

SUPERIOR COURT NO.16-1-03132-5

COURT OF APPEALS NO.51872-4-II

IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,  
RESPONDENT

v.

STEVEN P. THORNTON  
APPELLANT

FILED APPEALS  
COURT OF APPEALS  
DIVISION II  
2019 JUN 13 AM 11:17  
STATE OF WASHINGTON  
DEPUTY

APPEAL FROM THE SUPERIOR COURT OF PIERCE COUNTY

THE HONORABLE TIMOTHY ASHCRAFT, JUDGE.

REPLY TO STATES RESPONSE TO APPELLANTS OPENING BRIEF.

STEVEN P. THORNTON

D.O.C. NO. 310168

STAFFORD CREEK CORRECTIONS

191 CONSTATINE WAY

ABERDEEN, WA. 98520

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A. MR. THORNTON MAY RAISE A SUPPRESSION CHALLENGE FOR THE FIRST TIME ON APPEAL WHERE THE RECORD FAILS TO SUPPORT THAT HE WAIVED HIS CONSTITUTIONAL RIGHT TO CHALLENGE THE SEARCH WARRANT.

Article 1 § 7 Guarantees... "No person shall be disturbed in his private affairs, or his home invaded without authority of law." This constitutional protection is at its apex where officers exceeded the scope of their DOC arrest warrant. See State v. Smith, 2012 WA.App.Lexis 792; State v. Littlefair, 129 Wn.App. 330, 119 P.3d 359 (2005); State v. Cornwell, 190 Wn.2d, 296, 412 P.3d 1265 (2013). Similarly, the fourth Amend. to the US. constitution provides the protection for the people and their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue, but upon probable cause, supported by oath and affirmation, and particularly describing the place to be searched, and the persons or things to be seized. In the respondents brief, the States prosecutor contends that Mr. Thornton is barred from raising this issue for the first time on appeal because... "He failed to challenge the illegally seized evidence that might have been suppressible. Therefore, the admission of that evidence was not a clear violation of Mr. Thorntons due process rights. Thus, there was not a manifest constitutional error. Resp. Brief at 14. Citing State v. Valladares, 99 Wn.2d 663, 664 P.2d 508 (1982); Rap 2.5 (a)(3). However, Art. 1§7, and the fourth Amend. of the U.S. constitution are clear, ... "No person shall be disturbed in his private affairs, or his home invaded without authority of law." Thus, the search itself rises to the level of a manifest error of constitutional magnitude.

The States position that Mr.Thornton failed to challenge the illegally seized evidence only supports Mr.Thornton ineff.asst.of counsel claim,because the onus is on the trial counsel to pursue a challenge to a warrantles search. In fact,counsels failure to subject the States case to the "crucible of meaningful adversarial testing gives rise to prejudice."<sup>a</sup>

Prejudice is further established because counsels failure to challenge the illegal search and seizure allowed suppressible evidence to be presented to the jury.The States contention that Mr.Thornton is barred from raising this issue for the first time on appeal fails to inform us all how Det.Barry' exceeding his authority **by** conducting a "protective sweep"when he was only authorized to arrest Mr.Thornton on aDOC warrant was justified.

The Supreme court in Valladares held that by..."withdrawing his motion to suppress the evidence,Valladares elected not to take advantage of the mechanism provided for him,for excluding the evidence,and thus waived or abandoned his objection".Id.at 672.

Here there is nothing in the record to substantiate,or even suggest that Mr.Thornton waived his right to challenge the illegally seized evidence. See State v.Humphries,181 Wn.2d 708,717-18,336 P.3d 1121 (2014)."To be knowing and intelligent,a waiver must be made with full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it".See also State v.Maver,184 Wn.2d 584,362 P.3d 745(2015).Here,the record is silent.The respondent further claims that..."suppression challenges themselves are not a constitutional right,and do not fall under Rap 2.5(a)(3).

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1.The sixth Amend.guarantees criminal defendants the right to effective asst. of counsel.This is made applicable to the States through the fourteenth Amend.as a due process violation.  
2.United States v.Cronic,446 US.648,104 S.Ct.2039,80 LEd.2d 657 (1984)

However, CrR3.6 requires that suppression of any physical evidence be addressed at the date set by the court. Moreover, Rap.2.5(a)(3) allows for suppression issues to be raised for the first time on appeal if it is a manifest error affecting a constitutional right. And Det. Barry exceeding the scope of his DOC warrant and conducting a "protective sweep" and search of the premises without first establishing probable cause and securing a search warrant,<sup>3</sup> certainly rises to the level of manifest error of constitutional magnitude that must be challenged under the Fourteenth Amend., due process provision.

- B. The record is sufficient to permit review of whether the State possessed discoverable documents with regard to the scope of Det. Barry's illegal search that the State failed to disclose in a timely manner.

CrR4.7 sets out the States obligations to disclose any and all documents relating to the subject of their witness testimony. The prosecutor further has a duty to learn of any favorable evidence known to others acting on the governments behalf, including the police. See Strickler v. Green, 527 US 263, 281-82, 119 S.Ct. 1936, 144 LEd.2d 286 (1999); due process requires the State to disclose evidence that is both favorable to the accused and material to either guilt or punishment. United States v. Padley, 473 US 667, 674, 105 S.Ct. 1375, 87 LEd.2d 481 (1985) (Quoting Brady v. Maryland, 373 US 83, 83 S.Ct. 1194, 10 LEd.2d 215 (1963)). Evidence is material only if there is reasonable probability that had the evidence been disclosed to the defense the results of the

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3. It should be noted Det. Barry did a "protective sweep" of the Red chevy pick-up and the storage unit 8mins. after appellant was in custody. See CAD report times 16:56:14. Exhibit B of SAG.

Also Det. Barry used the fruits of his "protective sweep" as probable cause for a search warrant four hrs later after his illegal search of the premises, See probable cause for search warrant. Exhibit A of SAG.

proceedings would have been different. United States v. Bagley, 473 US. 667, 682, 105S.Ct. 3375, 87 LEd.2d 481 (1985); In Re Pers. Restraint, 134 Wn.2d 868, 916, 952 P.2d 116 (1998). In applying the reasonable probability standard, the question is whether the defendant received a fair trial without the evidence that is "a trial worthy of confidence". Kyles v. Whitley, 514 US. 419, 434, 115 S.Ct. 1535, 131 LEd.2d 490 (1995); Benn, 134 WA.2d at 916, 952 P.2d 116 Id.

In the respondents brief, the States prosecutor state's... "for purposes of this review the record is not developed as to the scope of the search."<sup>4</sup> The State further claims that the obligation fell on the defense to disclose the CAD reports to the State, Therefore, "depriving the State of the ability to put forth any relevant evidence or legal theories". Thus, the record is now insufficient to support review of Mr. Thorntons claim for the first time on appeal. Resp. Brief at 21.

On Nov. 7, 2016, an Omnibus order and hearing was scheduled. On Feb. 22, 2018 a crR3.6 And Feb 26, 2018 a crR3.5 was conducted. On March 6, 2018, a discussion was had between defense and the court with regard to the CAD report which revealed that the detective had entered the storage unit and preformed an illegal search and seizure prior to the issuance of any search warrant. Additionally, on Sept. 13 2016, counsel for the defense filed a "notice of appearance" and "demand for discovery" that included a request for, among other discoverable materials, (3) copies of any and all police or investigative reports. See exhibit A.

While the documents attached to the pleadings support that the CAD log may

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4. This contention from the State requires an evidentiary hearing to develop the facts, because the State has failed to put forth any relevant evidence or theories in its response to justify its failure to disclose the CAD reports in its discovery.

5. It should be noted that the record establishes that no hearing was ever held.

have been submitted to the clerks office on March 16, 2018, the day of Mr. Thorntons convictions, nothing on the record supports that an actual omnibus hearing was conducted to ensure compliance of the 4.7 rule prior to trial as mandated by establishing rule and law. See Exhibits B. Thus, it is the State failure to disclose the discoverable material that deprived Mr. Thornton the opportunity to challenge this issue at the crR3.6 hearing.<sup>6</sup>

Similarly, Mr. Thornton's counsel was instructed by the court to brief this issue and present the court with the facts that are attached hereto. However, counsel failed to do so. This issue is made more egregious by that fact that on Nov. 7, 2016 the prosecutor, Judge and defense counsel signed the "order on omnibus application" indicating that... The prosecutor has provided to the defense all discovery in its possession or control, pursuant to crR4.7(a) see exhibit C. However, exhibit B establishes that these CAD logs had not been offered to the jury at trial, or objected to by the counsel. Or ensured by the Judge that these materials were disclosed because no proper omnibus hearing was conducted. Irrespective of this these documents were not disclosed prior to trial even though the State had every opportunity to submit these documents prior to trial to provide the defense the opportunity to litigate these facts. The fact that the Judge and prosecutor both signed off that the CAD logs had been disclosed shows a complete breakdown of their obligation to (1) disclose these documents. And (2). ensure that the State complied with the rules of discovery.

It cannot be argued that these documents would have had an impact on any suppression hearing, considering that the Judge instructed counsel to brief this issue and motion the court for a proper crR3.6 hearing.

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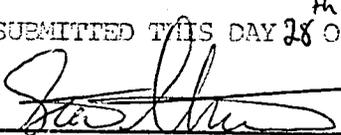
6. Its important to note that the prosecutor acknowledges that she had received the discovery. Thus, she was aware that the CAD reports had not been disclosed. See Exhibit C.

It also cannot be argued that the States failure to disclose this exculpatory material deprived the defense from challenging the illegal search at the crR3.6 hearing. Even though the State knew the CAD logs existed. The States withholding of this critical piece of evidence violates the rules of discovery and Brady v. Maryland, 373 US 83, Id and its progeny. And the States signing of the omnibus order claiming it had disclosed these materials, when it had not, is misleading and should be viewed as misconduct. Misconduct need not be of an evil or dishonest nature, simple mismanagement is sufficient. See crR4.7.

CONCLUSION

BASED ON THE ARGUMENTS AND AUTHORITIES CONTAINED HEREIN, THIS COURT SHOULD REMAND THIS MATTER BACK TO TRIAL COURT FOR FURTHER PROCEEDINGS, OR OTHERWISE GRANT THE RELIEF ENTITLED TO APPELLANT CONSISTENT WITH THE LAW.

RESPECTFULLY SUBMITTED THIS DAY 28<sup>th</sup> OF MAY, 2019.

  
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Signature of Appellant

STEVEN P. THORNTON

D.O.C. NO. 310168

STAFFORD CREEK CORRECTIONS CENTER

191 CONSTANTINE WAY

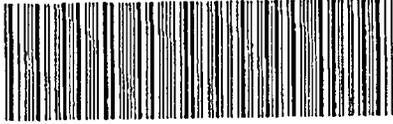
ABERDEEN, WA 98520

# EXHIBIT A

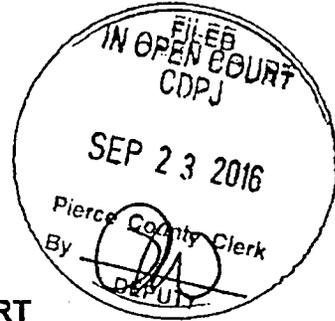
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16-1-03132-5 47643157 NTARD 09-26-16



PIERCE COUNTY SUPERIOR COURT  
STATE OF WASHINGTON

STATE OF WASHINGTON  
Plaintiff,  
  
vs.  
  
STEVEN THORNTON  
Defendant.

No. 16-1-03132-5

NOTICE OF APPEARANCE AND  
DEMAND FOR DISCOVERY

TO: CLERK AND PROSECTING ATTORNEY, OF THE ABOVE-ENTITLED  
COURT:

PLEASE TAKE NOTICE that **DANA M. RYAN**, through the undersigned attorney, hereby appears for the Defendant and pursuant to the authority of CrR 4.7; CrRLJ 2.4, 3.3, 4.7, 4.8(b) and 6.13; ER 7.05; RCW 10.58.010, 10.37.050, et seq.; the Fourth, Fifth, Sixth, and Fourteenth Amendments to the U.S. Constitution; and Article I, Sections 3, 7, 22, 29, and 30 and the Tenth Amendment to the Washington State Constitution,

HEREBY makes the following demands, motions, and requests for discovery in the matters(s) pending under the above entitled case:

**RYAN LAW FIRM**

112 W. MEEKER  
PUYALLUP, WASHINGTON 98371  
(253) 273-1159  
ryandana11105@comcast.net

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1. The names, addresses and phone numbers of all persons the prosecutor may call as witnesses at the time of hearing or trial, together with copies of any notes, written or recorded statements, the substance of any oral statements made by any of those witnesses, and a summary of their testimony to be offered at hearing or trial;

2. Copies of any written or recorded statements and the substance of any oral statements made by the Defendant or by an co-defendant;

3. Copies of any and all police or investigative reports and statements of any claimed experts made in connection with this particular case, including but not limited to the A.I.R., General Police Report (including Citation, Incident/Accident Report(s), Officer's Notes, etc.), Abstract of Complete Driving Record of the Defendant, Breath Test Document/Evidence Ticket, BAC Verifier Datamaster Alcohol/Drug Arrest Report; SPEED MEASURING DEVICE CERTIFICATIONS AND CALIBRATION DOCUMENTS;

4. A list of all physical items of evidence;

5. Any record of convictions of the Defendant and any witness(es);

6. Any evidence tending to exculpate the Defendant, including, but not limited to, statements of the complaining victim/witness or any other witness, documentary, photographic, or electronically recorded evidence;

7. True and correct copies of any and all other written or documentary evidence at which the prosecuting office intends to and/or will use at the time of hearing or trial herein for any purpose.

The Defendant, without waiving objections to the complaint/citation and notice filed herein pursuant to CrR 2.1, 2.2, CrRLJ 2.1 and 2.2, and without waiving objection as to the timeliness as to the date of the arraignment of the defendant herein pursuant to CrR 3.3 or CrRLJ 3.3, hereby demands to be tried by a jury pursuant to CrR 6.1(a) or CrRLJ 6.1.1(a), and within the time requirements of CrR 3.3 or CrRLJ 3.3.

YOU ARE FURTHER NOTIFIED that the purpose of these demands is to enable the Defendant to properly prepare to defend against the charge(s) filed herein, to

**RYAN LAW FIRM**  
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adequately prepare to examine all witnesses who may testify in this case, and to eliminate the element of surprise or the need for a continuance on the day of trial.

DATED SEPTEMBER 13, 2016

RYAN LAW OFFICE

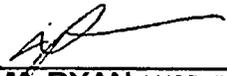
  
\_\_\_\_\_  
DANA M. RYAN, WSB #17418  
Attorney for Defendant

EXHIBIT B

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IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,  
Plaintiff,

Cause No. 16-1-03132-5

vs.

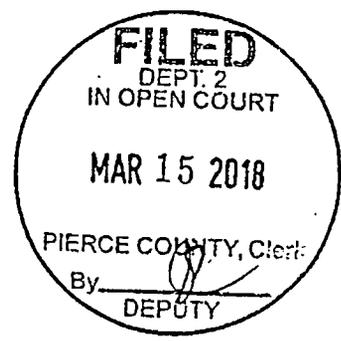
MOTION EXHIBIT RECORD

THORNTON, STEVEN PAUL,  
Defendant.

*All here ct  
3/16/18*

P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn				Date	Rec'd by Clerk's Office
P	1	Puyallup Police Arrest Report, Incident No. 16005064.1								✓
P	2	Puyallup Police Arrest Report, Incident No. 16005064.7								✓
P	3	Cad Incident Inquiry								✓

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IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,  
Plaintiff,

Cause No. 16-1-03132-5

vs.

EXHIBIT RECORD

THORNTON, STEVEN PAUL,  
Defendant.

All here CH  
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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
<input checked="" type="checkbox"/>	1	Baggie Containing Springfield Armory XD40 .40 Caliber Pistol, Serial No. US353797	Yes	No	Admitted Published	03/01/18	
<input checked="" type="checkbox"/>	1-A	Ziploc Bag Containing Ammunition and Magazine Located in Bag Containing Exhibit 1	Yes	No	Admitted Published	03/01/18	
<input checked="" type="checkbox"/>	2	Hard Shell Gun Case Containing a Ruger "American" .308 Caliber Rifle, Serial No. 694-18003	Yes	No	Admitted Published	03/01/18	
<input checked="" type="checkbox"/>	3	Hard Shell Gun Case Containing Winchester Model 190 .22LR Caliber Rifle, Serial No. B1763774	Yes	No	Admitted Published	03/01/18	
<input checked="" type="checkbox"/>	4	Sword	Yes	No	Admitted Published	03/01/18	
<input checked="" type="checkbox"/>	5	Black Bag Containing Ammunition	Yes	No	Admitted	03/01/18	
<input checked="" type="checkbox"/>	5-A	Knife Shaped Like a Pistol Located Inside Exhibit 5	Yes	No	Admitted Published	03/01/18	
<input checked="" type="checkbox"/>	6	Metal Box Containing Ammunition	Yes	No	Admitted	03/01/18	

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<del>P</del>	7	Wards Western Field .22LR Caliber Rifle, Serial No. 04M491A	Yes	No	Admitted Published	03/01/18	
<del>P</del>	8	Soft Shell Gun Case Containing Stevens Model 5100 16-Gauge Double-Barrel Shotgun	Yes	No	Admitted Published	03/01/18	
<del>P</del>	9	Hard Shell Gun Case Containing Norinco SKS 7.62x39mm Rifle, Serial No. 23110698K	Yes	No	Admitted Published	03/01/18	
<del>P</del>	10	Soft Shell Gun Case Containing Universal M-1 Carbine .30 Carbine Caliber Rifle, Serial No. 159918	Yes	No	Admitted Published	03/01/18	
<del>P</del>	11	Soft Shell Gun Case Containing Marlin Model 890-DL .22LR Caliber Bolt-Action Rifle	Yes	No	Admitted Published	03/01/18	
<del>P</del>	12	Soft Shell Gun Case Containing Winchester Model 1906 .22LR Caliber Pump-Action Rifle, Serial No. 382507	Yes	No	Admitted Published	03/01/18	✓
<del>P</del>	13	Hard Shell Gun Case Containing Marlin Model 25 .22LR Caliber Bolt-Action Rifle, Serial No. 19783439	Yes	No	Admitted Published	03/01/18	
<del>P</del>	14	Smith & Wesson Model SW1911SC .45ACP Caliber Pistol, Serial No. UCV1587	Yes	No	Admitted Published	03/01/18	
<del>P</del>	15	.25 Caliber Pistol, Serial No. ATJ02965	Yes	No	Admitted Published	03/01/18	
<del>P</del>	16	Kimber Model Eclipse Ultra II .45ACP Caliber Pistol, Serial No. KU147956	Yes	No	Admitted Published	03/01/18	
<del>P</del>	17	Colt Frontier Scout .22 WMR Caliber Single- Action Revolver	Yes	No	Admitted Published	03/01/18	
<del>P</del>	18	Marlin Model 36G 30-30 Winchester Caliber Lever-Action Rifle, Serial No. AA41149	Yes	No	Admitted Published	03/01/18	
<del>P</del>	19	Flint-Lock Pistol	Yes	No	Admitted Published	03/01/18	
<del>P</del>	20	Remington Model 870 12-Gauge Pump-Action Shotgun, Serial No. RS34333V	Yes	No	Admitted Published	03/01/18	
<del>P</del>	21	Winchester Model 1886 86-33 .33WCF Caliber Rifle, Serial No. 138353	Yes	No	Admitted Published	03/01/18	
<del>P</del>	22	Iver Johnson Champion 12-Gauge Break-Open Shotgun, Serial No. GCBX	Yes	No	Admitted Published	03/01/18	
<del>P</del>	23	Soft Shell Gun Case Containing Oviedo Model 1928 7mm Mauser Caliber Rifle, Serial No. 9402	Yes	No	Admitted Published	03/01/18	
<del>P</del>	24	US M-1 Garand .30-06 Springfield Caliber Rifle, Serial No. 5722549	Yes	No	Admitted Published	03/01/18	✓

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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by. Clerk's Office
P	25	Sureshot Bolt-Action Rifle	Yes	No	Admitted Published	03/01/18	
P	26	Savage Arms Model 3C .22LR Caliber Rifle, Serial No. 5416	Yes	No	Admitted Published	03/01/18	
P	27	New England Firearms .22 WMF Caliber Break-Open Rifle, Serial No. NS238749	Yes	No	Admitted Published	03/01/18	
P	28	Soft Shell Gun Case Containing Nagant Model M1895 7.62x38R Caliber Revolver, Serial No. N3469	Yes	No	Admitted Published	03/01/18	
P	29	Prescription Pills					
P	30	Scale					
P	31	Photograph: Man and Woman Looking Under Hood of Red Vehicle	Yes	No	Admitted Withdrawn	03/01/18 03/01/18	
P	32	Photograph: View of Wooden stand on Left and Cartons Stacked on Right	Yes	No	Admitted Published	03/01/18	
P	33	Puyallup Police Department Handwritten Statement Form Signature: Steven Sands					
P	34	Photograph: Two Dirt Bikes in Trailer	Yes	No	Admitted Published	03/01/18	
P	35	Photograph: Pistol on Floor of Vehicle	Yes	No	Admitted Published	03/01/18	
P	36	Photograph: Rifle Cases Stacked on Top of Black Gun Safe, Blue Safe to Left	Yes	No	Admitted Published	03/01/18	
P	37	Photograph: Several Rifle Cases Resting on Butts	Yes	No	Admitted	03/01/18	
P	38	Soft Shell Gun Case Containing US M-1 Carbine .30 Carbine Caliber Rifle, Serial No. 4783394	Yes	No	Admitted Published	03/01/18	
P	38-A	Bayonet Located in Exhibit 38	Yes	No	Admitted Published	03/01/18	
P	39	Remington Model 870 Wingmaster 12-Gauge Pump-Action Shotgun, Serial No. 355537V	Yes	No	Admitted Published	03/01/18	
P	40	CD of Unredacted Jail Telephone Calls					
P	41	Photograph: Dirt Bike Tire in Upper Left Corner, Three Rifle Cases, Rifle, and Sword on Floor	Yes	No	Admitted	03/01/18	
P	42	Cellebrite Report of Defendant's Cell Phone					

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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
<del>P</del>	43	Cell Phone and Battery					
<del>P</del>	44	Photograph: Blurred Letter from MultiCare	Yes	No	Admitted	03/01/18	
<del>P</del>	45	Photograph: Close-Up of Rifle Cases Stacked on Top of Black Gun Safe, Blue Safe to Left	Yes	No	Admitted Published	03/01/18	
<del>P</del>	46	Photograph: Benefits Letter to Cassandra A. Wells	Yes	No	Admitted	03/01/18	
<del>P</del>	47	Photograph: Ammunition	Yes	No	Admitted Published	03/01/18	
<del>P</del>	48	Photograph: Green Metal Military-Type Ammunition Box	Yes	No	Admitted Published	03/01/18	
<del>P</del>	49	Latent Fingerprint Card					
<del>P</del>	50	Test Fired Ammunition					
<del>P</del>	51	Photograph: Boxes of Ammunition, Remington, Magtech, Remington, Federal	Yes	No	Admitted Published	03/01/18	
<del>P</del>	52	Photograph: Box of Kleanbore Priming, Box of Winchester Ammunition	Yes	No	Admitted Published	03/01/18	
<del>P</del>	53	Photograph: Box of Rifle Clips, Ammunition	Yes	No	Admitted Published	03/01/18	
<del>P</del>	54	Photograph: Red Surface with "Steven" Written On It	Yes	No	Admitted Published	03/01/18	
<del>P</del>	55	Photograph: Envelope from Washington Health Plan Finder Addressed to Cassandra Wells	Yes	No	Admitted Published	03/01/18	
<del>P</del>	56	Photograph: Several Rifles, One With Plastic Bag Tied To It	Yes	No	Admitted Published	03/01/18	
<del>P</del>	57	Photograph: Closer View of Several Rifles, One With Plastic Bag Tied To It	Yes	No	Admitted Published	03/01/18	
<del>P</del>	58	Photograph: Ammunition, Clip, Knife	Yes	No	Admitted Published	03/01/18	
<del>P</del>	59	Photograph: Stack of Weapons with Hammer in Forefront	Yes	No	Admitted Published	03/01/18	
<del>P</del>	60	Photograph: Loaded Clip, Pistol	Yes	No	Admitted Published	03/01/18	
<del>P</del>	61	Photograph: Rifle Pieces	Yes	No	Admitted Published	03/01/18	
<del>P</del>	62	Photograph: 10 or 12 Rifles With Pouch of Ammunition in Forefront	Yes	No	Admitted Published	03/01/18	

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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
<del>P</del>	63	Photograph: 18 - 20 Rifles on Tile Floor	Yes	Yes	Denied	03/01/18	
<del>P</del>	64	Photograph: Over 20 Rifles, Several Pistols, Ammunition Pouch on Tile Floor	Yes	No	Admitted Published	03/01/18	
<del>P</del>	65	Puyallup Police Department Arrest Report Incident No. 16005064.1					
<del>P</del>	66	Puyallup Police Department Supplemental Report Incident No. 16005064.2					
<del>P</del>	67	Puyallup Police Department Supplemental Report Incident No. 16005064.3					
<del>P</del>	68	Puyallup Police Department Supplemental Report Incident No. 16005064.4					
<del>P</del>	69	Puyallup Police Department Supplemental Report Incident No. 16005064.5					
<del>P</del>	70	Puyallup Police Department Supplemental Report Incident No. 16005064.6					
<del>P</del>	71	Puyallup Police Department Supplemental Report Incident No. 16005064.7					
<del>P</del>	72	Puyallup Police Department Supplemental Report Incident No. 16005064.8					
<del>P</del>	73	Puyallup Police Department Supplemental Report Incident No. 16005064.9					
<del>P</del>	74	Puyallup Police Department Supplemental Report Incident No. 16005064.10					
<del>P</del>	75	Puyallup Police Department Supplemental Report Incident No. 16005064.11					
<del>P</del>	76	Puyallup Police Department Supplemental Report Incident No. 16005064.12					

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P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
<del>P</del>	77	Puyallup Police Department Supplemental Report Incident No. 16005064.13					
<del>P</del>	78	Puyallup Police Department Supplemental Report Incident No. 16005064.14					
<del>P</del>	79	Puyallup Police Department Supplemental Report Incident No. 16005064.15					
<del>P</del>	80	Puyallup Police Department Supplemental Report Incident No. 16005064.16					
<del>P</del>	81	Puyallup Police Department Supplemental Report Incident No. 16005064.17					
<del>P</del>	82	Puyallup Police Department Supplemental Report Incident No. 16005064.18					
<del>P</del>	83	Puyallup Police Department Supplemental Report Incident No. 16005064.19					
<del>P</del>	84	Puyallup Police Department Supplemental Report Incident No. 16005064.20					
<del>P</del>	85	Puyallup Police Department Supplemental Report Incident No. 16005064.21					
<del>P</del>	86	Puyallup Police Department Property Report 16005064					
<del>P</del>	87	Cad Incident Inquiry Complaint: 1618901449 Case No: 16005064					
<del>P</del>	88	Puyallup Police Department Firearm Function Test Fire Notes Case Number 16005064					
<del>P</del>	89	Puyallup Police Department Property Report					
<del>P</del>	90	Photograph: Blurry Overview of Storage Unit	Yes	No	Admitted Published	03/01/18	
<del>P</del>	91	Photograph: Overview of Storage Unit	Yes	No	Admitted Published	03/01/18	

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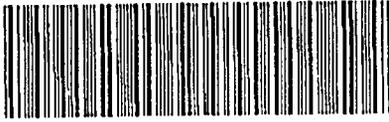
3/19/2018

P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
P	92	View of Storage Unit Floor Strewn with Ammunition	Yes	No	Admitted Published	03/01/18	
P	93	Copy of Steven Sands Driver's License	Yes	No	Admitted	03/01/18	
P	94	Copy of Storage Unit Rental Agreement	Yes	No	Admitted Published	03/01/18 03/05/18	
P	95	Diagram of Storage Facility by Detective Barry					
P	96	Diagram of Storage Unit					
P	97	Puyallup Police Supplemental Report, Incident No. 16005064.21, three pages, "Reviewed"					
P	98	Puyallup Police Supplemental Report, Incident No. 16005064.21, four pages, "Reviewed"					
P	99	Puyallup Police Supplemental Report, Incident No. 16005064.21, four pages, "Approved"					
P	100	Puyallup Police Supplemental Report, Incident No. 16005064.22					
P	101	Handwritten Statement Form by James J. Van Buskirk Dated 07/07/16					
P	102	Handwritten Statement Form by James J. Van Buskirk Dated 09/26/17					
P	103	Log of Access to Storage Unit A-3 Printed on 07/19/16	Yes	No	Admitted	03/05/18	
P	104	Reports of Stolen Weapons					
P	105	CD of Jail Phone Call, 02/22/18					
P	106	CD - Redacted Version of Exhibit 105	Yes	No	Admitted Published	03/12/18	
P	107	CD of Jail Phone Call 1, 07/10/16	Yes	Yes	Admitted Published	03/06/18	
P	108	CD of Jail Phone Call 3, 07/11/16	Yes	No	Admitted Published	03/06/18	
P	109	CD of Jail Phone Call 7, 07/08/16	Yes	No	Admitted Published	03/06/18	
P	110	CD of Jail Phone Call 8, 07/09/16, 17:38:32	Yes	No	Admitted Published	03/06/18	
P	111	CD of Jail Phone Call 9, 07/10/16	Yes	No	Admitted Published	03/06/18	
P	112	CD of Jail Phone Call 11, 07/09/16, 17:16:50	Yes	No	Admitted Published	03/06/18	

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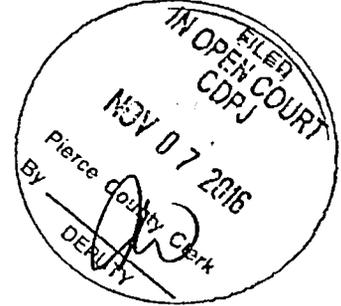
P D	No.	Description	Off	Obj	Admitted Agreed Denied Illustrative Published Redacted Reserved Withdrawn	Date	Rec'd by Clerk's Office
	113	NOT USED					
	114	NOT USED					
P	115	Photographs A (Left Side of Body of Person Aiming Rifle) and B (Distant Male Aiming Pistol, Closer Male Holding Rifle)	Yes	Yes	Admitted Published	03/13/18	
P	116	Photographs A (Blurry Right Side of Face of Female) and B (Blonde Female in Shirt with Gold Stars)	Yes	Yes	Admitted Published	03/13/18	
P	117	Photographs A (Bearded Male with Rifle) and B (Blonde Male with Rifle)	Yes	Yes	Admitted Published	03/13/18	
P	118	Photographs A and B, Male with Rifle and Child with Red Boots	Yes	Yes	Admitted Published	03/13/18	
P	119	Photographs A (Male Assisting Female with Rifle) and B (Male in Far Left of Frame with Weapon)	Yes	Yes	Admitted Published	03/13/18	
P	120	Photographs A (Pistol in Holster on Person's Waist) and B (Person in Far Left of Frame with Pistol)	Yes	Yes	Admitted Published	03/13/18	
P	121	Photograph of Male with Long Braid Holding Rifle, Man and Child in Red Boots with Rifle in Background	Yes	Yes	Admitted Published	03/13/18	
P	122	CD of Jail Phone Call, 02/26/18, 12:36:19					
P	123	Puyallup Police Supplemental Report, Incident No. 16005176.4					
P	124	FaceBook Page Printout	Yes	Yes	Admitted Published	03/13/18	
P	125	Cell Phone Video, 07/04/16, 17:01:31	Yes	No	Admitted Published	03/13/18	

EXHIBIT C



16-1-03132-5 47883309 OOR 11-08-16

OP  
VIC



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Steven Thornton

Defendant.

NO. 16-1-03132-5

ORDER ON OMNIBUS HEARING

CHARGE: URDF URSE URSV

TRIAL DATE: 1/31/2017

OOR

THIS MATTER having come before the court for an omnibus hearing, the State represented by:

Mark Sanchez, and the defendant being present and represented by:

Dana Ryan

1. Regarding PROSECUTOR'S OBLIGATIONS, THE DEPUTY PROSECUTING ATTORNEY STATES: that at least seven days prior to this order:

- The Prosecutor provided to defendant a complete list of the defendant's criminal convictions.
- The Prosecutor has provided to defense all discovery in their possession or control, pursuant to CR 4.7(a);
- The Prosecutor has contacted law enforcement agencies to request and/or obtain any additional supplemental police reports, forensic tests, and evidence and has made them available to defendant or defense counsel. The State is aware of the following reports, tests or evidence which has not been made available to the defendant: crim history
- Prosecutor has reviewed the discovery and criminal history and made an offer to the defense.

If prosecutor has not checked every box in this section, the court makes the following order:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Regarding DEFENSE ATTORNEY'S OBLIGATIONS, DEFENSE COUNSEL STATES that at least two days prior to this order:

- Defense attorney has met with the defendant about this case.

ORDER ON OMNIBUS HEARING - 1 (Rev. 3/08)

- Defense attorney has received a plea offer from the State.
- Defense attorney has reviewed the discovery and the criminal history.
- Defense attorney has given discovery to prosecutor.

If defense attorney has not checked every box in this section, the court makes the following order:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3. Regarding DISCOVERY: The parties agree that Discovery is COMPLETE/NOT COMPLETE IN THE FOLLOWING RESPECTS: F/A testing - 20 GUNS.

DISCOVERY must be completed by: \_\_\_\_\_

4. Regarding GENERAL NATURE OF DEFENSE:

The Defense states that the general nature of the defense is:

- General Denial
- Alibi
- Insanity
- Other (specify) \_\_\_\_\_
- Consent
- Diminished Capacity
- Self-defense

5. Regarding CUSTODIAL STATEMENTS by the defendant, the parties agree that:

- No custodial statements will be offered in the State's case in chief, or in rebuttal.
- The statements of defendant will be offered in the State's case in rebuttal only.
- The statements referred to in the State's discovery will be offered and:
  - May be admitted into evidence without a pre-trial hearing, by stipulation of the parties.
  - A 3.5 conference is required and is estimated to require 1 (min/hr) and is set for trial.

6. Regarding PRIOR CRIMINAL CONVICTIONS OF THE DEFENDANT, the parties agree that if defendant testifies at trial:

- If the defendant testifies at trial, the prior record of convictions contained in the State's discovery
  - will
  - will not be (stipulated to) by the defendant with the following exceptions: \_\_\_\_\_

There are no prior known convictions at this time. State will advise defendant promptly if it learns of prior convictions.

7. Regarding SUPPRESSION OF PHYSICAL EVIDENCE OR IDENTIFICATION, the parties agree that:

- No motion to suppress physical evidence or identification will be filed.

Or, THE COURT ORDERS THAT:

- Defendant's written motion to suppress shall be filed by 12/1/16. The State's response shall be filed by per court order. Testimony will/will not be required.
- State's written motion to suppress shall be filed by \_\_\_\_\_ . The Defendant's

response shall be filed by \_\_\_\_\_ . Testimony will/will not be required.

8. Regarding OTHER PRE-TRIAL MOTIONS: No additional motions are anticipated, except:

Motions in limine

Briefing schedule: Affidavits and briefs of the moving party must be served and filed by: \_\_\_\_\_

Responsive Brief must be served and filed by: \_\_\_\_\_

The hearing will last about \_\_\_\_\_ (min/hr)

9. Regarding TRIAL

a. The trial will be  jury  non-jury, and will last about 7-10 days.

b. Is an interpreter needed:  No  Yes. Language: \_\_\_\_\_ (if an interpreter is needed, State will call interpreter services at ext. 6091)

10. Regarding WITNESSES:

There will be out-of-state witnesses  yes  no.

A child competency or child hearsay hearing is needed  yes  no.

State:

All witnesses have been disclosed.

A Witness List has been filed.

A witness list must be filed by: 2 weeks prior to trial

Defense:

All witnesses have been disclosed.

A Witness List has been filed.

A witness list must be filed by: 2 weeks prior to trial

11. Other

Defendant needs a competency examination.

Defendant is applying for drug court.

Defendant is seeking an evaluation which necessitate a continuance.

12. The Court sets a Status Conference for \_\_\_\_\_ (date) for the purpose of:

13. Other orders: \_\_\_\_\_

Dated 11/2 2016

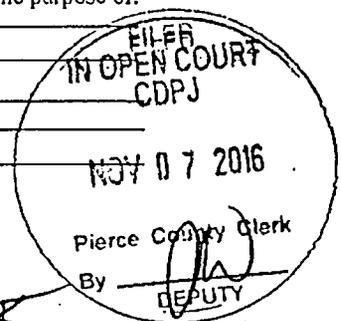
[Signature]  
Defendant

[Signature]  
Judge

[Signature]  
Defendant's Attorney/Bar # 12410

[Signature]  
Prosecuting Attorney/Bar #

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FILED  
COURT OF APPEALS  
DIVISION II  
2019 JUN 13 PM 12:53  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

Declaration Of Service

State of Washington v. Steven Thornton Case No. 51872-4-II

I, , the undersigned, by and through appointed counsel, do hereby declare under penalty of perjury under the laws of the United States Constitution and the Washington State Constitution that on this day, 6-10-19, I deposited in the Stafford Creek Corrections Center legal mail system, my statement of additional grounds to the following:

Court of Appeals, Division II  
950 Broadway, Suite 300  
Tacoma, WA 98402-4454

Pierce County  
Office of The Prosecuting Attorney  
955 Tacoma Avenue South, Suite 301  
Tacoma, Washington 98402-2160

Respectfully Submitted This, 10, Day Of, 6 2019