v. Jones, 22 Wn.App. 447, 453 P.2d 796 (1979).

The seizure of the cell phone on April 4th was improper and unlawful, and a subsequent warrant is unable to cure the contamination of the illegal seizure. Therefore, the evidence (see Appendix 2, Private Information) against Mr. Parker is inadmissible and reversal is required.

Fourth Amendment Particularity Requirement

The Fourth Amendment requires that warrants "particularly describe" the "things to be seized." U.S. Const. Amend. IV. That condition "ensures that the search will be carefully tailored to its justifications, and will not take on the character of the wideranging exploratory searches the Framers intended to prohibit." Garrison, 480 U.S. at 84. Consequently, a warrant with an "indiscriminate sweep" is "constitutionally intolerable."
Stanford v. Texas, 379 U.S. 467, 486, 85 S.Ct. 506, 13 L.Ed.2d 431 (1965).

In order to ascertain the nature of the proceedings intended by the Fourth Amendment to the Constitution under terms of "unreasonable searches and seizure," it is only necessary to recall the contemporary or then recent history of the controversies on the subject, both in this country and in England. The practice had obtained in the colonies, of issuing writs of assistance to the revenue officers, empowering them, "in their discretion," to search suspects' places for smuggled goods, which James Otis

pronounced "the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law book," since they placed "the liberty of every man in the hands of every petty officer." This was February, 1761, in Boston and the famous debate in which it occurred was perhaps the most prominent event which inaugurated the resistance of the colonies to the oppressions of the Mother Country. "Then and there," said John Adams, "was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born..." One must never forget that unjustified violation of our privacy was one of the principal reasons for the American Revolution.

Boyd v. United States, 116 U.S. 616, 625, 6 S.Ct. 524, 29 L.Ed. 746 (1886).

In the State's brief, pg. 43, where it states: "In McKee, the Court specifically noted it was the failure of the warrant to incorporate the complaint for search warrant that rendered the warrant itself overbroad," this contention by the State is contrary to the court's holdings of what rendered the warrant itself overbroad.

In State v. McKee the court reversed the case and remanded for dismissal of the charges. The court's holding for reversal was: (1) the warrant to search the cell phone violated the particularity requirement of the U.S. Const. Amend. IV because it authorized the police to search broad categories of data stored on the cell phone without limitation; (2) the warrant was overbroad and allowed the police to search and seize lawful data when the warrant could have been made more particular; (3) the warrant was

not carefully tailored to the justification to search, and was not limited to data for which there was probable cause; and (4) the language of the search warrant clearly allowed a search and seizure of data without regard to whether the data was connected to the crime. State v. McKee, 3 Wn.App.2d 11, 413 P.3d 1049, 1055 (2018).

The warrants in Parker's case (see Appendix #2, Compliant for Search Warrant, dated April 8, 2013, pg. 8, and April 23, 2013, pg. 8) were not carefully tailored to the justification to search and were not limited to data for which there was probable cause. The warrants authorized the police to search:

"All information stored in the above-described cellular phone that can be extracted through forensic examination, or other means including, but not limited to, images, video, contacts, conspirator phone numbers, addresses, text messages, email messages, electronic documents, financial transaction information."

The language of these search warrants clearly allows search and seizure of the data without regard to whether the data is connected to the crime. These warrants give police the right to search the contents of the cell phone and seize private information with no temporal or other limitation. As in Keodara, "there was no limit on the topics of information for which the police could search." State v. Keodara, 191 Wn.App. at 316.

In State v. Lingo, the warrant in his case was not

general or overly broad. Limits were set forth explicitly in the warrant itself on the items to be seized. The wording "any and all evidence" was specifically limited to the crimes of assault and rape. Furthermore, additional restrictions were incorporated in the warrant by listing of possible items such as female clothing, bedding, blood and semen stains, and thereby provide guidelines for the officers conducting the search. These limitations adequately prevented any danger of a general search. The description of items subject to possible seizure was sufficiently particularized to preclude an officer from seizing the wrong property. State v. Lingo, 32 Wn.App. 638, 640 P.2d 130 (1982).

The warrants in Parker's case set forth no limits on what officers could seize. Also there is no restriction or guidelines for the officers conducting the search. These warrants could have been made sufficiently particular by specifically describing items such as: text messages of Parker's, email of Parker's with Backpage ad and photos of Ms. Holliday, etc. But this was not done.

The Fourth Amendment clearly states that warrants must particularly describe the things to be seized. The requirement that warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under

warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant. In other words, the warrant must be specific enough to describe the perimeters of the search. Stated another way, the description must inform the officer of the limits of the search. More succinctly, the Constitution prohibits seizures under the unbridled authority of a general warrant. State v. Salinas, 18 Wn.App. 458; 569 P.2d 75 (1977).

On April 8, 2013, the probable cause for the affidavit provided that information of Human Trafficking and Prostitution "may be" found on the cell phone that was unlawfully seized on April 4, 2013. See Complaint for Search Warrant, pg. 3, line 30, dated April 8th, where the officer states "Holliday may have used this phone to advertise prostitution services." However, Ms. Holliday was not arrested for prostitution, nor was she detained or caught in the act of prostitution. When she was stopped and questioned about a drug transaction that occurred, the officer recovered the drugs and seized her cell phone and she was released from her detainment and drove away. If there was any probable cause on April 4, 2013; it would not be for Human Trafficking and Prostitution, it would be for the drug possession. This distinction between possession of drugs and prostitution is critical; a warrant pertaining to prostitution

would permit officers to search through Holliday's phone for those alleged crimes, while a warrant restricted to drug possession would not.

Absent probable cause, a search is impermissible under both Art 1, Sec 7 of the Washington Constitution, and the Fourth Amendment of the United State Constitution. State v. Gaines, 154 Wn.2d 711, 716-17 116 P.3d 993 (2005).

The Fourth Amendment, as applied to the states through the Fourteenth Amendment, imposes two express requirements on the government. Kentucky v. King, 563 U.S. 452, 459, 131 S.Ct. 1849, 179 L.Ed.2d 865 (2011). "First, all searches and seizures must be reasonable. Second, a warrant may not be issued unless probable cause is properly established and the scope of the authorized search is set out with particularity." King, 563 U.S. at 459; see also State v. Besola, 184 Wn.2d 605, 359 P.3d 799 (2015).

Here probable cause has not been established, also the warrants allowed the police to search general categories of data on the cell phones with "no objective standard or guidance" to the police executing the warrant. The language of the search warrant left to the discretion of the police what to seize. These warrants violate the particularity requirement of the Fourth Amendment. "A search conducted pursuant to a warrant that fails to conform to the particularity requirement to the Fourth

Amendment is unconstitutional." Groh v. Ramirez, 540 U.S. 551 at 559 (quoting Massachusetts v. Sheppard, 468 U.S. 981, 988 n.5, 104 S.Ct. 3424, 82 L.Ed.2d 737 (1984)). Reversal is required.

INDEPENDENT SOURCE DOCTRINE

In applying the Independent Source Doctrine, the determinative question is whether the challenge evidence was discovered through a source independent from the initial illegality, to determine whether illegally obtained information affected (1) the magistrate's decision to issue the warrant, or (2) the decision of the state agents to seek the warrant. If the illegal search in no way contributed to the issuance of the warrant and police would have sought the warrant even absent the initial illegality, then the evidence is admissible through the lawful warrant under the Independent Source Doctrine. State v. Betancourth, 2018 Wash. Lexis 211, No. 94208-1.

In its classic form, the first type of independent source scenario, police conduct an initial unwarranted search of a constitutionally protect area, during which they discover but do not seize incriminating items. Police later obtain a search warrant for the area and seize the evidence during the warranted search. For example, in Gaines (infra), the police performed an illegal warrantless search of the trunk of the defendant's car, during which

officers saw what appeared to be the barrel of an assault rifle and numerous rounds of ammunition. See Gaines, 154 Wn.2d 711, 714, 116 P.3d 993 (2005). Rather than seizing the items, officers immediately closed the trunk without disturbing the contents. The following day, the police sought a search warrant for the defendant's trunk. After obtaining the warrant, the police recovered the rifle and ammunition. Gaines, 714-15; State v. Betancourth, 2018 Wash. Lexis 211, No.94208-1.

In Green (infra), Mr. Green was driving his jeep when he collided with a pedestrian killing him. Police officers arrived at the scene and took a statement from Green. Suspecting him of driving under the influence, they arrested him and transported him to a hospital to draw blood. Green's car was towed to the police department's storage facility that night. Before it was towed, Det. Bacon searched the car and found a new television and looked inside a paper bag that was on the floor, finding two receipts; one for the purchase of the television, the other for two disposable cell phones. It was suspicious to him, "so Officer Bacon seized the receipts and the phones."

Bacon then began conducting parallel investigations for vehicular homicide and theft or fraud. On January 30th, Bacon obtain a warrant to search Green's car for evidence in the vehicular homicide investigation. While executing

the search warrant, Bacon found a backpack. Inside the backpack was five credit cards. Bacon believed he could not seize them under the warrant, so he placed the cards back in the backpack and left the backpack in the car. On February 8th, Bacon applied for a second warrant to search the car for evidence of fraud or identity theft. After seizing the five credit cards under the second warrant, the State charged Green with Theft in the Second Degree of the television and five counts of Identity Theft in the Second Degree. Green appealed the warrantless search and seizure of the receipts. The State argued that the receipts were properly seized under the Independent Source Doctrine, but the Court held that the receipts were not admissible under the Independent Source Doctrine because the receipts were seized during the initial warrantless search and were not found through an independent source. The Court reversed the trial court's ruling on the suppression motion and remanded. State v. Green, 177 Wn.App. 332, 335-38, 312 P.3d 669 (2013).

On pg. 56 of the State's brief, the State reiterates itself twice on asking this Court to "assume." It states: 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.

What the State is actually asking this Court to apply here is the Inevitable Discovery Doctrine by asking this Court to 'assume.' The Independent Source Doctrine differs from the Inevitable Discovery Doctrine. The Inevitable Discovery Doctrine is 'speculative' and does not disregard illegally obtained evidence, State v. Afana, 169 Wn.2d 169, 181, 233 P.3d 679 (2010); which Washington does not recognize. State v. Winterstein, 167 Wn.2d 620, 636, 220 P.3d 1229 (2009).

The State basically concedes that the cell phone was unlawfully seized, and has put up no legitimate argument, but only asks the Court to "assume" that Parker has standing to challenge and "assume the phone was illegally seized." But the facts are: On April 4, 2013, Holliday's cell phone was seized without her consent, without a warrant, nor was it obtained incident to arrest. This court is asked to follow the State's assumption because they're correct. Now the remedy must follow; reverse, and remand for the suppression of Parker's text messages and email. See Appendix #2, Private Information (which was used against Mr. Parker); State v. White, 97 Wn.2d 92, 110, 640 P.2d 1061 (1982).

The State has misinterpreted the Independent Source Doctrine, citing a variety of cases, such as State v. Gaines (infra) in which: (1) Mr. Gains was arrested; (2)

Rather than seizing the items for evidence, officers immediately closed the trunk without disturbing the contents and obtained a warrant. The State's reliance on State v. Gaines is misplaced because Holliday was not arrested and her cell phone was seized without a warrant.

As shown in these two cases, State v. Gaines, 154 Wn.2d 711; 714-15, 116 P.3d 993 (2005) and State v. Green, 177 Wn.App. 332; 335-38, 312 P.3d 669 (2013), and even in the Independent Source scenario, it is clear that officers are not to seize incriminating items but to get a warrant before seizing incriminating items.

Also the State cannot rely on the probable cause of Human Trafficking and Prostitution when the cell phone was unlawfully seized, because on April 4, 2013, Ms. Holliday was stopped for a possible drug transaction, not prostitution. (1) The Independent Source Doctrine exception applies only if the State does not seize evidence during the initial illegal search. (2) The State did not show that the illegal seizure of the cell phone could be obtained through a seizure that was "wholly independent" of the initial illegality. (3) The State has not shown that absent the illegal search and seizure they would have applied for a search warrant. For these reasons the State's reliance on the Independent Source Doctrine fails. State v. Green, 177 Wn.App. 332, 344, 312 P.3d 669 (2013).

This State has long recognized the exclusionary rule, applying it decades before Mapp v. Ohio, 367 U.S. 643, 6 L.Ed.2d 1081, 81 S.Ct. 1684, 84 A.L.R.2d 933 (1961) made the rule applicable to the states. In State v. Gibbons, 118 Wash.App. 171, 188-89, 203 P.3d 390 (1922), this Court asked rhetorically: "How can it be said that evidence procured in an unlawful manner through the violation of an accused's guaranty against unlawful search and seizure be used against him...?" We have consistently held for 60 years that such evidence may not be used. In State v. Miles, 29 Wn.2d 921, 927, 190 P.2d 740 (1948), we said "it is beneath the dignity of the State of Washington, and against public policy, for the State to use for its own profit any evidence that has been unlawfully obtained." State v. Bonds, 98 Wn.2d 1, 9, 653 P.2d 1024 (1982).

Reversal is required.

C. Conclusion

Since Mr. Parker had a reasonable expectation of privacy in his email and text messages, and since the initial seizure of Holliday's cell phone on April 4, 2013, the seizure was unlawful because it was seized without consent, without a warrant, nor was it obtained incident to a lawful arrest. The trial court erred in refusing to suppress evidence obtained as a direct result of violating Mr. Parker rights to privacy under both Washington Constitution Art 1, Sec 7, and the U.S. Constitution Fourth Amendment. For this reason, any evidence seized from that phone is 'fruit of the poisonous tree.' Hinton, 179 Wn.2d 862, 882, 319 P.3d 9 (2014). Mr. Parker respectfully requests this Court reverse and remand for suppression and dismissal with prejudice of the charges.

Furthermore, the warrants for both the cell phones were unconstitutionally overbroad in violation of the Particularity Requirement. For this reason as well, this Court must reverse and remand for suppression of evidence and dismissal with prejudice of the charges.

Respectfully submitted this 7th day of July 2018.

Anthony D. Parker

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APPENDIX #1

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

Defendant.

No. 20130160

COMPLAINT FOR SEARCH WARRANT FOR FRUITS / INSTRUMENTALITIES AND / OR EVIDENCE OF THE CRIME OF RCW 9A.40.100 Human Trafficking, RCW 9A.88.080 Promoting Prostitution and/or RCW 9A.88.030 Prostitution

RECEIVED AND FILED APR - 8 2013 DAVID W. PETERSON KITSAP COUNTY CLERK

I, DETECTIVE RYAN HEFFERNAN, being first duly sworn upon oath, depose and say I am a duly appointed, qualified, and acting detective assigned to the Bremerton Police Department's Special Operations Group (SOG), and am charged with responsibility for the investigation of criminal activity occurring within Kitsap County. I have probable cause to believe, and do, in fact, believe, that in violation of the laws of the State of Washington with respect to RCW 9A.40.100 Human Trafficking, RCW 9A.88.080 Promoting Prostitution and/or RCW 9A.88.030 Prostitution, evidence and/or fruits and/or instrumentalities of said offense(s) are presently being kept, stored or possessed, and can be located and seized in the above-described cellular phone. My belief being based upon information acquired through personal interviews with witnesses and other law enforcement officers, review of reports and personal observations, said information being as further described herein-

I have been employed as a police officer by the City of Bremerton Police Department since July 2006. I have been a SOG Detective since September 2011. Prior to becoming a police officer, I served as an Assistant Attorney General for the State of Alaska. I received a BA with honors from Lafayette College (1998), and a JD from Rutgers School of Law (2002).

In July 2006, I attended 720 hours of training at the Washington State Criminal Justice Training Center in Burien, Washington. There, I received 14-hours of basic narcotics training.



Russell D. Hauge, Prosecuting Attorney Adult Criminal and Administrative Divisions 614 Division Street, MS-35 Port Orchard, WA 98366-4681 (360) 337-7174; Fax (360) 337-4949

1 The training included instruction in drug and drug paraphernalia identification, as well as
2 identifying impairment indicators associated with specific drug use. Instruction pertained to each
3 of the seven categories of drugs: depressants, stimulants, hallucinogens, phencyclidine and
4 narcotic analgesics.

5 In February of 2010 I attended an 80-hour basic drug enforcement class presented by the
6 Drug Enforcement Administration. The training included, but was not limited to the following:
7 pharmacology/drug ID, electronic narcotics' investigation, criminal interdiction, tactical entries
8 and surveillance procedures

9 In September 2010 I attended a 24-hour methamphetamine investigations course
10 presented by the Midwest Counterdrug Training Center. The training pertained to
11 methamphetamine lab identification, and considerations for writing and executing
12 methamphetamine related search warrants.

13 In November 2012, I attended 20 hours of training through the California Narcotics
14 Officers Association (CNOA). The course topics included instruction on informant management,
15 search and seizure issues, controlled buy and buy-bust operations, and undercover officer
16 survival.

17 During my law enforcement career, I have participated in multiple narcotics
18 investigations, which have resulted in arrests and seizures of various controlled substances
19 including Marijuana, Cocaine, Methamphetamine, Black Tar Heroin, Ecstasy, Molly and
20 Ketamine. Through these investigations and discussions with other experienced law enforcement
21 agents, I have become familiar with the methods of packaging illegal narcotics, values of illegal
22 narcotics, and terms associated with the manufacture, distribution and use of these substances. I
23 have been an affiant for approximately 25 narcotics related search warrants, and participated in
24 the execution of narcotics related search warrants that have resulted in arrests, and the discovery
25 of illegal narcotics and items related to the use, packaging, distribution, and manufacturing of
26 these substances.

27 In addition to narcotics related crimes, I have participated in investigations pertaining to
28 prostitution. Through the course of these investigations, I have interviewed numerous prostitutes
29 and pimps. I have found through my training and experience that these investigations often
30 overlap with drug investigations. Specifically, I have learned that those individuals who promote
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COMPLAINT FOR SEARCH WARRANT; Page 2



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1 prostitution, commonly referred to as pimps, sometimes use drugs as a means to maintain control
2 over prostitutes. It is common for those individuals who promote prostitution to pay prostitutes
3 with drugs, and withhold drugs when they are dissatisfied with performance. Pimps will often
4 utilize well established prostitutes to mentor new prostitutes, and facilitate their transition into the
5 illicit activity. I also know that pimps and prostitutes will often utilize internet websites such as
6 tncboard.com and backpage.com to advertise for prostitution. Pimps and prostitutes will often use
7 their cellular phones to post ads on these websites, and communicate with clients and each other
8 about their illicit activities.

9 I also know that people engaged in prostitution perform their services either in a fixed
10 location that they designate, such as a motel room, or in a location determined by the client. This
11 distinction is commonly referred to as an "in" or "out" call. Because of the inherent dangers
12 associated with prostitution, pimps or their agents will often drive prostitutes to out calls and
13 remain in the area during the encounter. This practice provides a degree of perceived protection
14 for the prostitute, and allows the pimp to immediately be paid for the service. In addition to
15 driving their prostitutes to specific locations for out calls, I know from my training and
16 experience that pimps often use their vehicles as a private meeting locations to discuss their
17 criminal business enterprises, which often extend beyond promoting prostitution.

18 This affidavit is made in support of an application for a search warrant for the cellular
19 telephone described as follows:

20 **BLACK ZTE CELLULAR PHONE MODEL Z431, S/N 322423142390, BEING STORED IN**
21 **THE BREMERTON POLICE DEPARTMENT'S SECURE EVIDENCE LOCKER IN THE CITY OF**
22 **BREMERTON, COUNTY OF KITSAP, STATE OF WASHINGTON**

23 PROBABLE CAUSE: Over the course of the past several months, SOG detectives have
24 investigated a human trafficking operation led by Anthony D Parker (6/15/79) and his former
25 girlfriend, Lorena A Llamas (5/31/84). Llamas has been incarcerated in Kitsap County Jail since
26 November 17, 2012. While there, Llamas has groomed inmates to work as prostitutes, and sent
27 them out to work for Parker. Detectives identified one of these prostitutes as Johanna Holliday.
28 Holliday used her black ZTE cellular phone model Z431, S/N 322423142390 (hereinafter
29 referred to as the "Phone") to communicate with Llamas, Parker and clients about prostitution
30 activities. Holliday may have also used the Phone to advertise prostitution services on
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1 backpage.com between December 2012 and April 2013. As set forth below, there is probable
2 cause to believe that evidence of human trafficking, promoting prostitution and/or prostitution
3 will be found in the Phone, which is currently ~~be~~ stored in the Bremerton Police Department's
4 secure evidence room.

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

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

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

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

6 On or around 2/11/13 Parker was arrested for burglary and an outstanding DOC warrant.
7 He (Parker) immediately calls Holliday on the Phone, and tells her, "You need to follow my
8 orders . . . what the fuck I tell you from right now until I get the fuck out of here in three days."
9 Parker also cautions Holliday that that "[her] money better be right when [he] gets out." Parker
10 instructs Holliday to help with his bail saying, "Take that little bit of chump change that you
11 fucking got and give it to Jaccet." I know that Jaccet is the moniker used by Tyler F Williams
12 (1/26/76), a well-known local gang member. When Holliday starts to sob, Parker says, "I don't
13 want to hear any crying bitch. . . . stop crying nigga, I want someone to be making fucking
14 moves." During telephone calls during this time period with Llamas, Holliday says that Parker
15 keeps all of her money, and she (Holliday) is taking the opportunity while Parker is in jail to
16 make money for herself.

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

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

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COMPLAINT FOR SEARCH WARRANT; Page 5



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

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

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

19 On 4/4/13 at approximately 1900, Detective Rauback advised me that he had observed
20 Holliday and Alisia Crettol meeting with Travier Stevenson (AKA Little Jaccet). Stevenson is a
21 gang member who uses, and sells Percocet pills. Detective Rauback observed Holliday meet
22 briefly with Stevenson inside a Ford P/U truck WA license A37747M. The vehicle is registered to
23 Stevenson's girlfriend, Janee Morgan. Holliday then returned to Crettol's vehicle, a blue Ford
24 Escort WA license AEH1175. The meeting occurred in the area of the A&C Tavern on Perry
25 Ave. Detective Rauback followed Crettol away from the area, and coordinated with patrol
26 officers to stop the vehicle in the area of 16th St and Warren Ave.

27 I responded to the location of the stop, and stood by while Holliday and Crettol were
28 detained in properly fitting, and double-locked restraints. I escorted Holliday to a patrol vehicle,
29 and explained that I was investigating a possible drug transaction that had just occurred as well as
30 other crimes related to prostitution. I read Holliday her Miranda rights from a department issued
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COMPLAINT FOR SEARCH WARRANT; Page 61



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1 card. Holliday acknowledged her rights, and agreed to speak with me.

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

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

19 Because Holliday was cooperative throughout the interview and agreed to meet with
20 detectives the following day to make a recorded statement regarding her criminal activities, she
21 was released from custody. I placed the Phone into a secure evidence locker with the intent to
22 either examine it with Holliday's consent the following day, or if necessary apply for a search
23 warrant. I placed the pill, and foil into evidence in accordance with department procedure.
24 Through a search of drugs.com, I identified the pill as 30 mg Oxycodone Hydrochloride, a
25 schedule II narcotic.

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

28 Based upon the foregoing, there is probable cause to believe that evidence of human
29 trafficking, promoting prostitution and/or prostitution will be found in Holliday's Phone. I
30 respectfully request that the court issue a search warrant allowing law enforcement to search and
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COMPLAINT FOR SEARCH WARRANT; Page 7



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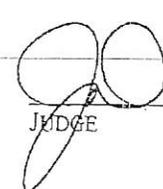
1 seize the following information:

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

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DETECTIVE RYAN HEFFERNAN
Bremerton Police Department

SUBSCRIBED AND SWORN to before me this 8 day of April, 2013.


JUDGE

Distribution—Original (Court Clerk); 1 copy (Prosecutor), 1 copy (Detective)



1 The training included instruction in drug and drug paraphernalia identification, as well as
2 identifying impairment indicators associated with specific drug use. Instruction pertained to each
3 of the seven categories of drugs: depressants, stimulants, hallucinogens, phencyclidine and
4 narcotic analgesics.

5 In February of 2010 I attended an 80-hour basic drug enforcement class presented by the
6 Drug Enforcement Administration. The training included, but was not limited to the following:
7 pharmacology/drug ID, electronic narcotics' investigation, criminal interdiction, tactical entries
8 and surveillance procedures

9 In September 2010 I attended a 24-hour methamphetamine investigations course
10 presented by the Midwest Counterdrug Training Center. The training pertained to
11 methamphetamine lab identification, and considerations for writing and executing
12 methamphetamine related search warrants.

13 In November 2012, I attended 20 hours of training through the California Narcotics
14 Officers Association (CNOA). The course topics included instruction on informant management,
15 search and seizure issues, controlled buy and buy-bust operations, and undercover officer
16 survival.

17 During my law enforcement career, I have participated in multiple narcotics
18 investigations, which have resulted in arrests and seizures of various controlled substances
19 including Marijuana, Cocaine, Methamphetamine, Black Tar Heroin, Ecstasy, Molly and
20 Ketamine. Through these investigations and discussions with other experienced law enforcement
21 agents, I have become familiar with the methods of packaging illegal narcotics, values of illegal
22 narcotics, and terms associated with the manufacture, distribution and use of these substances. I
23 have been an affiant for approximately 25 narcotics related search warrants, and participated in
24 the execution of narcotics related search warrants that have resulted in arrests, and the discovery
25 of illegal narcotics and items related to the use, packaging, distribution, and manufacturing of
26 these substances.

27 In addition to narcotics related crimes, I have participated in investigations pertaining to
28 prostitution. Through the course of these investigations, I have interviewed numerous prostitutes
29 and pimps. I have found through my training and experience that these investigations often
30 overlap with drug investigations. Specifically, I have learned that those individuals who promote
31



1 prostitution, commonly referred to as pimps, sometimes use drugs as a means to maintain control
2 over prostitutes. It is common for those individuals who promote prostitution to pay prostitutes
3 with drugs, and withhold drugs when they are dissatisfied with performance. Pimps will often
4 utilize well established prostitutes to mentor new prostitutes, and facilitate their transition into the
5 illicit activity. I also know that pimps and prostitutes will often utilize internet websites such as
6 tncboard.com and backpage.com to advertise for prostitution. Pimps and prostitutes will often use
7 their cellular phones to post ads on these websites, and communicate with clients and each other
8 about their illicit activities.

9 I also know that people engaged in prostitution perform their services either in a fixed
10 location that they designate, such as a motel room, or in a location determined by the client. This
11 distinction is commonly referred to as an "in" or "out" call. Because of the inherent dangers
12 associated with prostitution, pimps or their agents will often drive prostitutes to out calls and
13 remain in the area during the encounter. This practice provides a degree of perceived protection
14 for the prostitute, and allows the pimp to immediately be paid for the service. In addition to
15 driving their prostitutes to specific locations for out calls, I know from my training and
16 experience that pimps often use their vehicles as a private meeting locations to discuss their
17 criminal business enterprises, which often extend beyond promoting prostitution.

18 This affidavit is made in support of an application for a search warrant for the cellular
19 telephone described as follows:

20 **BLACK MOTOROLA CELLULAR PHONE MODEL WX430, S/N 80DF5CC1 BEING STORED IN**
21 **THE BREMERTON POLICE DEPARTMENT'S SECURE EVIDENCE ROOM AS ITEM # "JH" UNDER**
22 **CASE NUMBER B13-001589 IN THE CITY OF BREMERTON, COUNTY OF KITSAP, STATE OF**
23 **WASHINGTON**

24 **PROBABLE CAUSE:** Over the course of the last several months, SOG detectives have
25 investigated the criminal activities of Anthony Parker (AKA Baby Deuce). Parker has an
26 extensive criminal history including seven felony convictions, eleven gross misdemeanor
27 convictions, three misdemeanor convictions and four "classification unknown" convictions.
28 Through the course of the investigation, Detectives learned that Parker's former girlfriend,
29 Lorena Llamas (AKA Crazy), groomed women to work as prostitutes for Parker while she
30 (Llamas) was incarcerated in the Kitsap County jail. Detectives identified one of these prostitutes
31 as Johanna Holliday. Holliday has no felony convictions, and five gross misdemeanor convictions

COMPLAINT FOR SEARCH WARRANT; Page 3



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1 for the following: Theft 3rd degree, Minor in Possession/Consumption (three counts) and DUI. As
2 set forth below, Holliday used her black Motorola cellular phone model WX430, S/N 80FD5CC1
3 (hereinafter referred to as the "Phone") to communicate with Parker and clients about prostitution
4 activities. There is probable cause to believe that evidence of human trafficking, promoting
5 prostitution and/or prostitution will be found in the Phone, which is currently be stored in the
6 Bremerton Police Department's secure evidence room.

7 Through a review of jail phone calls as well as contact with confidential informants and
8 Jaccet associates, Detectives learned that Parker bailed Holliday out of jail in or around
9 December 2012, and since that time has been involved in a dating relationship with Holliday and
10 acted as her pimp. Detectives reviewed Holliday's ads for prostitution on backpage.com, which
11 list phone numbers and addresses associated with Parker. Detectives performed surveillance, and
12 confirmed that Holliday was living with Parker, and performing acts of prostitution at 1720 14th
13 St in Bremerton Washington. The residence is believed to be owned by a family member of
14 Llamas. Parker and Holliday have since moved to a residence at 703 S Summit Ave in
15 Bremerton, Washington.

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

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

26 Upon her release, Holliday obtained a new phone and continued to post advertisements
27 for prostitution on backpage.com listing the number (360) 551-9523. Detectives reviewed an
28 advertisement ~~Holliday posted on April 11th, 2013 at approximately 1828 hours.~~ In that
29 advertisement, Holliday posts six photographs of herself scantily-clad and in provocative poses.
30 Her "screen name" on this advertisement is "Baby Doll."
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1 Using a texting application with a fictitious name and phone number, detectives
2 contacted Holliday at the new number, and inquired if she was available. Holliday told detectives
3 that she was available, advising that the cost was \$200 per hour. Holliday also provided pricing
4 information for two girls - "125 per person," for each half hour and "200 each" for an
5 hour. Holliday said that she was available to meet at the Oyster Bay Inn, and asked detectives to
6 "grab some condoms" and "lube. Detectives met with Holliday, and placed her into custody for
7 possession of a schedule II drug, Percocet, and an outstanding warrant. At the time of her arrest,
8 Holliday was in possession of the above-described Phone, which is the subject of this warrant.
9 Detectives believe that this is the Phone that she was using to respond to the backpage.com ad.

10 After being provided with her Miranda rights, Holliday agreed to speak with detectives.
11 Holliday provided a taped statement, detailing her relationship with Llamas and Parker. Holliday
12 confirmed that Parker has acted as her pimp and boyfriend since he bailed her out of jail
13 approximately four months ago. Since that time, Holliday has lived with Parker and maintained a
14 dating relationship with him. Holliday told detectives that Parker helped place her ads on
15 backpage.com, responded to customers and kept nearly all of the money she made through
16 prostitution. Parker saw it all as his money, and gave it out to Holliday as he saw fit. Although
17 Parker was initially nice to Holliday and courted her as his girlfriend, he later forced her to work
18 as a prostitute seven days a week, and left her alone for days at a time in the house demanding
19 that she not spend time with her friends and family. Holliday told detectives that she lost
20 everything she ever had - friends, family, possessions etc. over the last several months at the
21 hands of Parker.

22 Holliday told detectives that she was terrified to leave Parker, and was isolated with
23 nowhere else to go. When Holliday disobeyed Parker, he verbally abused her and often beat her
24 severely. Detectives have reviewed numerous jail phone calls in which Parker berates Holliday,
25 screaming, "You need to follow my orders . . . what the fuck I tell you from right now until I get
26 the fuck out of here in three days." Parker also cautions Holliday that that "[her] money better be
27 right when I get out." Parker instructs Holliday to help with his bail saying, "Take that little bit of
28 chump change that you fucking got and give it to Jaccet." I know that Jaccet is the moniker used
29 by Tyler Williams, the leader of the gang. When Holliday starts to sob, Parker says, "I don't want
30 to hear any crying bitch. . . . stop crying nigga; I want someone to be making fucking moves."
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1 In addition to verbal abuse and threats, Holliday recounted numerous instances in which
2 Parker assaulted, and imprisoned her in an effort to prevent her from leaving him. In one instance
3 in or around the middle January, Parker became infuriated that Holliday had been with Anthony
4 Flewellen, another Jaccet gang member and pimp. After scolding Holliday over the phone, Parker
5 located Holliday at Flewellen's apartment at 901 Pleasant Ave in Bremerton. Parker came to the
6 residence, and demanded to be let in. Jennifer Prerost, who was present at the residence with her
7 (Prerost's) young daughter, allowed Parker inside the residence over Holliday's protests. Holliday
8 huddled on the ground in Flewellen's locked bedroom. Parker came inside the residence, and
9 broke down the bedroom door. Parker picked Holliday up off the ground by the hair, threw her
10 against the wall and beat her face. Holliday was so terrified that she urinated in her pants. She
11 later discovered large clumps of her hair missing. Detectives spoke to Prerost, who independently
12 confirmed this account of events, telling detectives that it was one of the worst beatings she had
13 ever witnessed. Detectives have also reviewed jail telephone calls, in which Parker tells Llamas
14 that he beat Holliday for stealing from him. In addition, Detectives reviewed jail calls in which
15 Holliday describes this portion of the assault in great detail to Llamas, who appeared more
16 concerned about damage to the wall (Llamas mistakenly believed that the assault occurred in her
17 residence).

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

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

30 Although this was the worst beating that Parker inflicted on Holliday, it was far from the
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1 last. He continued to beat her, often for no reason, in an effort to maintain her as a prostitute
2 under his control. Parker assaulted Holliday as recently as 4/12/13, crushing her cheek against the
3 wall of their apartment with his fist. Parker applied such a degree of pressure that Holliday feared
4 he would break bones in her face. Holliday said that Parker treated her like a piece of property,
5 and made it clear that he could leave her at any time. He expected complete obedience from
6 Holliday, saying that she needed to always be on point, and Holliday lived in constant fear of
7 being assaulted, or possibly killed if she could not perform to his expectations.

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

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

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

28 Detectives believe that evidence contained within the above-described Phone will further
29 corroborate Holliday's criminal allegations. Holliday obtained the Phone after being placed into
30 custody by detectives on 4/4/13, and used the Phone to communicate with clients about
31



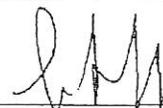
1 prostitution. Parker called Holliday on the Phone at the time of her arrest, and presumably sent
2 Holliday text messages about prostitution, drugs and or other criminal activity as he had done on
3 her previous phone. Based upon the foregoing, there is probable cause to believe that evidence of
4 human trafficking 1st degree, promoting prostitution 1st degree and/or prostitution is currently
5 being stored in the above-described Phone.

6 I respectfully request that the court issue a search warrant allowing law enforcement to
7 search and seize the following information from the Phone:

- 8 1. All information stored in the above-described cellular phone that can be extracted
9 through a forensic examination, or other means including, but not limited to images,
10 video, contacts, conspirator phone numbers/addresses, text messages, email messages,
11 ledgers, financial transaction information, electronic documents, or any other stored
12 information relating to human trafficking, promoting prostitution and/or prostitution.
13
14
15
16
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19

20 
DETECTIVE RYAN HEFFERNAN
Bremerton Police Department

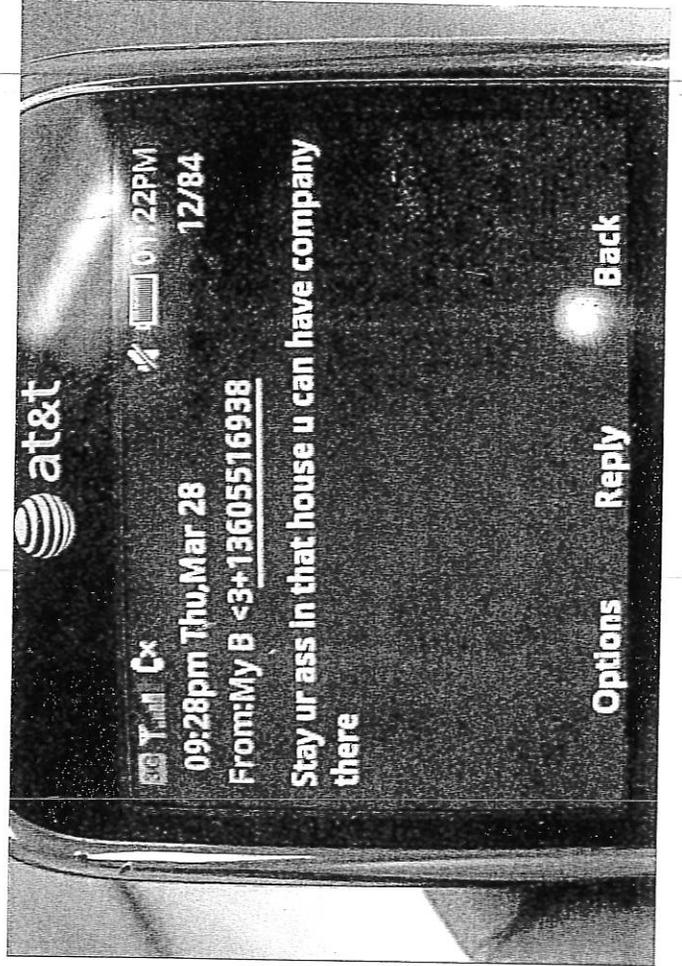
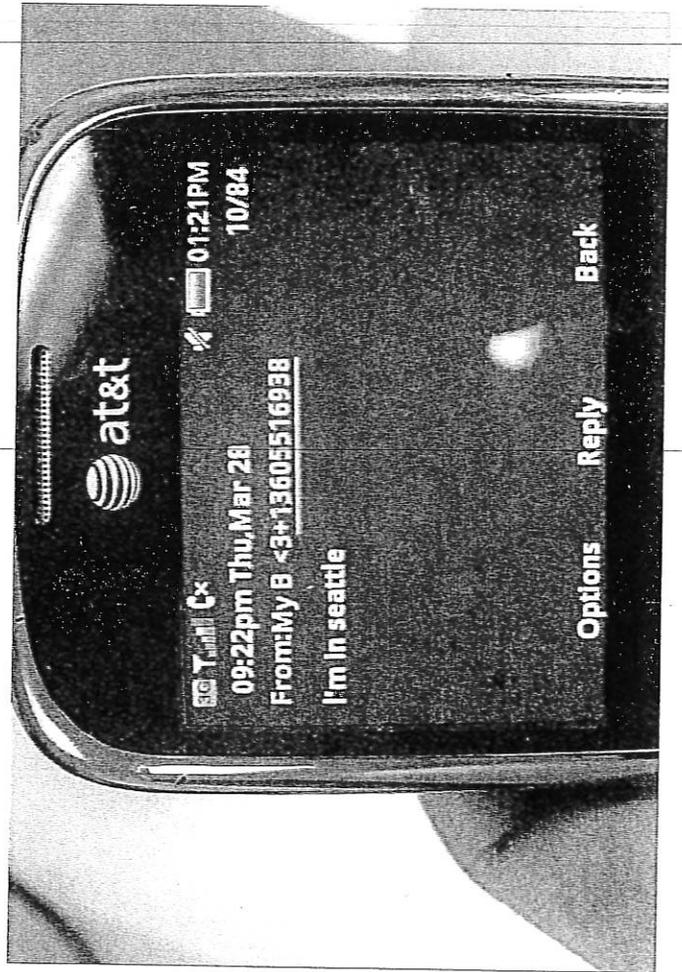
21
22
23 SUBSCRIBED AND SWORN to before me this 23 day of April

24 
25
26 JUDGE STEVEN DIXON
27
28

29
30 **Distribution—Original (Court Clerk); 1 copy (Prosecutor), 1 copy (Detective)**
31



APPENDIX # 2 PRIVATE INFORMATION



STATE Exhibit No. 11
 PLAINTIFF DEFENDANT
 PETITIONER RESPONDENT
 OTHER

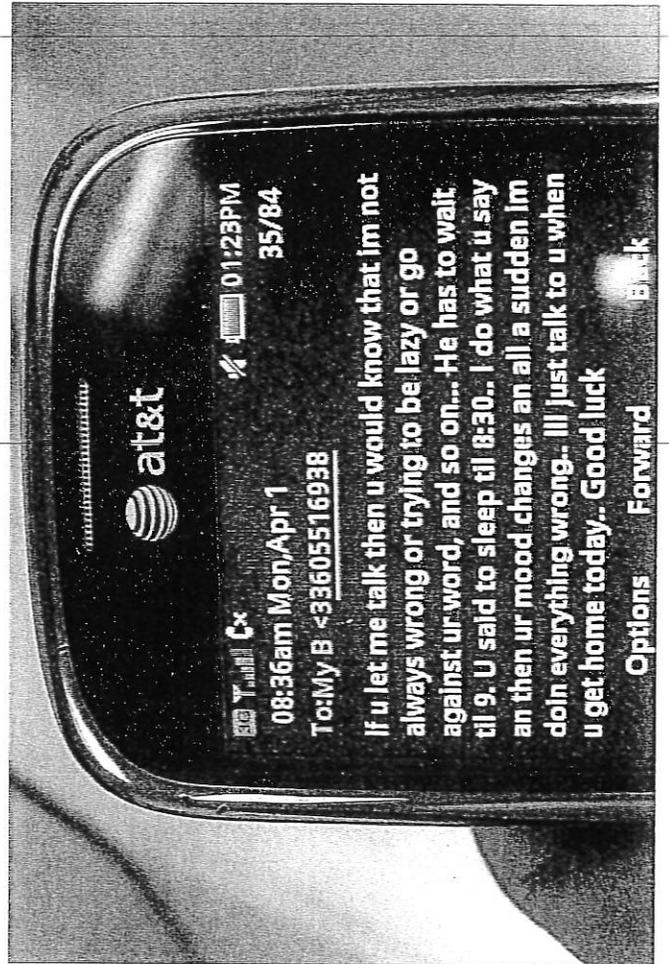
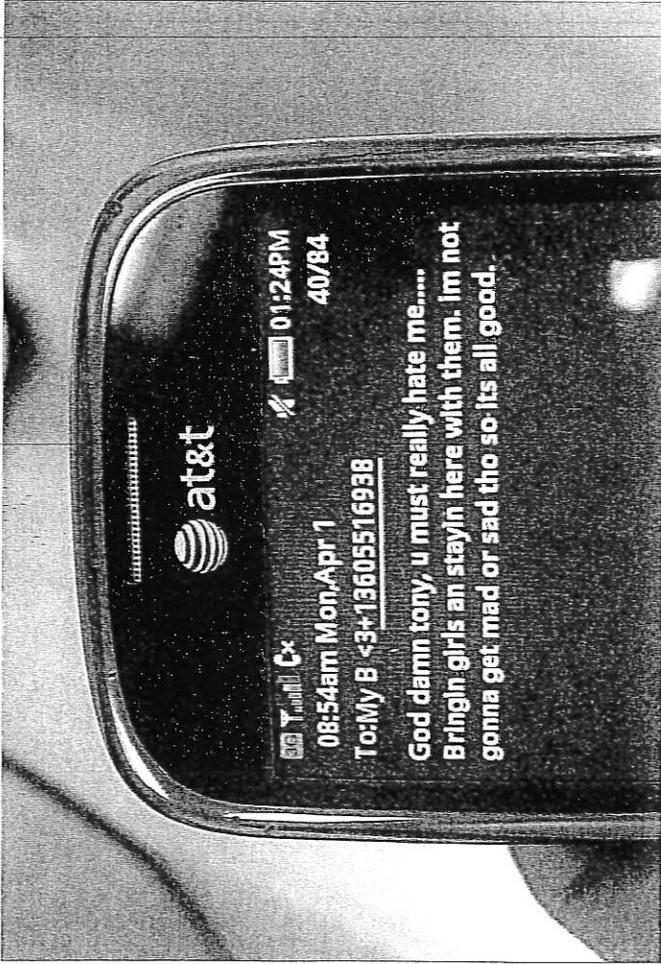
Case No. 13-1-00597-1

State of Washington vs. Anthony D Parker

Admitted Refused
 Withdrawn Not Offered

Date of Court's Ruling: 19 NOV 2013

Messages To And from PARKER



B13-1589

6:10 PM

← kpage.com: Move Ad to Top →

Your ad has successfully been moved to the top of the listings!

To EDIT/DELETE your posting, click the following link:

<http://tac.backpage.com/post/11894445/56ec0a34>

If nothing happens when you click this link, please copy the link above and paste it into your web browser.

DON'T DELETE THIS EMAIL - you might need this link to enhance, edit or delete your post in the future.

6:14 PM

◀ tle • h ♥ tty • with • a ▶

Protection is a must with bj/fs

Sent via my LG Marquee from Boost Mobile

"Mr. John"
<navyjohn1992@hotmail.com> wrote:

>And what are your rules with condoms?

>

>-----Original Message----- PARKER EMAIL

> Account being use

>From: tpabc77@gmail.com to speak through

>Sent: 19 Jan 2013 02:18:55 GMT text

>To: Mr. John

>Subject: Re: backpage response: °° | i t
tle • h ♥ tty • with • a • b ♥ dy °°...

>

Picture of Holliday on PARKER'S
EMAIL ACCOUNT WITH BACKPAGE

7513-1589



CALL TEXT CAMERA GALLERY MAIL INTERNET TOP

PARKER EMAIL ACCOUNT: tpabc77@gmail.com

013-1589

With BackPage

boostmobile

6:12 PM

ash [G Drafts

tpabc77@gmail.com

Here →



3/9/2013

Re: backpage response: *

tpabc77@gmail.com 3/9/2013

Re: backpage response: ...

tpabc77@gmail.com 3/9/2013

backpage response: ♥♥...

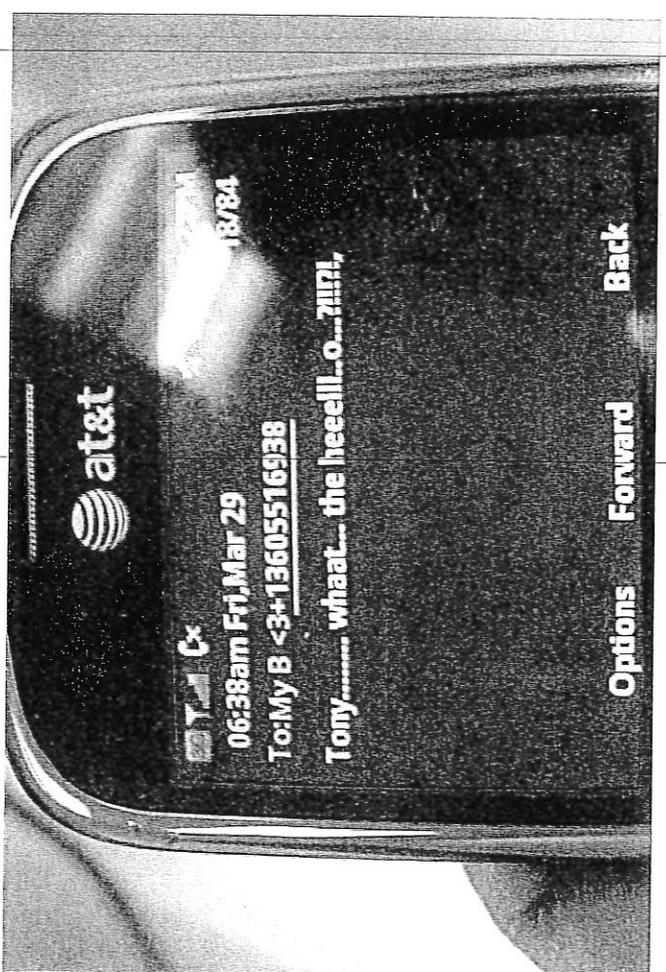
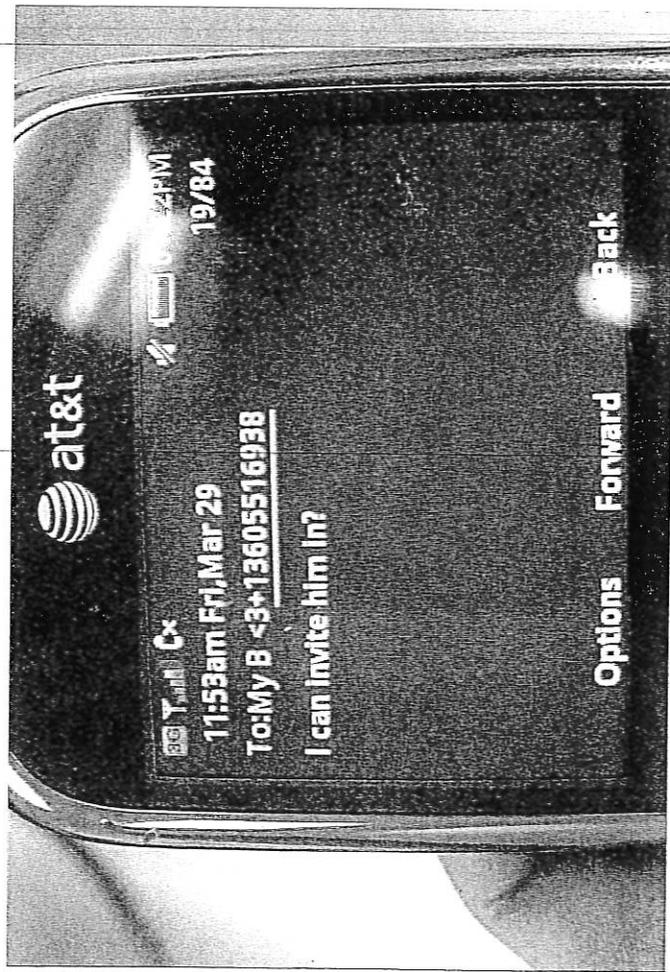
Phonemorphics.com 3/9/2013

Re: backpage response: *

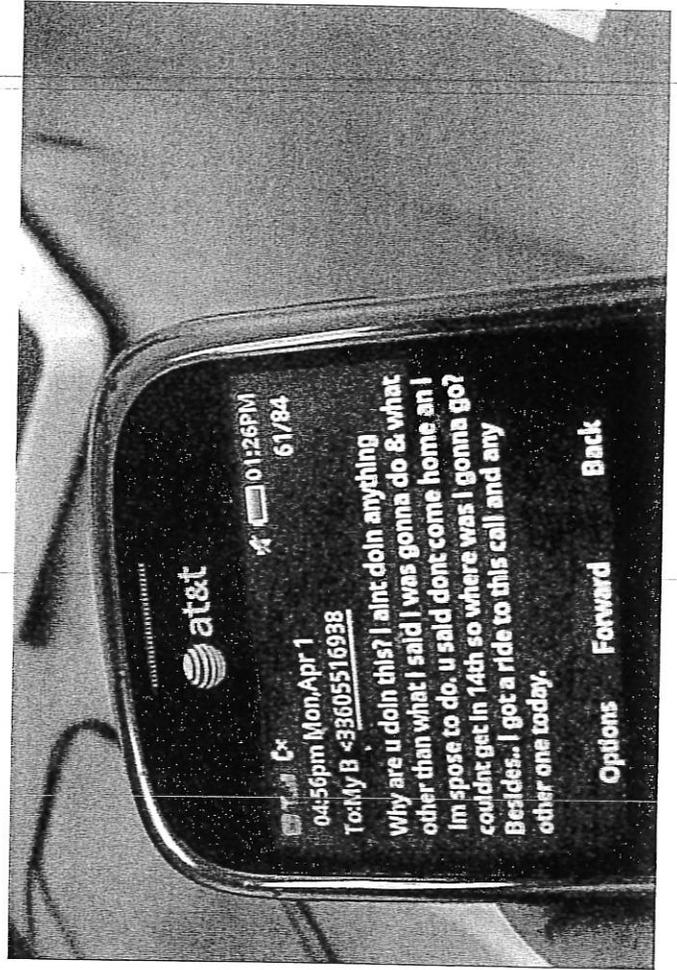
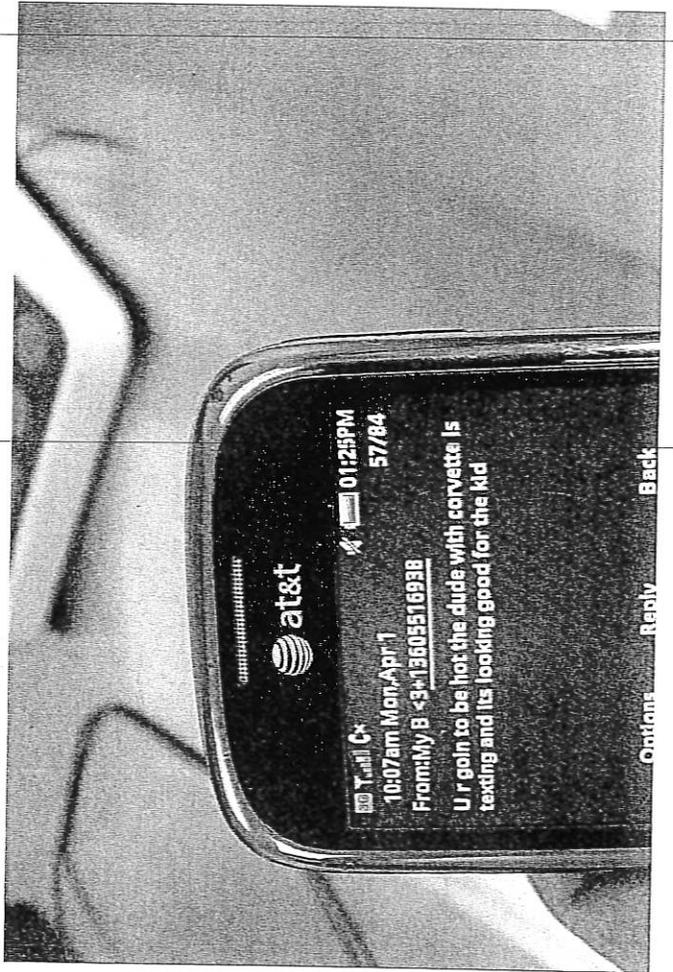
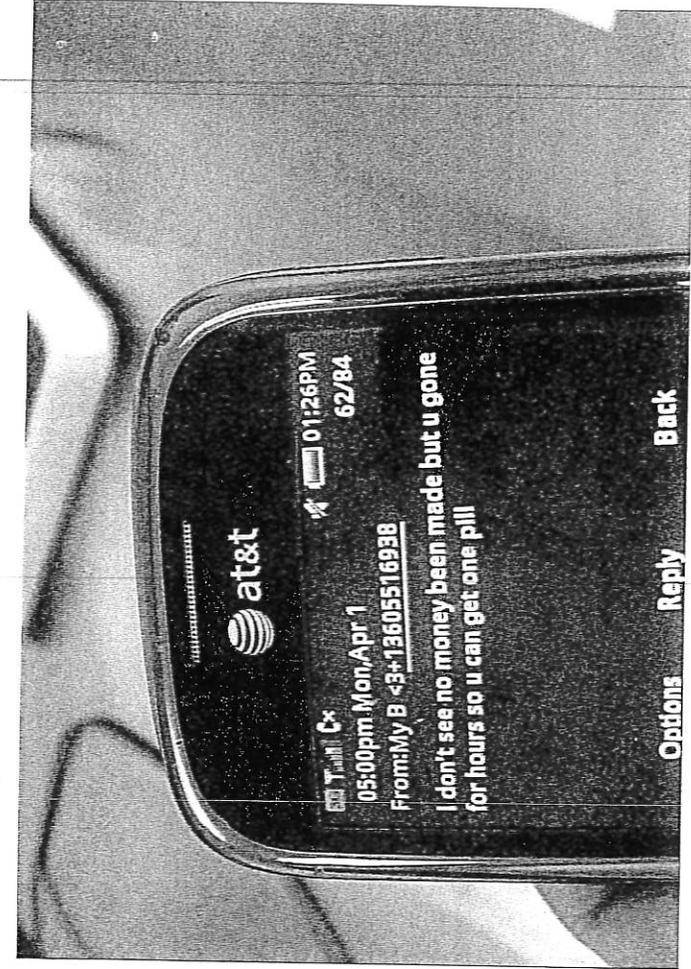
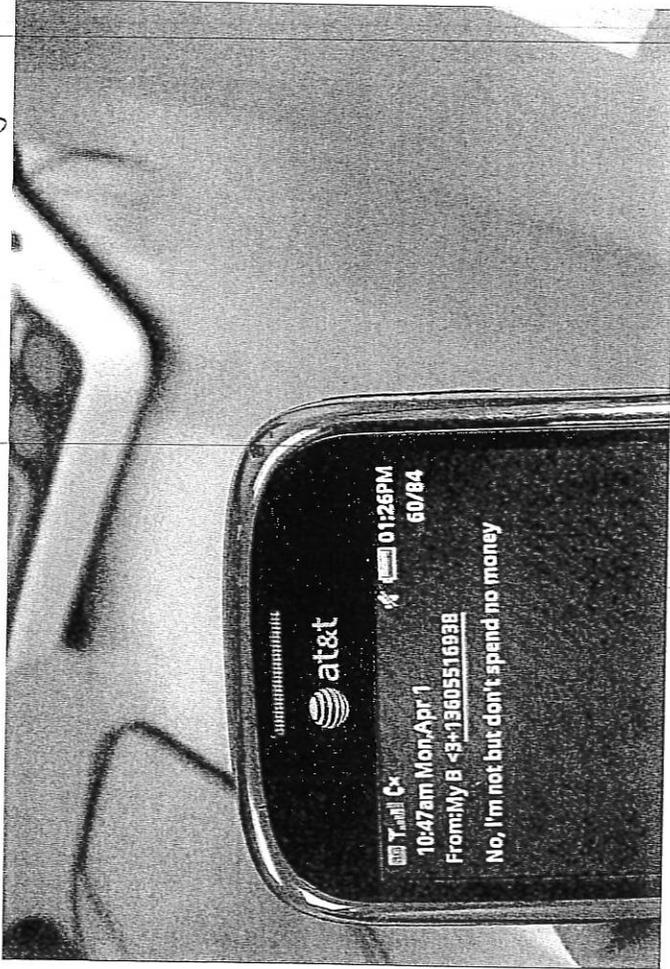
tpabc77@gmail.com 3/9/2013



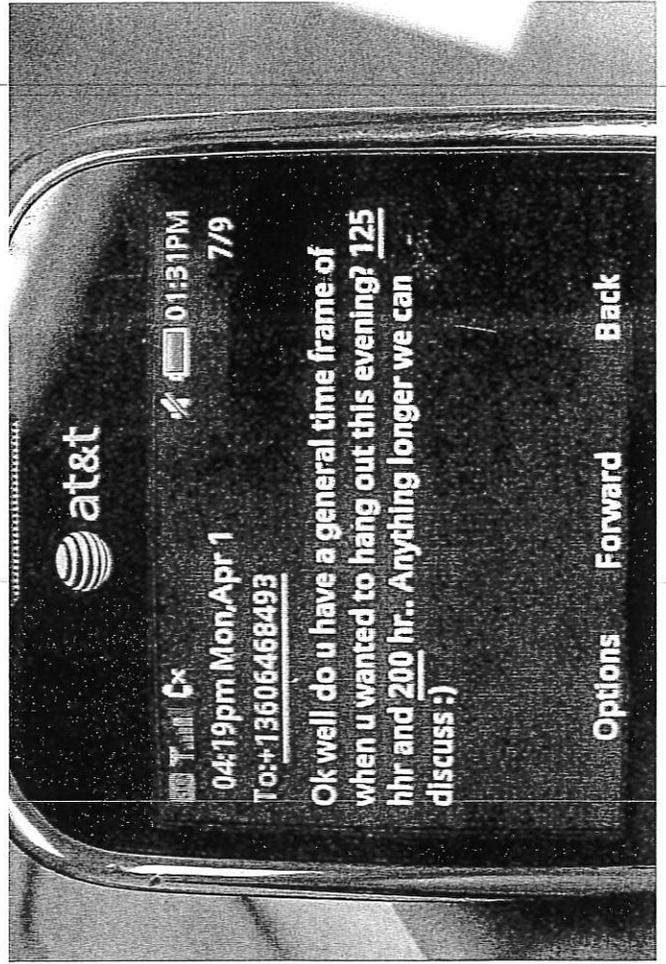
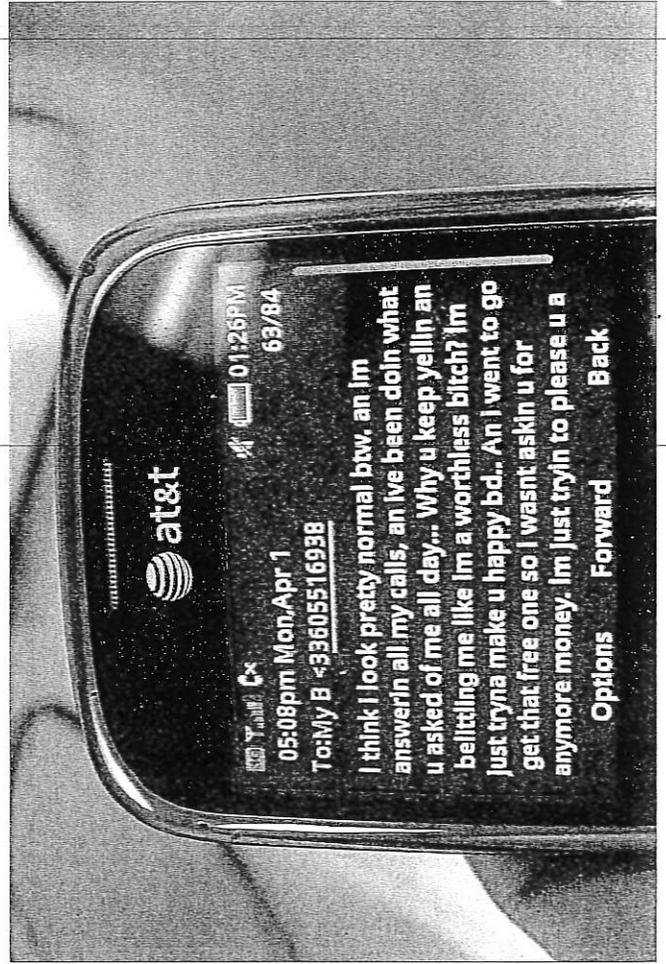
Text
Messages to Andy
From PARKER

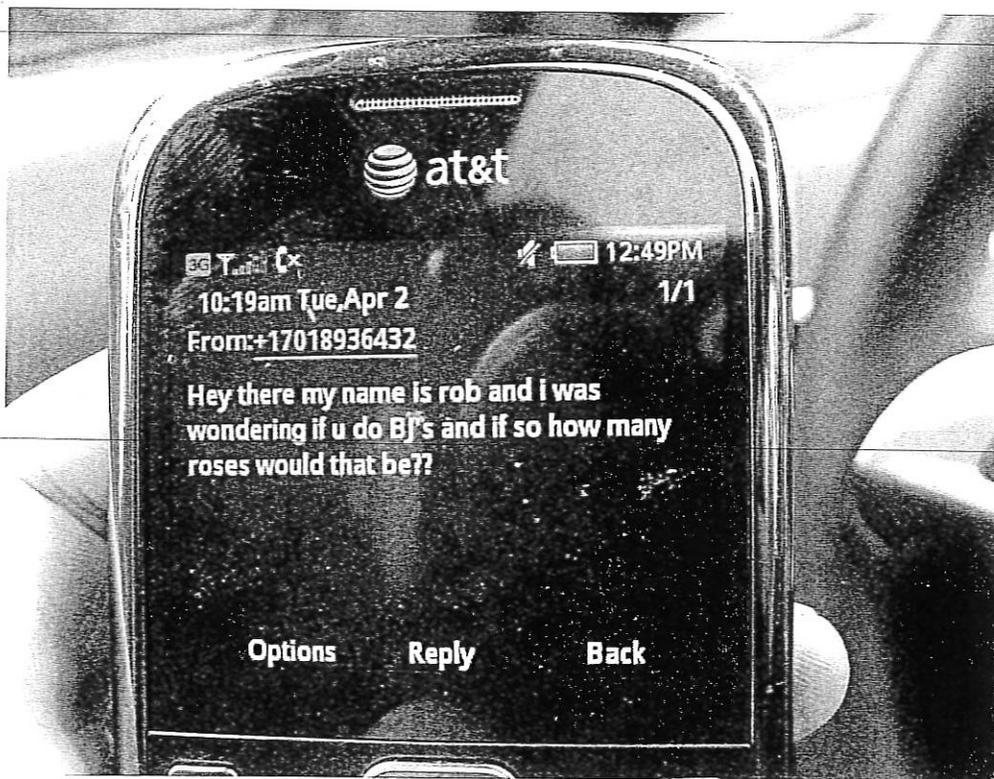
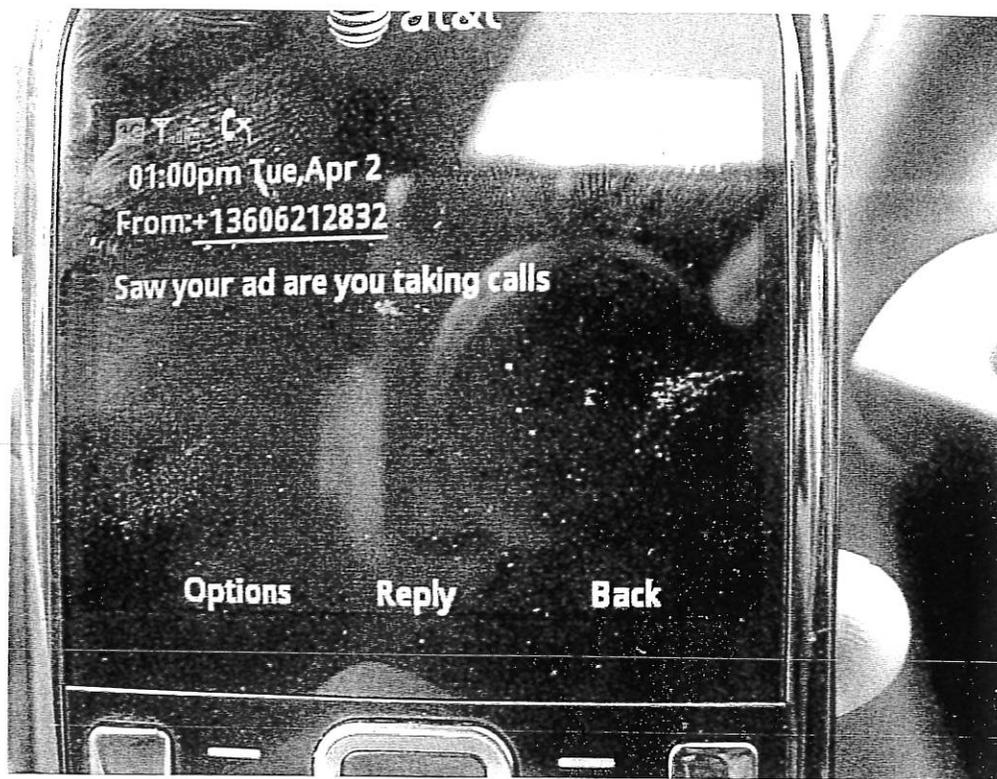


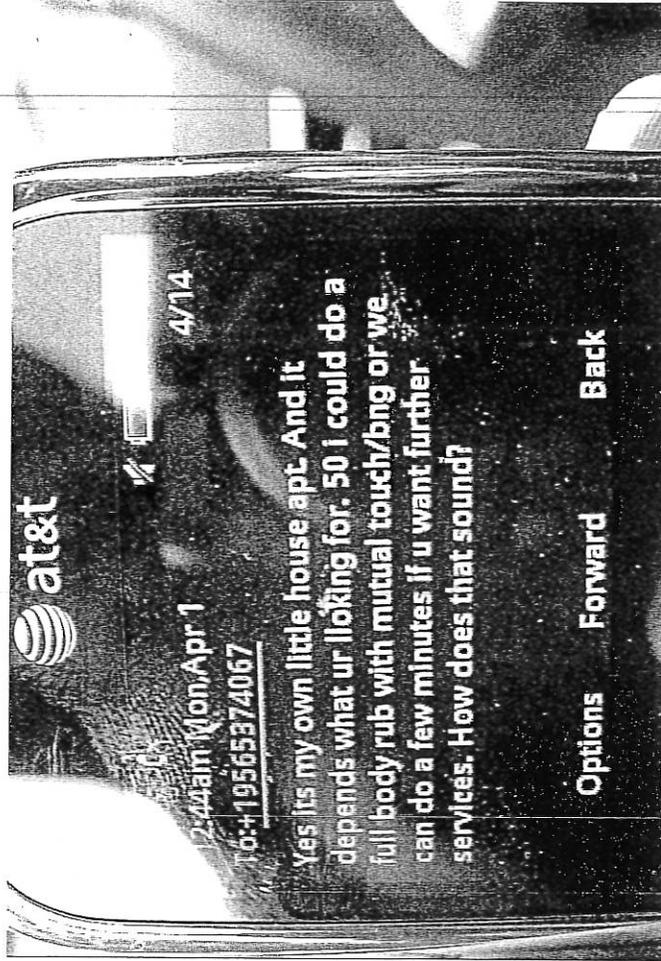
Text Message To AND From PARKER

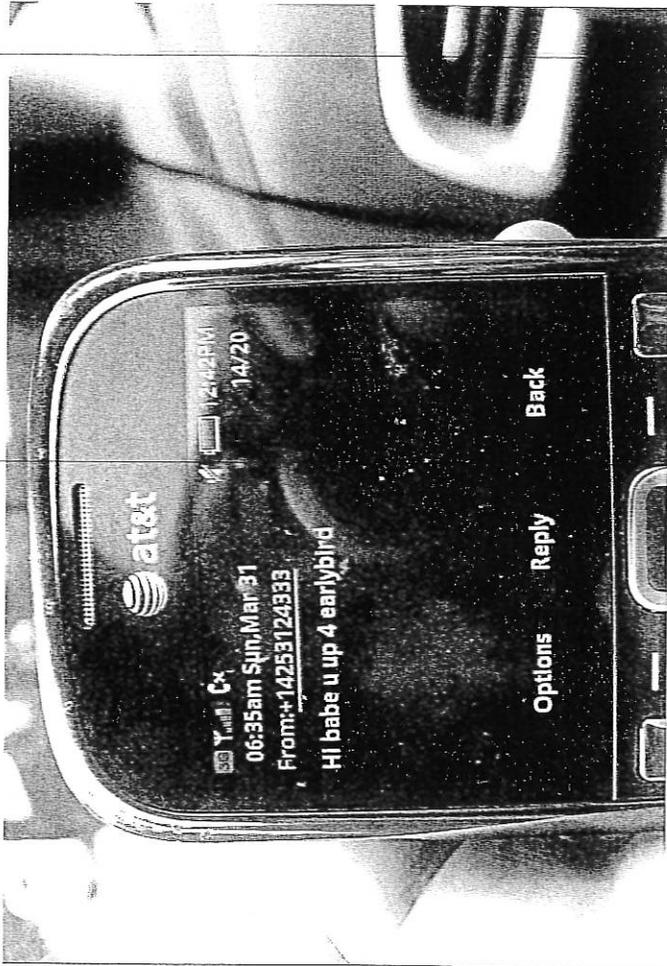


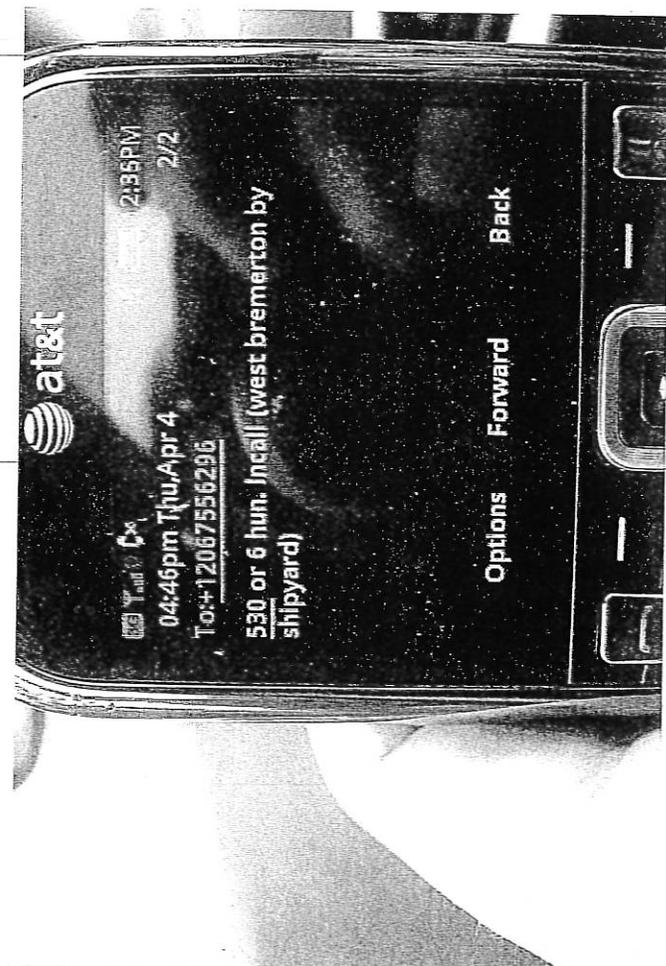
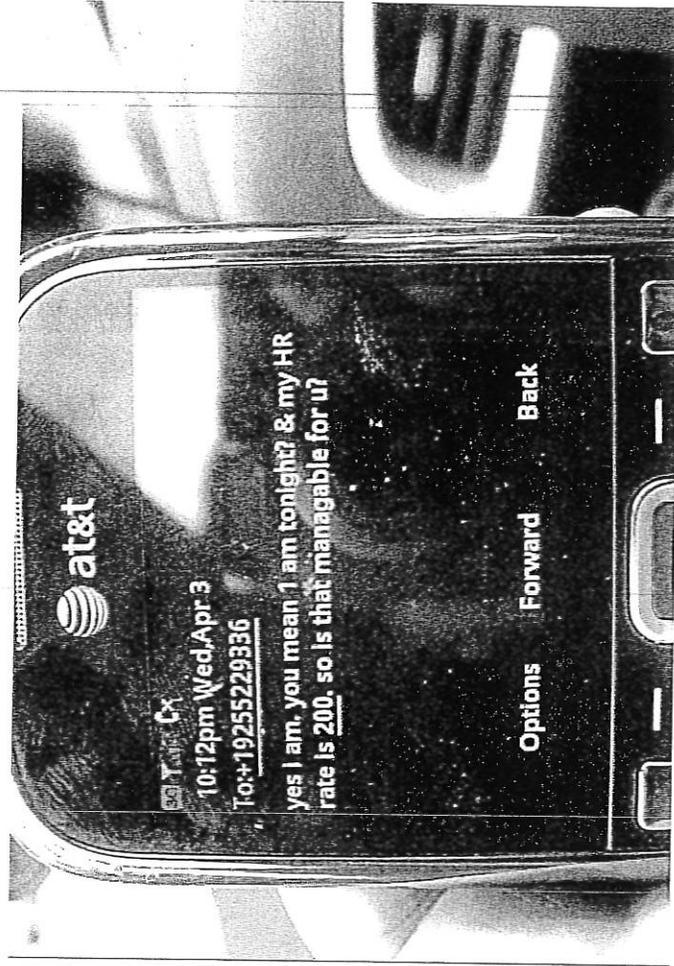
Text Messages To Parker

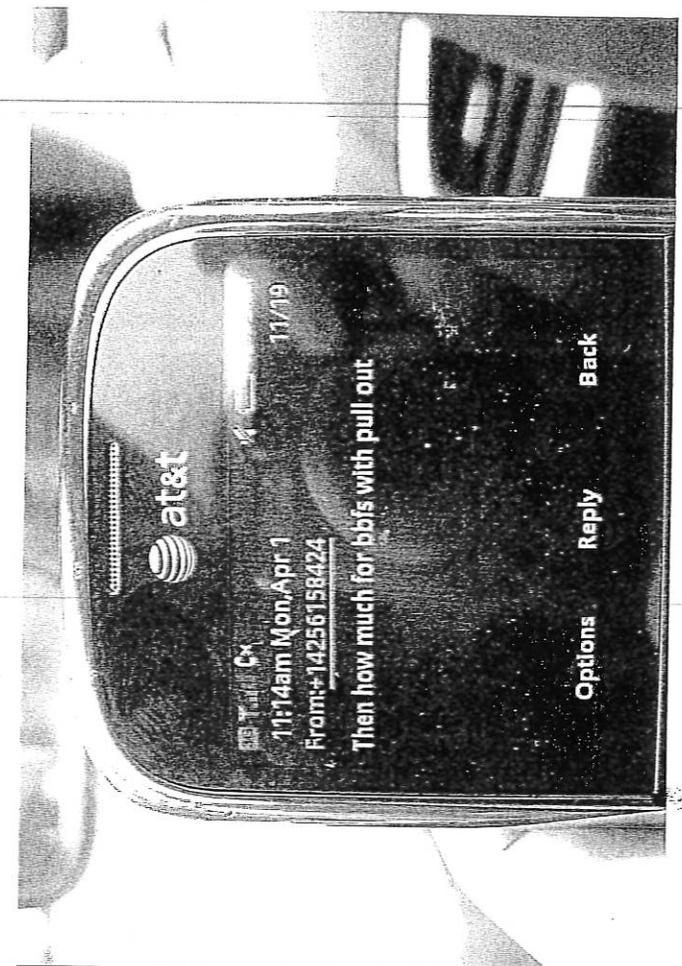
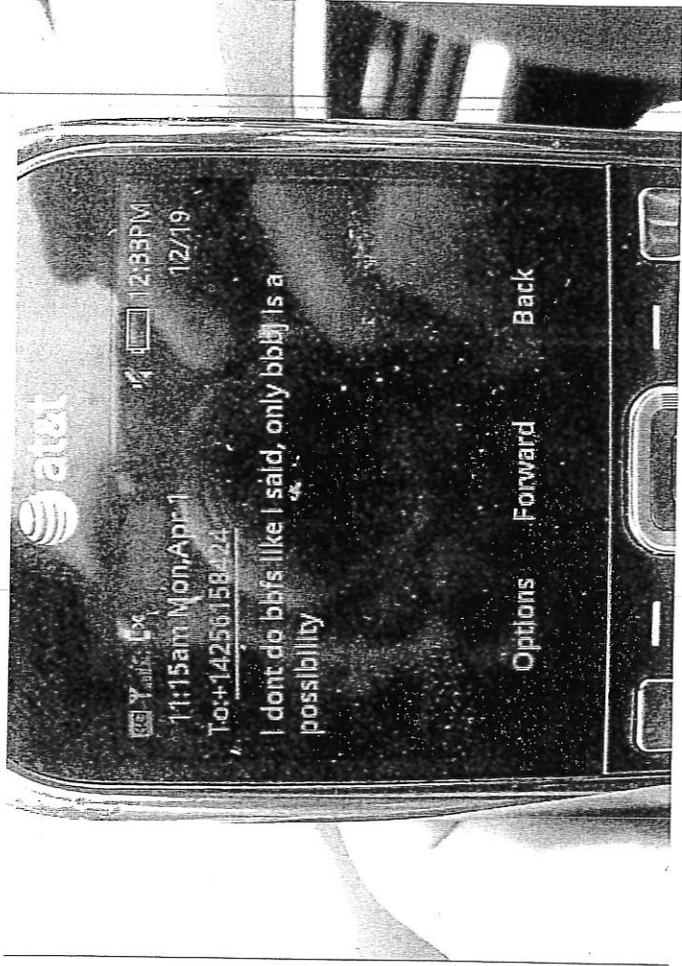


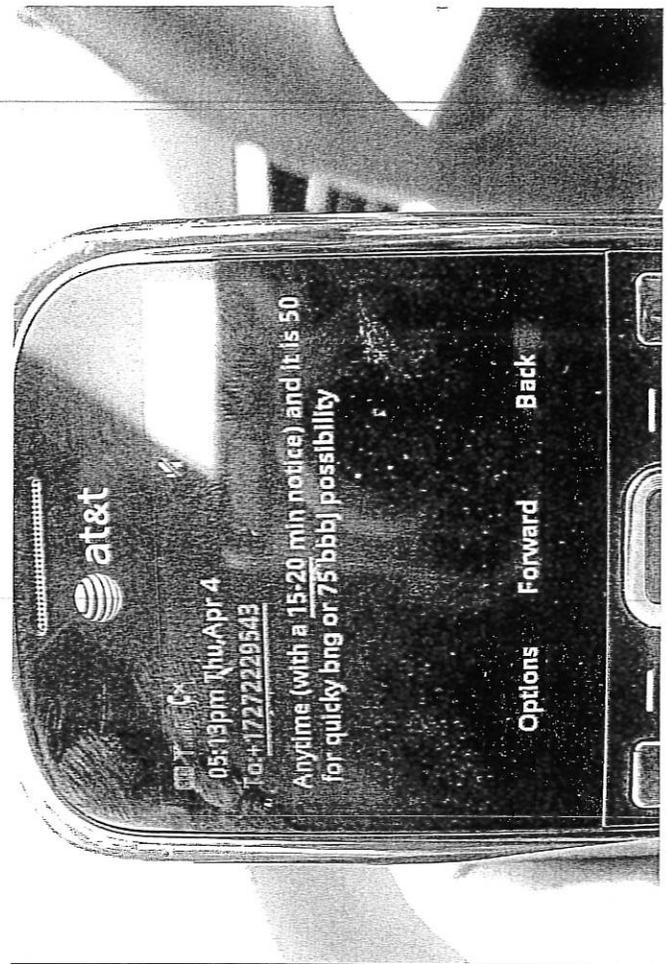


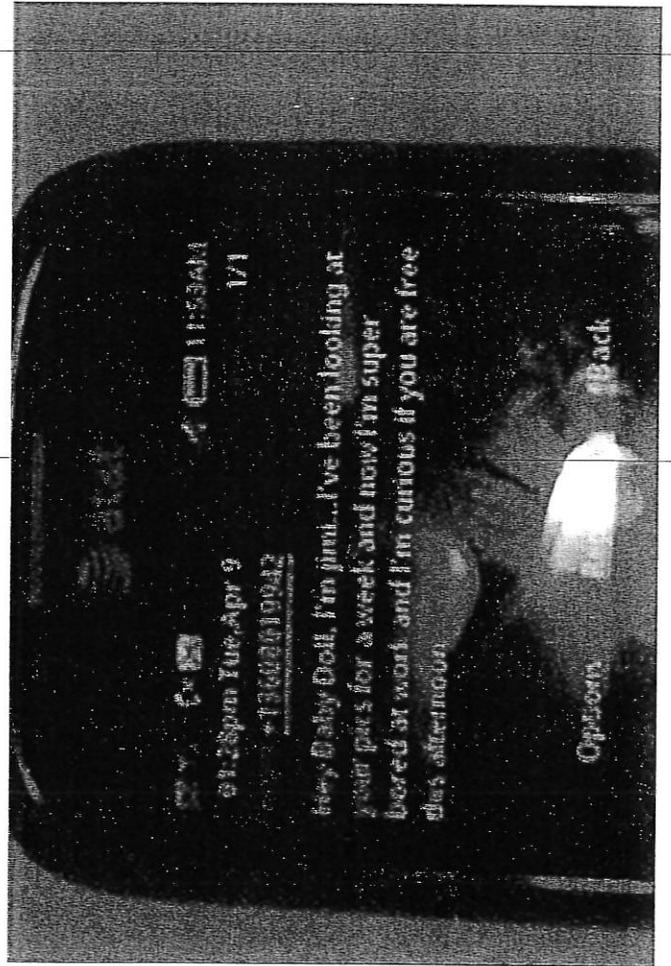
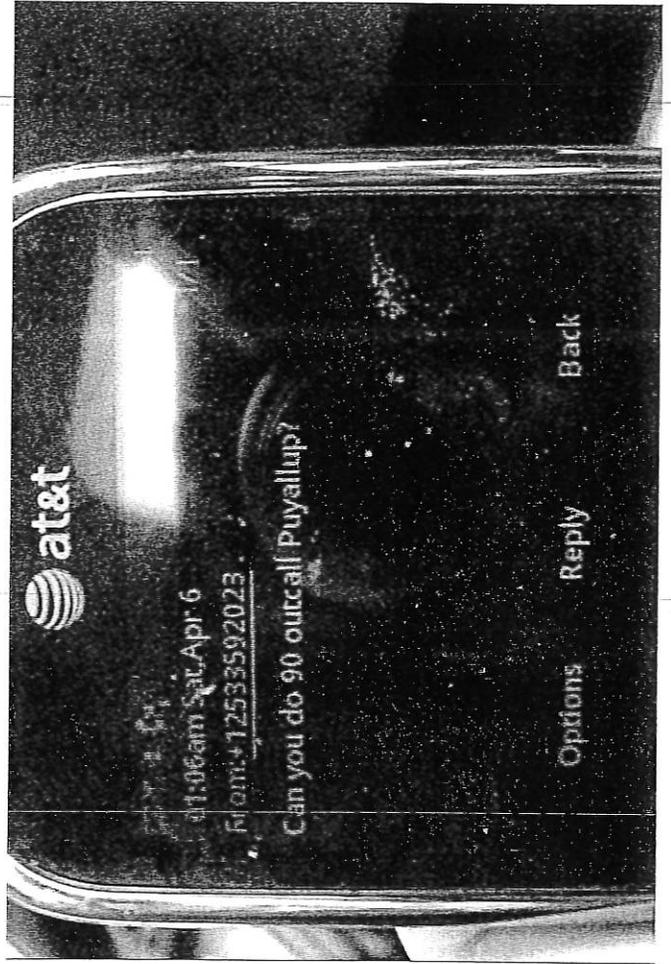


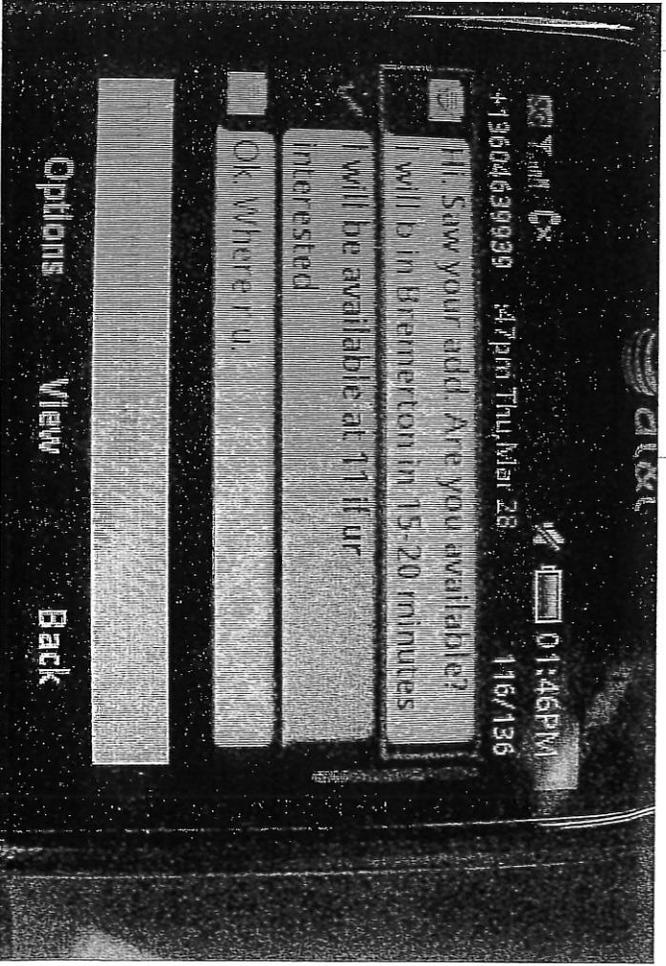
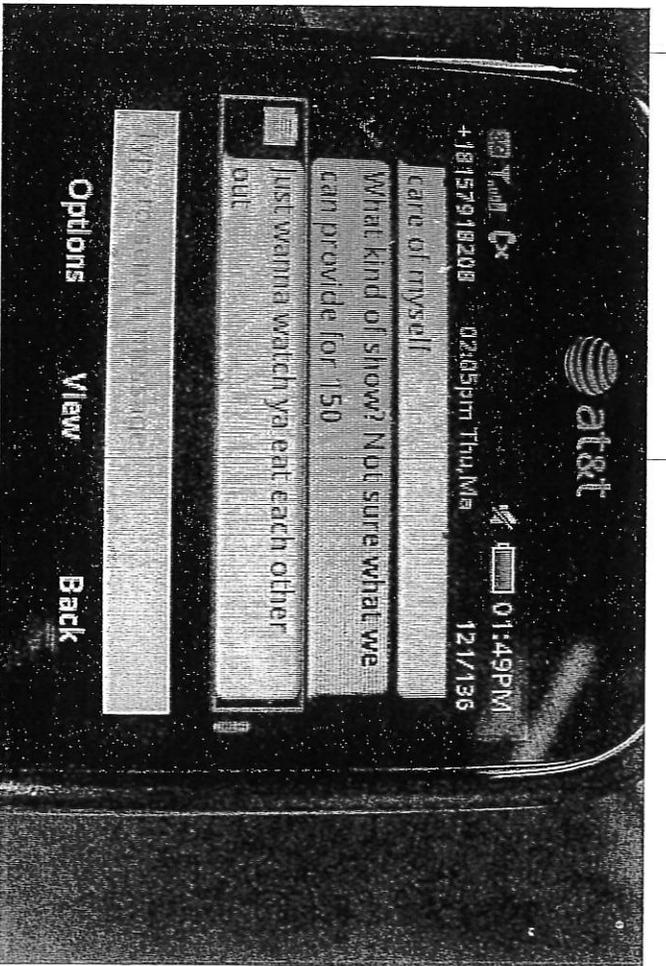
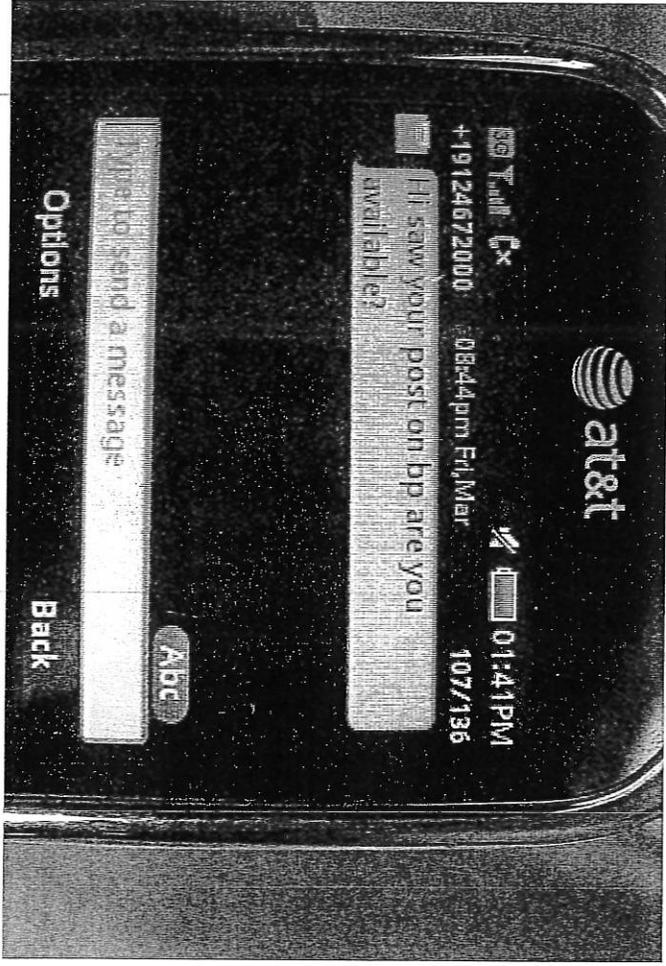
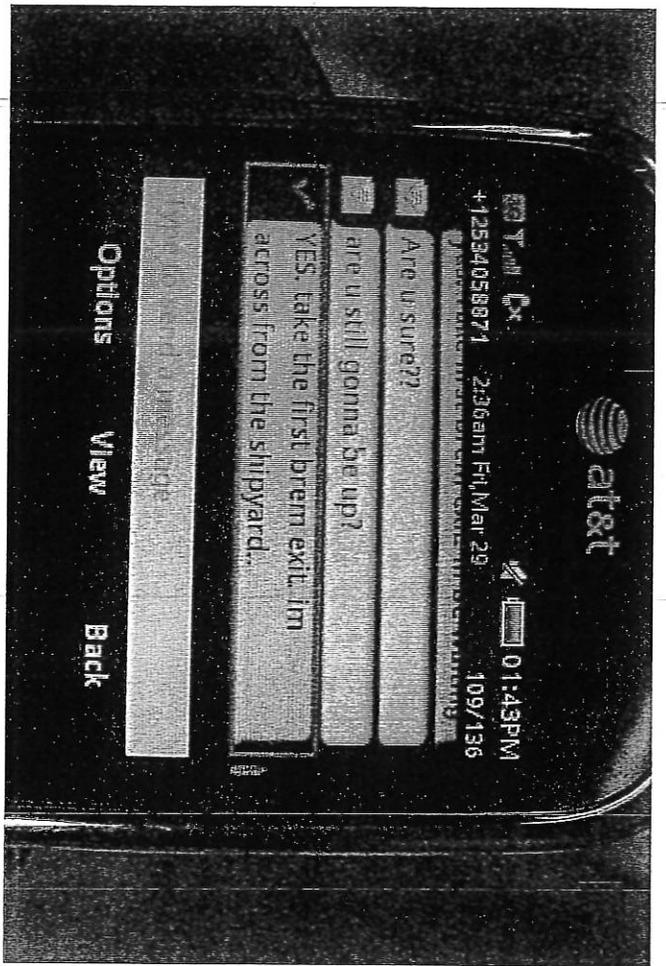


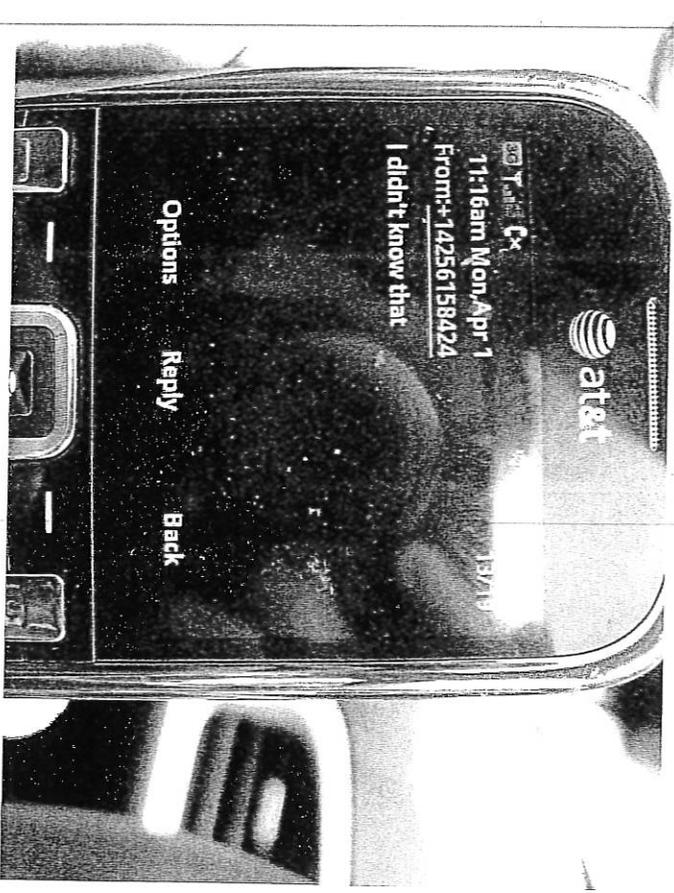
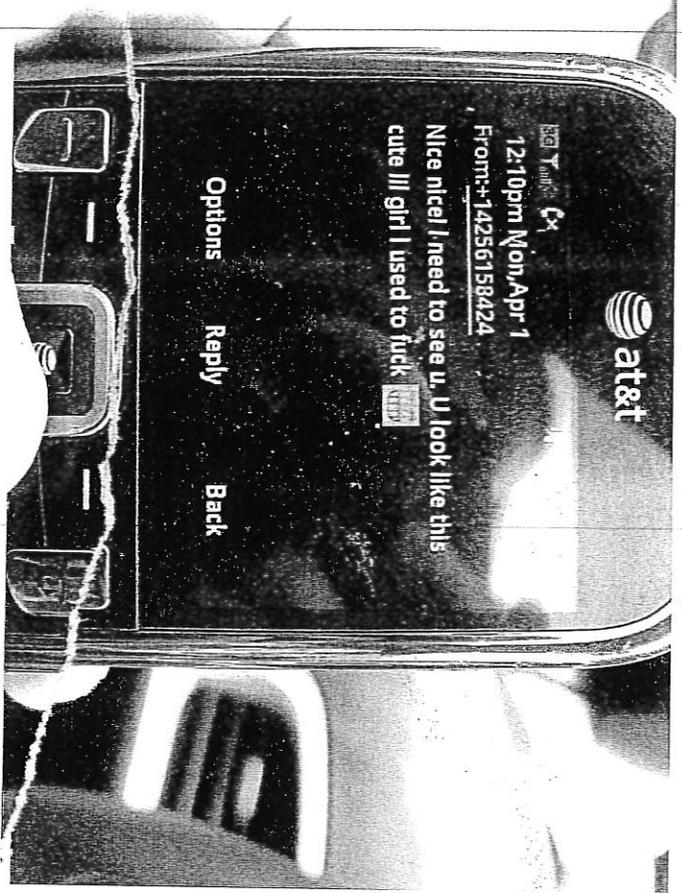






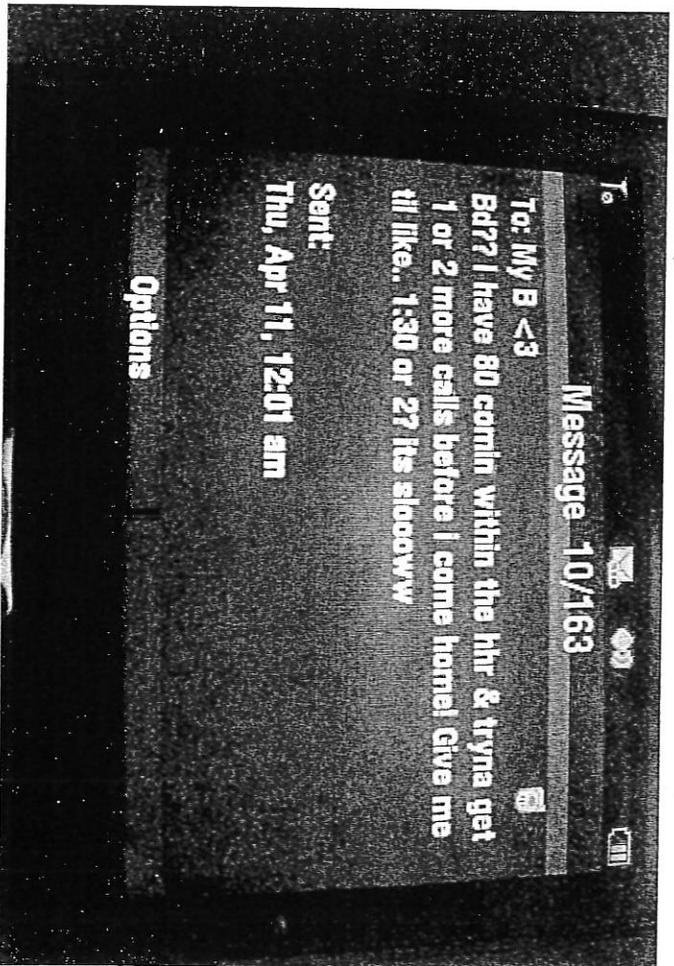
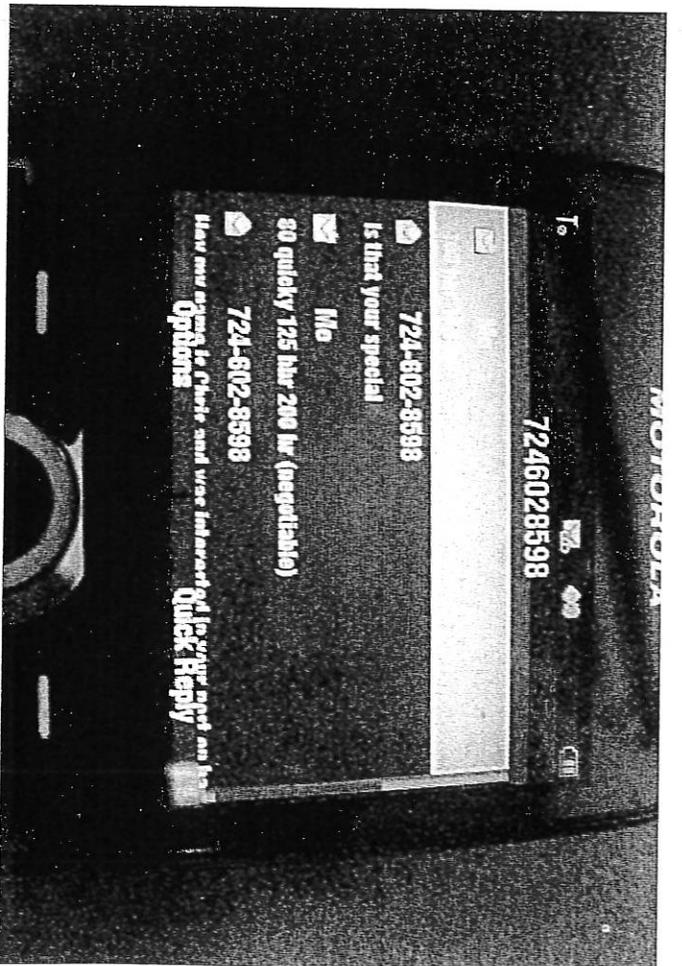
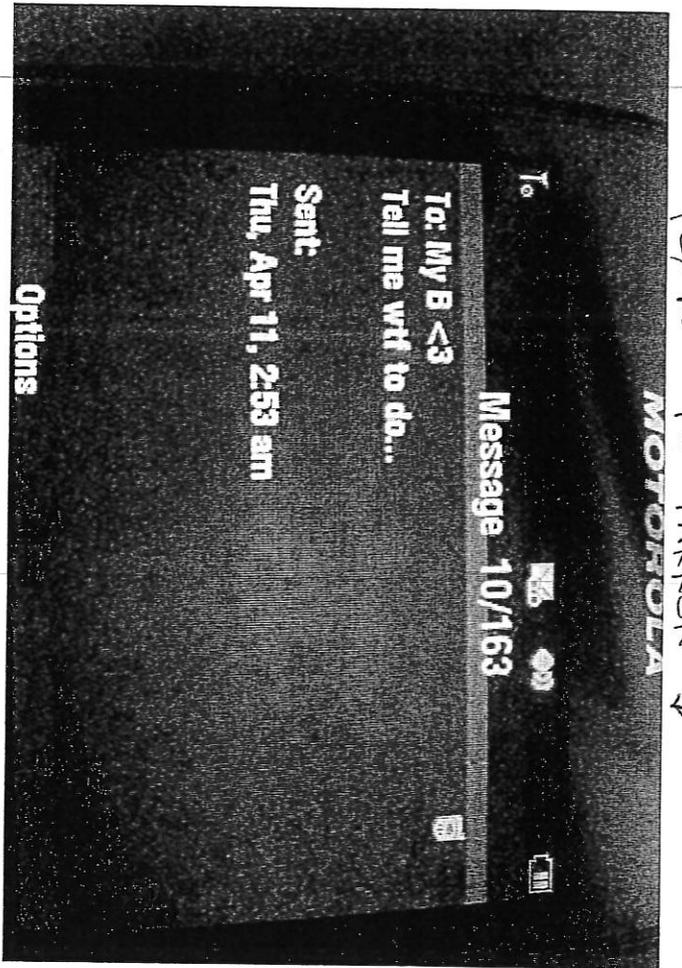




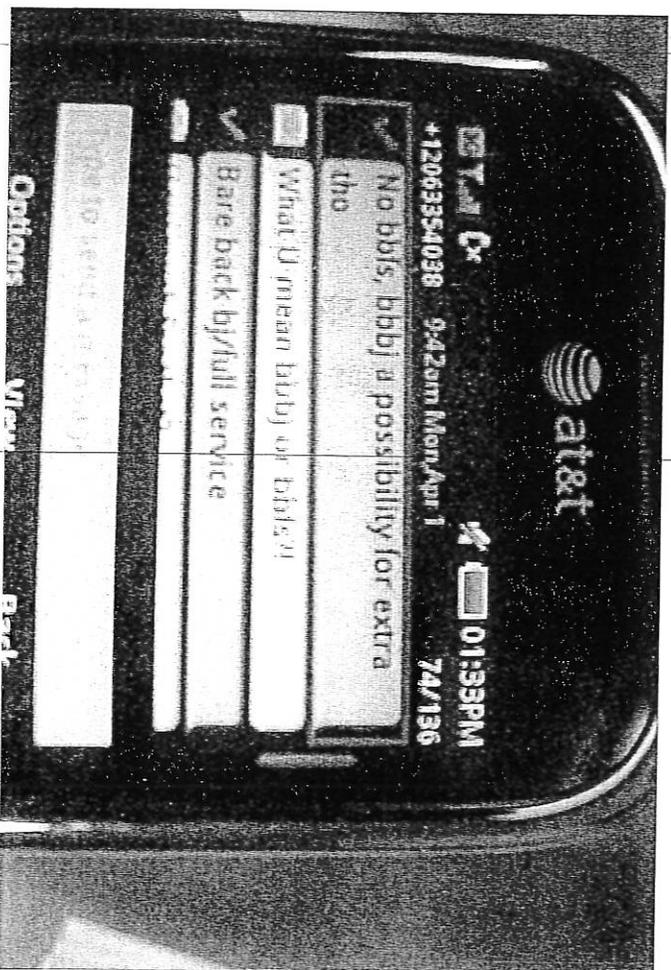
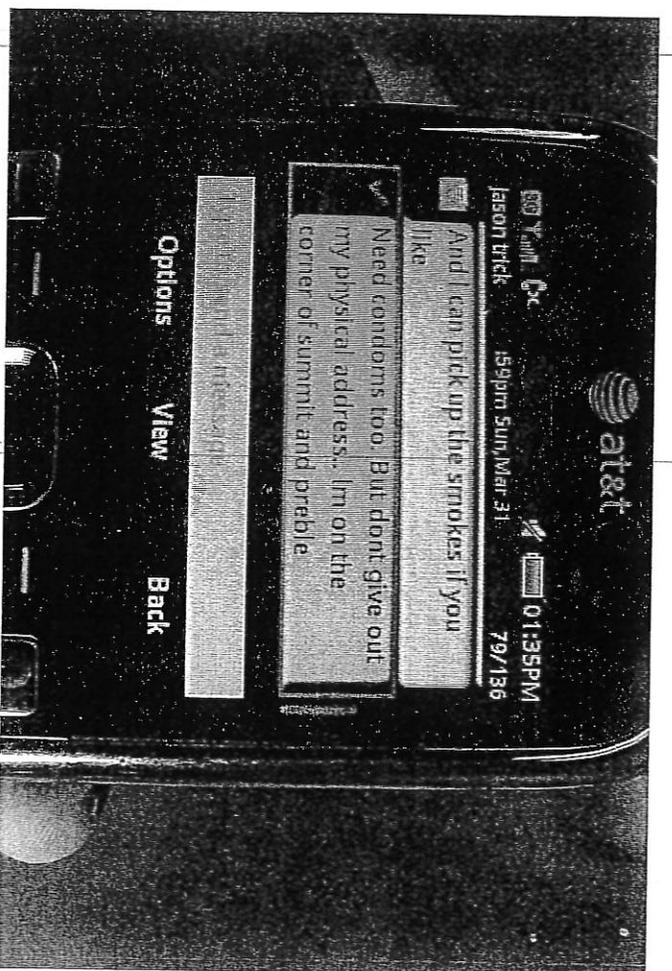
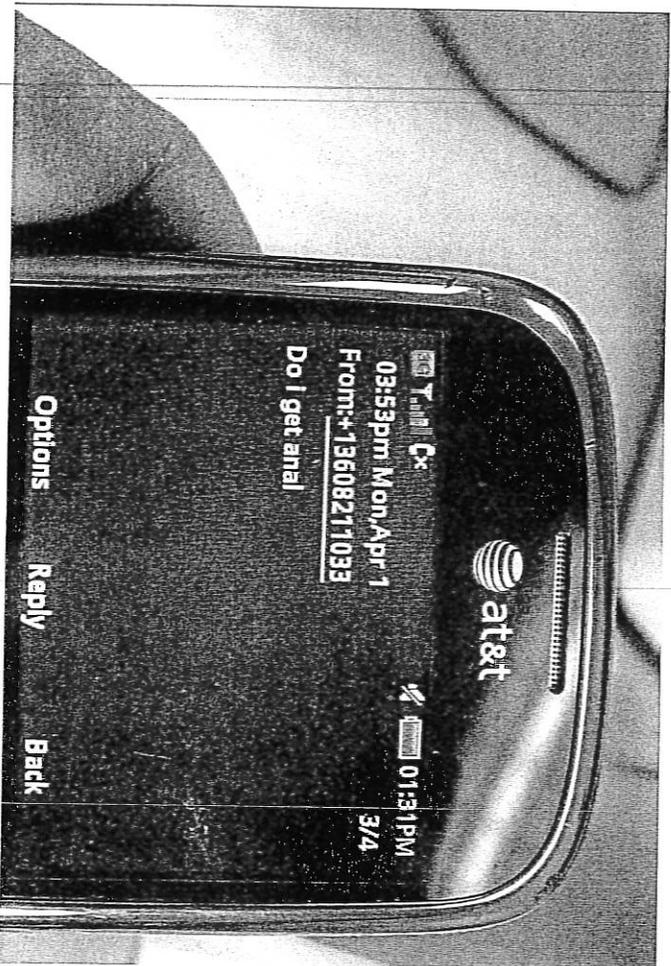
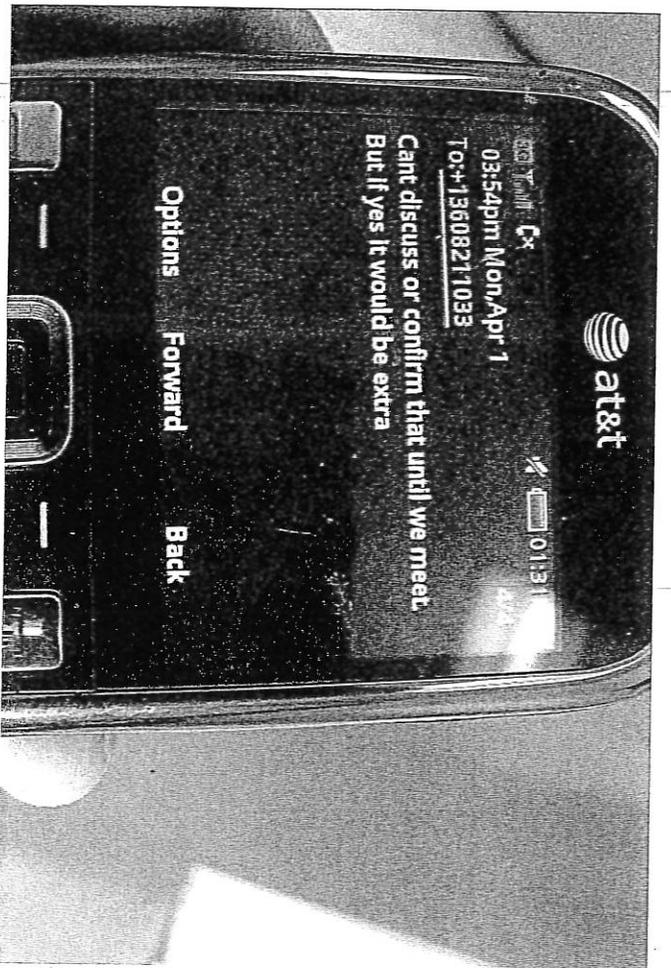




Texts To PARKER ↓



↑



6:12 PM

◀ eyed • [b] [e] [a] [u] [t]... ▶

Call me 360-908-2471

Sent via my LG Marquee from Boost Mobile

jessecowboys@gmail.com wrote:

>From: jessecowboys@gmail.com

>

>Hello, would love to hang out some time and play a game of pool. How do I go about making this happen?

>

>jes

>

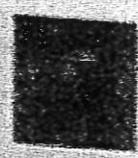
>To view this posting, please click the following link:

>http://seattle.backpage.com/

facebook

The password you entered is incorrect. Please try again.

Already have an account?



Tony Parker
tpabc77@gmail.com

Log In

Forgot your password?

PARKER'S EMAIL
ACCOUNT

boostmobile

6:10 PM

Drafts Outbox Sent Trash

tpabc77@gmail.com

Previous days

Suspicious sign in preve...

no-reply@accounts.google.com 4/12/2013

tacoma.backpage.com: ...

tacoma.backpage.com 4/11/2013

Immaculate222, you hav...

PDF 4/10/2013

Immaculate222, you h... ★

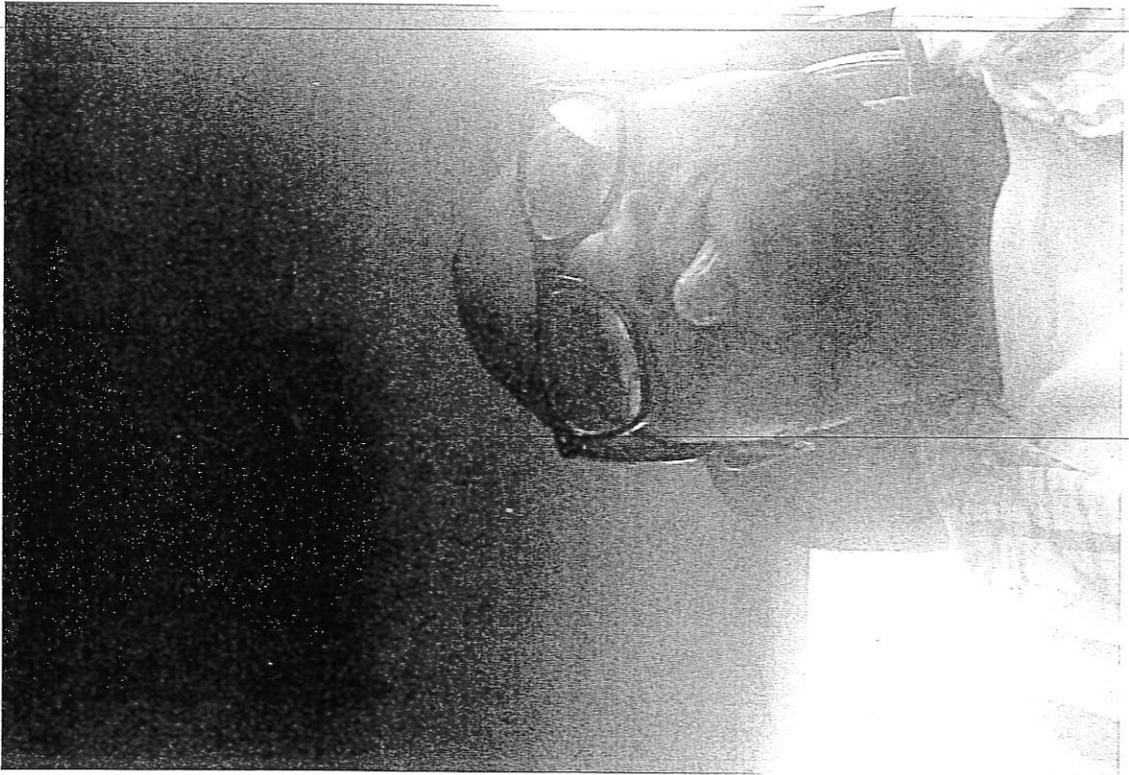
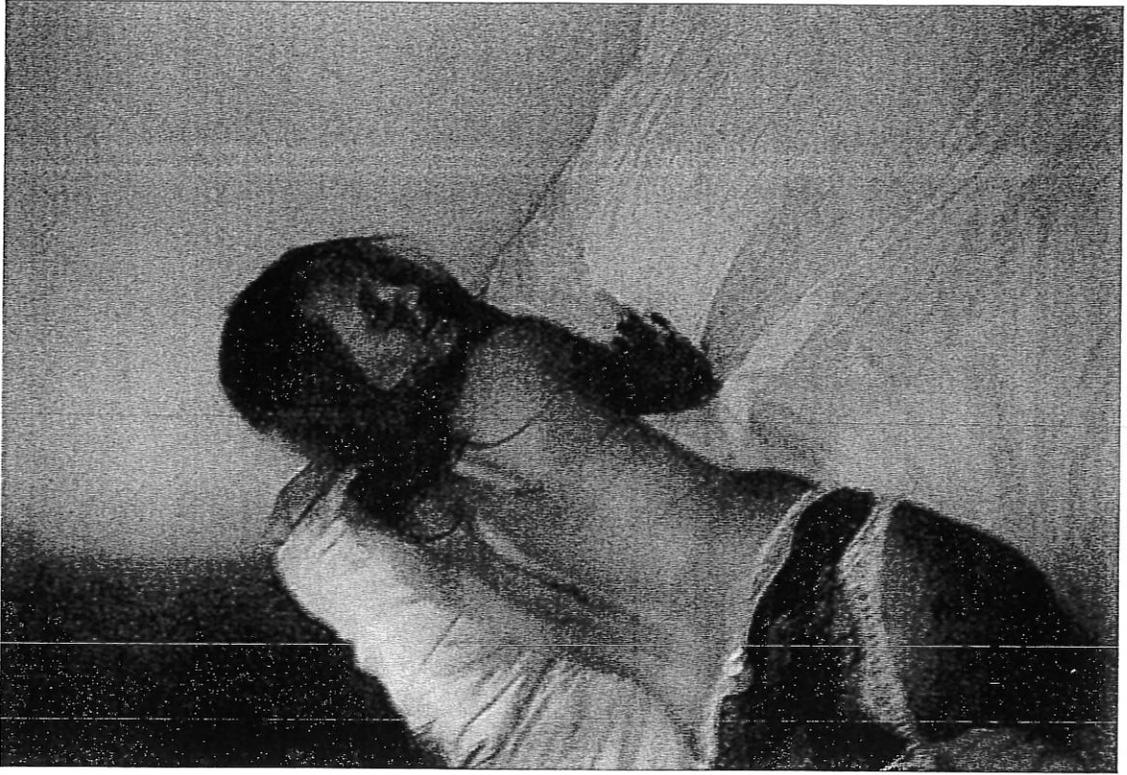
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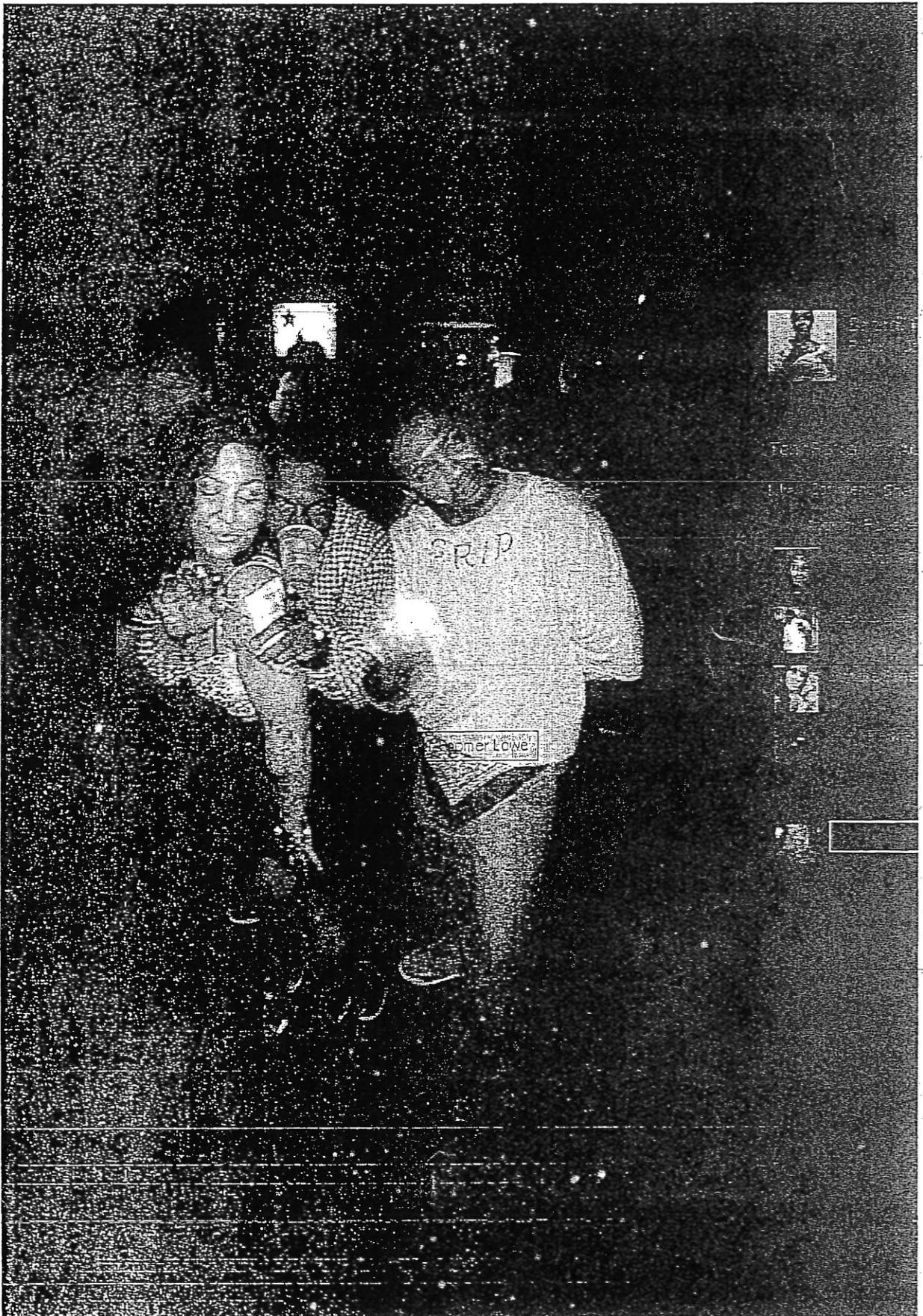
Daily Bible Verse for 04... ★

4/5/2013

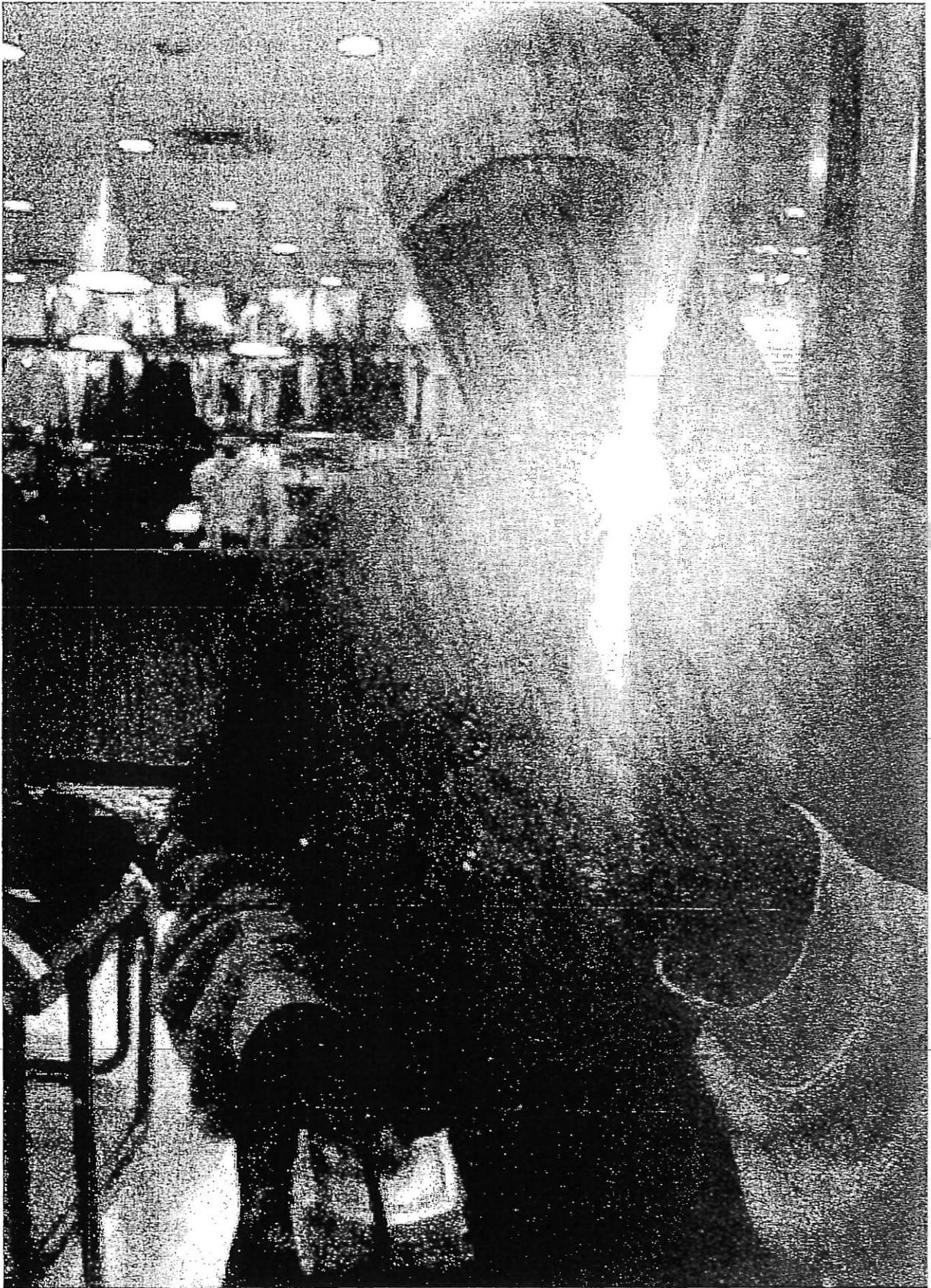
PARKER →
EMAIL account

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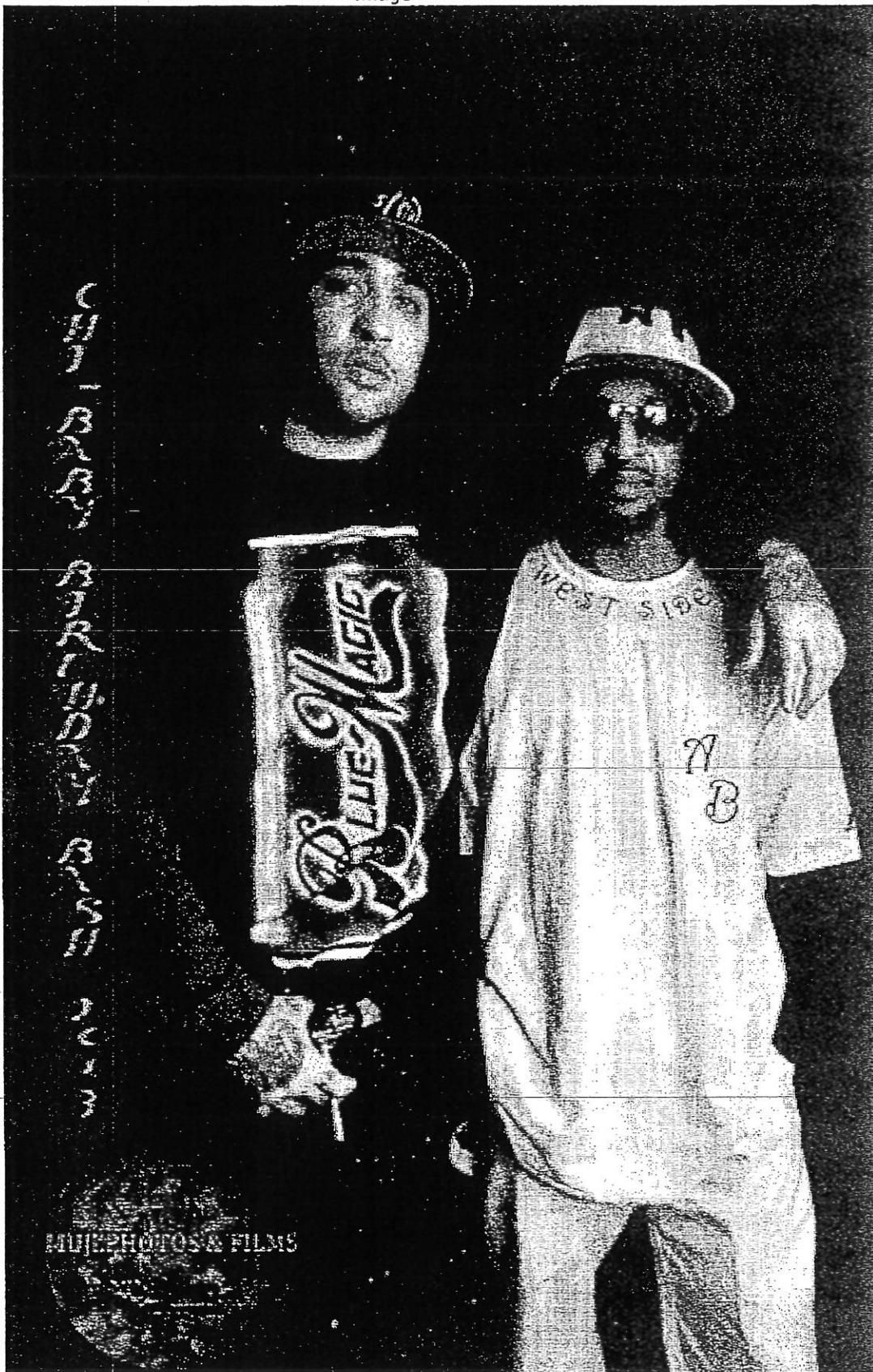


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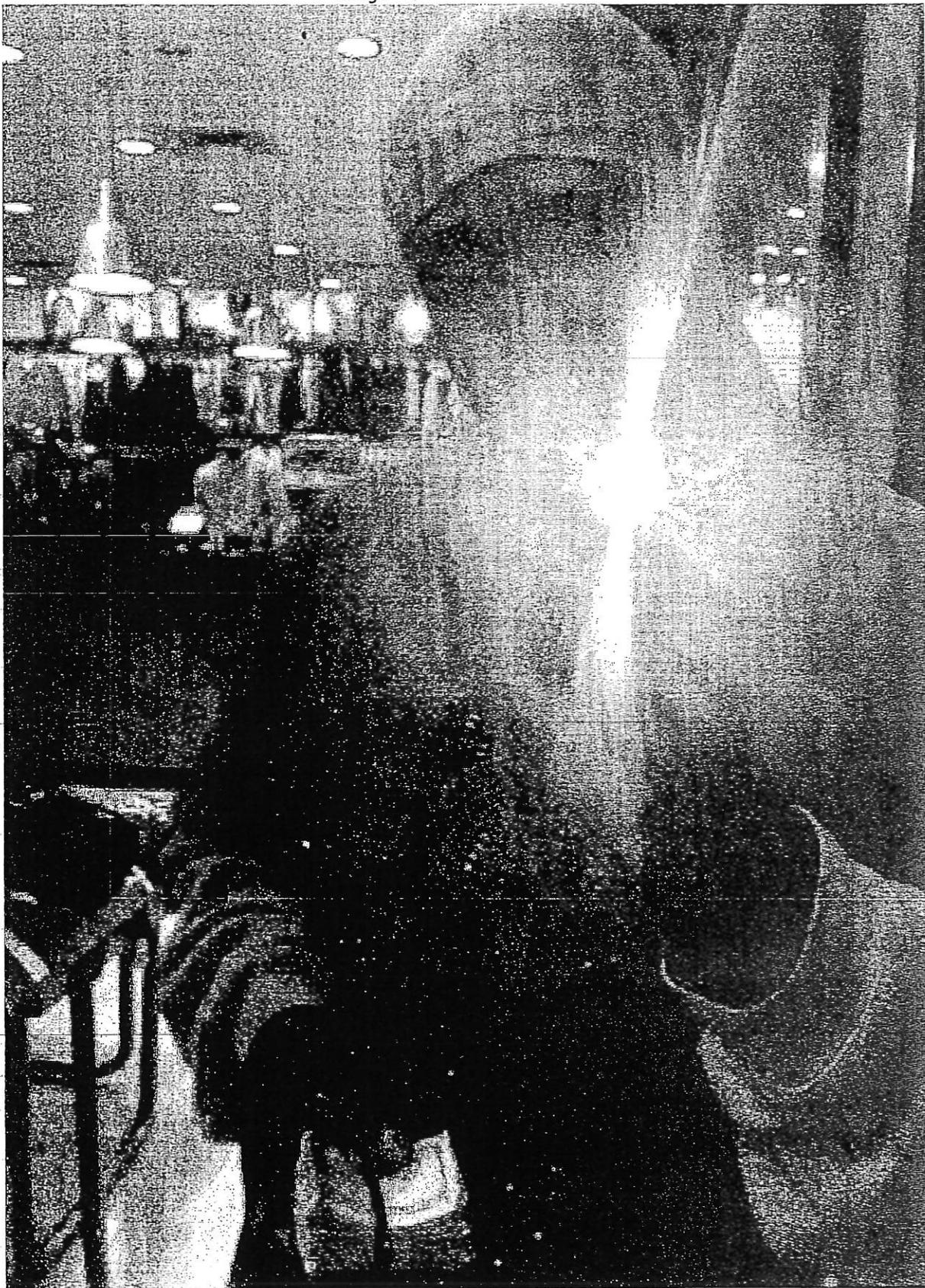


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Title

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Image





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