

FILED
COURT OF APPEALS
DIVISION II

2019 FEB 19 AM 8:41

STATE OF WASHINGTON

BY AP
DEPUTY

SUPERIOR COURT No:

16-1-03132-5

COA No. 51872-4-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON

Vs.

STEVEN PAUL THORNTON

STATEMENT OF ADDITIONAL GROUNDS

STEVEN PAUL THORNTON
DOC #310168 H1-A-72
STAFFORD CREEK CORRECTION CENTER
191 Constantine Way
ABERDEEN, WA 98520

P/M: 2/15/19

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A. DETECTIVE BARRY'S INITIAL SEARCH AND SEIZURE OF THE STORAGE LOCKER WAS UN-CONSTITUTIONAL BECAUSE IT WAS CONDUCTED WITHOUT PROBABLE CAUSE OR A SEARCH WARRANT.

The Fourth Amendment to the United States Constitution protects the Right of the People to be secure in their houses, and possessions against unreasonable searches and seizures. State v. Valdez, 167 Wn.2d 761, 224 P.3d 751 (2009). A warrantless search is per se unreasonable unless the circumstances of the situation made the search imperative. Id.

Under Article 1, Sec.7, of the Washington State Constitution, "[N]o person shall be disturbed in His private affairs, or His home invaded without Authority of Law." The privacy protections under Art.1, Sec.7, are more "Heightened" than those provided by the Fourth Amendment, and bar warrantless searches with very limited exceptions. Valdez, 167 Wn.2d at 722. Before GANT,¹ Washington Courts held that the Fourth Amendment, and Art.1, Sec.7, generally permitted warrantless searches incident to arrest for "safety concerns". State v. Robinson, 171 Wn.2d 292, 253 P.3d 84 (2011). However, the GANT decision announced a new rule governing warrantless searches for safety concerns incident to arrest. 556 U.S. at 343.

The exception applies under the Fourth Amend., only if the arrestee is within arms reach of any compartment of the vehicle at the time of the search, or (2) it is reasonable to believe that the area contains Evidence Related to "THE Crime of Arrest" Id. at 351. [emphasis mine].

¹ Arizona v. Gant, 556 U.S. 332, 129 S.Ct. 1710, 123 L.Ed.2d 485 (2009).

"When justifications are absent, a search of an arrestee's vehicle will be unreasonable." Id. Following Gant, the Washington Supreme Court has held that the search of a vehicle incident to arrest is lawful only if at the time of the search there is a reasonable basis to believe that the arrestee poses a safety risk or that a search is necessary to prevent destruction or concealment of evidence of the crime of arrest. Valdez, at 777.

² Patton, at 394-95.

When a party alleges violations of both the Fourth Amend., and Art.1,Sec.7 this State analyzes the Washington State Constitution first because it is more protective of individual privacy. State v. MacDicken, 179 Wn.2d 936, 319 P.3d 31 (2014). (citing Walker, 157 Wn.2d 307,313,138 P.3d 43 (2006)).

This Court reviews the validity of a warrantless search de novo. State v. Dugas, 109 Wn.App. 592,595,36 P.3d 577 (2001).

² State v. Patton, 167 Wn.2d 379,219 P.3d 651 (2009)

F A C T S

On July 7, 2016, at Approximately 16:00 Hrs. Detective Barry was conducting surveillance of the STORE-EZE Self Storage, because of an investigation that was generated pursuant to information that was relayed to him by an "UNNAMED SOURCE" that stolen motorcycles and guns "supposedly" would be located at this locker and further that the appellant had an outstanding D.O.C. warrant; (see affidavit for search warrant) Ex. A .

Upon arrival at the scene the detective secured the appellant, and others in handcuffs. Once secured, the officer's conducted a "Safety Sweep" of the locker in which he entered the locker and did Vin Number Checks on several motorcycles inside the locker ³ (see Ex. B . at Ln.25, Pg.3.

At approximately 9:00pm, the same day, a warrant was applied for before Judge Rumbaugh, authorizing the officer's to conduct the search in which 33 guns were seized to which 9 returned to be stolen. (see Ex. C .

A review of the search warrant affidavit reveals that the officer relied on information given to him by the unnamed source, as well as, his own observation that the appellant had been seen... "Walking in and out of the unit"... (see Ex. A .

³ It should be noted that none of the motorcycles within the storage locker returned as stolen.

A R G U M E N T

AT ISSUE HERE IS WHETHER THE DETECTIVE AND OFFICER'S HAD PROBABLE CAUSE BEFORE ENTERING THE STORAGE LOCKER TO CONDUCT A PROTECTIVE SWEEP;

- 2) WHETHER THE PROTECTIVE SWEEP WAS JUSTIFIED UNDER GANT. Id;
- 3) WHETHER RUNNING THE MOTORCYCLE VIN NUMBERS EXCEEDED THE SCOPE OF THE PROTECTIVE SWEEP; and
- 4) WHETHER THE DETECTIVE EXCEEDED HIS AUTHORITY OF LAW BY USING THE D.O.C. WARRANT AS A PRETEXT TO SEARCH FOR EVIDENCE OF A CRIME.

First, a review of the Detective's Affidavit for a search warrant reveals that the detective relied on his source to establish that the locker may contain stolen property. However, an anonymous tip standing alone cannot give rise to probable cause. State v. Jackson, 102 Wn.2d 432,439 (1984); State v. Chatman, 9 Wn.App. at 746. Before relying on an anonymous tip, police must show that the tip possessed sufficient indicia of reliability to justify giving it credence. Jackson, 102 Wn.2d at 493. Here, the information relayed to the detective by his informant turned out to be false, as none of the motorcycles within the storage locker returned stolen. This presented the officer's with dissipating circumstances that should have alerted them that the informant's information was suspect and unreliable."⁴(see 2 W. Lafave, Search and Seizure, at 4.6 A 2d Ed. (1987))."

"Prevention of the issuance of warrants based on loose, vague or doubtful basis of facts." (see also Marron v. United States, 275 U.S. 192,196 L.Ed.2d 231,237,48 S.Ct.74 (1972); State v. Boyer, 124 Wn.App. 593,102 P.3d 833 (2004)

⁴ Detective Barry also failed to inform the judge of the dissipating circumstances in his affidavit. (see Frank v. Delaware, 438 U.S.154 (1978) Trial counsel also failed to address this at the CrR 3.6.

Second, once the appellant has been detained and secured, any protective sweep was not justified as officer's safety could not have been drawn into question. Through surveillance, the detective knew how many people were there, essentially eliminating any possibility of surprise. (see Arizona v. Gant, 556 U.S. at 332. Id. see also, State v. Moore, 2013 Wn.App. Lx. 2175 Div. I (2013); State v. Smith, Wn.App. Lx. 792 Div. I (2012).

Third, running the motorcycle's Vin Numbers, exceeded the scope of any protective sweep. (see Ex. B .

Fourth, as is more than apparent from the record, the police had the premises under surveillance for sometime, and there has never been any mention of the officer's witnessing any criminal activity at the storage locker, so in order to circumvent probable cause the Detective used the D.O.C. warrant as a pretext to go on a fishing expedition to establish probable cause to secure a warrant ~~INSTEAD~~ of a neutral and detached magistrate. (see State v. Littlefair, 129 Wn.App. 330, 119 P.3d 359 (2005)); also, (State v. Cornwall, 196 Wn.App. No.93845-8 (2018)).

Had the detective witness any criminal activity during his surveillance, he had ample opportunity to bring this evidence to a Judge to ensure probable cause existed. "Where police have ample opportunity to obtain a warrant, we do not look kindly on their failure to do so." United states v. Impink, 728 F.2d 1228,1231 (9th Cir. 1984)). Furthermore, it has never been established for the record how or when the unnamed source came to know of the info he relayed to the police. These facts were never developed as the source never testified.

Footnote 1 Or his motive for relaying this information,

The detective's use of a probation violation as a pretext to enter the storage locker is unconstitutional under Article 1, Section 7.

Courts have consistently held that the scope of any protective sweep is limited to officer safety concerns, not a fishing expedition to gather evidence to support probable cause; and in this instance, the pretext of the search is obvious. Washington Statutory Law also prevents law enforcement from conducting warrantless searches while serving a D.O.C. warrant. (see RCW 9.94A.631). Thus, the evidence gathered from the unreasonable search should have been suppressed as "Fruit of the Poisonous Tree." see *State v. Ladson*, 138 Wn.2d 343 349, 979 P.2d 833

B. THE EVIDENCE WAS INSUFFICIENT TO SUSTAIN THE CONVICTION FOR UNLAWFUL POSSESSION OF A STOLEN FIREARM IN THE FIRST DEGREE.

A challenge to the sufficiency of the evidence may be raised for the first time on appeal as a Due Process violation. *State v. Moore*, 7 Wn.App. 499 P.2d 16 (1972).

Under the Due Process Rights guaranteed under both the Washington Const. Article 1, Section 3, and the United States Const. 14th Amendment, the State must prove every element of a crime charged beyond a reasonable doubt. (see *In Re Winship*, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970)); also *State v. Baeza*, 100 Wn.2d 487, 488 P.2d 648 (1983).

In challenge to the sufficiency of the evidence, the test is whether, in viewing it in light most favorable to the State, any rational trier of fact could find the essential elements of the crime charged beyond a reasonable doubt. *State v. Green*, 94 Wn.2d 216, 220-21, 616 P.2d 628 (1980)

The reviewing Court draws all reasonable inferences in favor of the State. *State v. G.S.*, 104 Wn.App. 643, 651, 17 P.3d 1221 (2001). However, evidence that

is equally consistent with innocence as it is with guilt is not sufficient to support a conviction; it is not substantial evidence.

State v. Aten, 130 Wn.2d 640,927 P.2d 210 (1996).

Here, the State charged the appellant with RCW 9A.56.310(1), which reads as follows: A person is guilty of possessing a stolen firearm if He/She possesses, carries, delivers, sells or is in control of a stolen firearm.

Possession of property may be either actual or constructive. State v. Callihan, 77 Wn.2d 27,459 P.2d 400 (1969). A person actually possesses an item when it is in his physical custody, and constructively possesses something that is not in this physical custody, but still in his dominion and control. 77 Wn.2d at 29, In either case, the State must prove more than a mere passing control over an item. State v. Staley, 123 Wn.2d 794,801,872 P.2d 502 (1994).

ARGUMENT

The critical question in this case is whether, even in its best light, the States evidence proved beyond a reasonable doubt that the appellant either actually or constructively possessed stolen firearms, or any firearm for that matter. Or exercised dominion and control over any firearm to the exclusion of others. The States case in chief rests on circumstantial testimony that is as follows:

Calvin Larson testified..."I've never seen him with a gun..." RP 828

Steven Sand testified..."multiple people ended up with keys to the storage unit. Thats a fact..." RP 288

"David Simmons and his girlfriend had keys to the unit..." RP 293

"Ive never seen Steven with any firearms¹..."RP 296

1 It should be noted that all the States witnesses have lengthy criminal history's which provides them with motive to testify.
(see Ex. d .

Detective Barry testified..."I never observed Mr.Thornton inside the pickup truck, where the 40 cal. hand-gun was found..." RP 458

"Ms.Wells had been sitting in the drivers seat where the 40 cal. hand-gun was found..." RP 458

"defendant was sitting on top of the blue and black motorcycle in the back of a trailer when he was taken into custody..."
RP 315

"I watched the defendant working on motorcycles and arrested defendant on a D.O.C. warrant..." RP 313-14

James Vanbuskirk testified..."I observed a women go in the units..." RP 508

"those people were already there..." RP 496

"two hours elapsed before defendant arrived..." RP 497

"black and white pickup arrived at 1:00pm but left before the police arrived..." RP 497

Here, even drawing all reasonable inferences in favor of the State, the above testimony fails to satisfy the required analysis. The legal standard has not been met.

First, a review of the States witnesses testimony reveals that not one person testified to witnessing the appellant, possessing, carrying, delivering, or selling any firearms what-so-ever. (see RCW 9A.56.310(1), In Re Winship, Id.

On the contrary, Calvin Larson testified that he'd never seen the appellant with a gun. Steven Sands testified that he'd never seen the appellant with any firearms. Detective Barry testified that he'd never observed the appellant inside the truck. And, although he testified that he'd seen the appellant going in and out of the unit, none of his testimony establishes that he witnessed the appellant carrying any guns or safes.

Second, none of the States witnesses testimony establishes that the appellant had either active or constructive possession. No gun was found in the appellant's physical custody, nor was any gun found to be constructively possessed by the appellant to the exclusion of others. The storage locker, where the guns were located, was established to be owned by Staven Sands.² And the truck, to which Detective Barry testified he'd never seen the appellant in, was owned by Shane Holmes, and driven to the scene by Ms.Wells.

(see State v. Callihan, Id. And no evidence was produced to establish actual ownership of any guns or safe, except for Steven Sands who exercised exclusive dominion and control over the ownership of the storage locker itself.³

The State must prove more than a mere passing control over an item State v. Staley, Id. Additionally, none of these items resulted in any probative match forensically to the appellant. RP 477-78

It is also critical to note that multiple people on the scene had arrived hours pryer to the appellant's arrival, leaving us with a reasonable probability that any one of these people could have brought these items to the locker.

"Evidence that is equally consistent with innocence as it is with guilt is not sufficient to support a conviction, it is not substantial evidence."

(see State v. Aten, Id.

The States evidence simply does not meet the rigorous minimum due process requirements to establish proof beyond a resonable doubt. The absence of proof beyond a reasonable doubt requires dismissal of the conviction and charge.

(see State v. Green, 94 Wn.2d 216, Id. at 221).

² see Ex. E .

³ see Ex. E .

C. TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO BRING A PLAUSIBLE MOTION TO SUPPRESS EVIDENCE AT THE REQUEST OF THE COURT.

Effective assistance of counsel is guaranteed by both U.S. Constitution Amend. VI., and Washington State Constitution Article 1, Sec.22, (Amend.10) State v. Mierz, 17 Wn.2d 460,471,901 P.2d 286 (1995).

The Court has established a two part test for ineffective assistance of counsel, Strickland v. Washington, 466 U.S. 668,686,104 S.Ct.2052,80 L.Ed.2d 674 (1984). The two pronged Strickland test requires proof that the attorney acted deficiently, and that deficient performance prejudiced the defendant. (see State v. Jeffries, 105 Wn.2d 398,717 P.2d 722, cert. denied 1179 U.S. 922 (1986). at 418.

The appellate court presumes a defendant was properly represented, but this presumption can be overcome when there is no conceivable legitimate tactic or strategy explaining counsel's performance. State v. Reichenbach, 153 Wn.2d 126, 130,101 P.3d 80 (2004). To establish prejudice, the defendant must also show counsel's errors were so serious as to deprive him of a fair trial, whose result is unreliable. Strickland, 466 U.S. at 687. What is necessary is a probability sufficient to undermine the confidence in the outcome of the trial.

Such a reasonable probability need not show that the deficient conduct more likely than not altered the outcome. Strickland, 466 U.S. at 693-94.

The failure to bring a plausible motion to suppress is deemed ineffective assistance of counsel if it appears the motion would likely have been successful. State v. Meckelson, 133 Wn.App.431,436,135 P.3d 991 (2006).

The appellate record must be adequate for this court to evaluate the constitutional challenge to the search. State v. Walters, 162 Wn.App. 74, 80,255 P.3d 835 (2011). Here the record is adequate.

P R O C E D U R A L F A C T S

On March 6,2018, during trial, a discussion was had because the appellant's counsel wanted to preserve an issue on the record. Defense counsel's issue was that during the cross examination of Detective Barry, trial counsel became aware that the time-line of events with the CAD Log, revealed that the detective had entered the locker before the search warrant had been issued. RP 469; RP 687. (see : Ex. B .) And previous argument.

The Court responded by instructing counsel to "spell that out in a brief for me" to be considered at a 3.6 hearing. RP 688. Counsel replied; "not a problem your honor." RP 688. It is critical to note that counsel failed to submit the requested brief.

A R G U M E N T

Defense counsel's decision not to challenge a search warrant on constitutional grounds, by pretrial motion to suppress, is not automatically assumed to be deficient performance. Failure to present a valid pretrial motion to suppress however, can rarely be determined to be a legitimate tactical decision. Kimmelman v. Morrison, 477 U.S. 365,385 (1986); also, State v. Klinger, 96 Wn.App. 619,980 P.2d 282 (1999). Here, the error is made more egregious because the court instructed counsel to brief the issue and move for a proper 3.6 hearing. ¹

¹ It should be noted that at the original 3.6, counsel failed to address the issue even though he possessed the CAD report.

"The failure to bring a plausible motion to suppress is deemed ineffective if it appears the motion would likely have been successful." State v. Meckelson, 133 Wn.App. 431 Id. Moreover, the CAD Log, clearly shows that the Vin Number's on the motorcycles inside the storage locker were run several hours prior to the issuance of the search warrant. (see Ex. B . And previous argument.

Counsel's failure to bring a plausible motion allowed suppressible evidence to be presented to the jury, drawing the confidence in the outcome of the trial into question. Thus, prejudice is established. Strickland, 466 U.S. at 693-94.

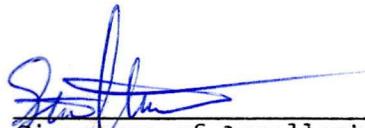
CONCLUSION

Based on the arguments and authorities contained herein, this court should remand this matter back to the trial court for further proceedings, or otherwise grant the relief entitled to appellant consistent with the law.

Respectfully submitted this 14th Day of February, 2019.

I certify under the penalty of perjury under the laws of the State of Washington, that afore mentioned is true and correct to the best of my understanding and knowledge.

Steven Paul Thornton
DOC #310168 H1-A-72
STAFFORD CREEK CORRECTION CENTER
191 Constantine Way
Aberdeen, Wa 98520



Signature of Appellant

Declaration Of Service

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

I, Steven Paul Thornton, 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, February 14th, 2019, 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, 14th, Day Of, Feb. 2019

COURT OF APPEALS
DIVISION II

2019 FEB 19 AM 8:42

STATE OF WASHINGTON

BY AP
DEPUTY



EXHIBIT A

In the Superior Court of the State of Washington
 In and for the County of Pierce
 Complaint for Search Warrant
 (Evidence)

16 1 51257 9

STATE OF WASHINGTON)
)
 Plaintiff,)
)
 VS)
)
 Defendant.)
 _____)

FILED
 IN COUNTY CLERK'S OFFICE

JUL 08 2016

PIERCE COUNTY, WASHINGTON
 KEVIN STOCK, County Clerk
 BY _____ DEPUTY

STATE OF WASHINGTON)
 COUNTY OF PIERCE)

SS:

COMES NOW Detective Eric Barry of the Puyallup Police Department, who being first duly sworn on oath complains, deposes and says:

That he has probable cause to believe, and in fact does believe, that on July 7th, 2016, in the state of Washington, County of Pierce, Felonies and misdemeanors to wit;

- *Unlawful Possession Of A Firearm*
 RCW 9A.04.040
- *Possession Of A Stolen Vehicle*
 RCW 9A.56.068

I. Items Sought in the execution of search warrant

And, that these felonies and misdemeanors were committed by the act, procurement, or omission of another, and that the following evidence is material to the investigation:

1. Stolen property to include but not limited to; tools and electronics
2. Property used, or intended for use, as a container for property described in items 1 above;
3. Moneys, Negotiable instruments, securities, stolen property, or other tangible and/or intangible property of value which is furnished, or intended to be furnished, by any person in exchange for controlled substances;
4. Firearms
5. Safes and Boxes/areas where Stolen Property ^{SIP} ~~illegal narcotics~~ and firearms could be kept.

Tangible and intangible personal property, stolen property, proceeds or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges for controlled substances

II. Person place or thing to be searched

Furthermore, Detective Eric Barry verily believes that the above listed items of evidence are concealed in or about a particular person, place, residence, vehicle, and/or thing, to wit;

A Storage Unit (unit#3) located at 6601 114th Ave Ct E Puyallup WA and a red Chevrolet K2 Pickup (WA-License-#C99731F towing trailer WA-Licensc#6604QK.

The vehicle is currently located parked in front of the storage unit and both the storage unit and vehicle are being observed by Puyallup Police Officers.

III. Detective Eric Barry's Training and experience

Detective Eric Barry, being first sworn on oath deposes and says; that Detective Barry is a duly commissioned Police Detective for the Puyallup Police Department. Detective Barry has been a commissioned Police Officer in the State of Washington since 2007.

Detective Barry graduated from the Washington State Criminal Justice Training Commission's 720-hour Basic Law Enforcement Academy, and has conducted hundreds of criminal investigations in his eight (9) years as a commissioned Police Officer.

IV. Detective Eric Barry's probable cause to search

It is my, Detective Eric Barry's, belief that the violations listed above are occurring at the listed location(s) is based on the following probable cause:

On 07-07-16, Detective Massey and I conducted surveillance on the STOR-EZE storage facility located at 6601 114th Ave Ct E Puyallup WA. The reason Detective Massey and I were conducting surveillance at this storage facility was because a known subject (Steven Thornton) had an active felony warrant issued for his arrest (for escaping community custody issued out of the department of corrections) and was supposed to have a storage unit at this storage business registered in another's name to avoid scrutiny from the department of corrections (a source had informed detectives of this activity and had mentioned that the particular storage unit was located inside the first storage building inside the storage business. Per this source the storage unit was supposed to have stored within it numerous dirt bikes/motorcycles/tools that were supposed to be stolen and was also supposed to contain numerous firearms stolen during burglaries.

*source
I identify
of
Kenny
try you
I find
but not
disclosed
response
identity
SJR
STH*

I received a phone call from the storage business informing me that a red pickup had arrived towing a trailer which contained several dirt bikes/motorcycles/go cart (the trailer is not covered and all that is being towed on the trailer is visible outside the trailer.) There was also a street motorcycle which was parked outside of the storage unit which Steve Thornton said belonged to him and which Steve Thornton said he had driven to the storage unit.

Detective Massey and I responded to the storage business and conducted surveillance on it and observed the known subject (Steven Thornton) walking in and out of the unit (the storage unit door was wide open when we were conducting surveillance and when Steve Thornton's arrest was affected.) and also working on the dirt bikes/motorcycles. As Detective Massey and I knew who Steve Thornton was (due to his numerous booking photos) and the fact that Steve Thornton had a felony warrant (issued as a cautionary felony warrant due to violent tendencies) issued for his arrest we decided to make contact and arrest him. PPOS Waller and Temple agreed to assist in taking Steve Thornton in custody (Steve Thornton was also in the company of his live in girlfriend Cassandra Wells, Cassandra's mother and Cassandra's daughter (juvenile daughter).

EXHIBIT B

11/15/2018

Steven Thornton
Stafford Creek Correctional Center 191 Constantine Way Steven Thornton 310168 H
1 A-30
Aberdeen WA 98520

RE: PUBLIC RECORDS REQUEST of 10/31/2018, Reference # W142634-103118

Dear Steven,

South Sound 911 received a public records request from you on 10/31/2018. Your request mentioned:

Type of Record(s) Requested: CAD Log

Type of Incident: Other/Unknown

Puyallup Police Department: Puyallup Police Department

Case/Incident# 1618901449

Incident Details: A copy of the CAD incident inquiry complaint 1618901449. Case No. 16005064 between the hours of 3:30pm and 9:30pm on July 7, 2016.

South Sound 911 has reviewed its files and has located responsive records to your request. Please find the files attached to this correspondence.

Sincerely,

*COMMUNICATION DEPT
South Sound 911

Cad Incident Inquiry

Complaint: **1618901449**

Disp: R

Case No: 16005064

Call Received: 20160707 1647

Call Cleared: 20160708 0200

End Priority: 4

| <u>Incident Type</u> | <u>Location</u> |
|--|--|
| Starting: WAR - WARRANT SERVICE/SUBJ WITH WARR | =@EZ STORAGE (U LOCK IT SELF STORAGE) |
| Ending: WAR - WARRANT SERVICE/SUBJ WITH WARR | 6601 114TH AVCT E (U LOCK IT SELF STORAGE) |

Location Information
Starting:
Ending:

| <u>Agency</u> | <u>Geographic Zone</u> | <u>Dispatch Group</u> | <u>CB</u> | <u>District</u> |
|---------------|------------------------|-----------------------|-----------|-----------------|
| Starting: PPD | PP | PP | -1 | PUYC |
| Ending: PPD | PP | PP | 712 | PUYC |

| <u>Date/Time</u> | <u>Unit</u> | <u>ID</u> | <u>Station</u> |
|-------------------------|-------------|-----------------------|----------------|
| Dispatch: 20160707 1647 | PY319 | Dispatcher: PYC12038 | py04 |
| Arrival: 20160707 1647 | PY319 | Com Officer: PYC12038 | py04 |
| Clear: 20160708 0200 | PY315 | Primary Unit: PY315 | |
| Close: 20160708 0200 | PY315 | | |

Cross Referenced Events

1610200956
1610301318
1610600928
1610801296
1610801478
1610900131
1610900463
1610901010
1611000291
1611100240
1613001155
1613300269
1618901439
1618901451
1619000444
1619000451
1619000955
1619500602
1620000425
1621501282
1622900907
1623800733
1623900734
1627400866

Name DOB Phone Location Call Source Contact
OFFICER

Include State Messages (WACIC/DOL/DOC/NCIC/NLETS)

| System Date | System Time | Com | Station | Off | Text |
|-------------|-------------|------------------|---------|----------|---|
| 20160412 | 16:14:21 | Cross Reference | py02 | PYC11023 | Cross Referenced to Event 1610301318 |
| 20160417 | 19:58:28 | Cross Reference | py03 | SS0213 | Cross Referenced to Event 1610801296 |
| 20160417 | 19:58:28 | Cross Reference | py03 | SS0213 | Cross Referenced to Event 1610801478 |
| 20160417 | 22:11:36 | Cross Reference | py04 | PYC21078 | Cross Referenced to Event 1610600928 |
| 20160418 | 02:46:36 | Cross Reference | py04 | PYC21078 | Cross Referenced to Event 1610900131 |
| 20160418 | 08:48:56 | Cross Reference | py02 | PYC12022 | Cross Referenced to Event 1610900463 |
| 20160418 | 14:08:43 | Cross Reference | py03 | SS0214 | Cross Referenced to Event 1610901010 |
| 20160419 | 06:33:26 | Cross Reference | py020 | PYC11023 | Cross Referenced to Event 1611000291 |
| 20160420 | 05:07:41 | Cross Reference | py04 | PYC21078 | Cross Referenced to Event 1611100240 |
| 20160509 | 15:54:20 | Cross Reference | py04 | PYC12099 | Cross Referenced to Event 1613001155 |
| 20160512 | 06:18:23 | Cross Reference | py04 | PYC12038 | Cross Referenced to Event 1613300269 |
| 20160707 | 16:47:49 | Event Updated | py04 | PYC12038 | Location: =@EZ STORAGE, Event Type: WAR, Priority: 4, Dispatch Group: PP |
| 20160707 | 16:47:49 | Dispatched | py04 | PYC12038 | PY319 (PPD07144) Waller, Jon |
| 20160707 | 16:47:49 | Event Remark | py04 | PYC12038 | Field Event |
| 20160707 | 16:47:49 | Initial Call | py04 | PYC12038 | OFFICER - |
| 20160707 | 16:47:50 | Arrive | py04 | PYC12038 | PY319 (PPD07144) Waller, Jon |
| 20160707 | 16:48:07 | Dispatched | py04 | PYC12038 | PY315 (PPD07140) Barry, Eric |
| 20160707 | 16:48:07 | Dispatched | py04 | PYC12038 | PY264 (PPD07089) Temple, Dave |
| 20160707 | 16:48:07 | Dispatched | py04 | PYC12038 | PY288 (PPD07113) Massey, Greg |
| 20160707 | 16:48:07 | Event Remark | py04 | PYC12038 | PY315 -- PY315 PY264 PY288 ASSISTING PY319 |
| 20160707 | 16:48:10 | Available | py04 | PYC12038 | PY319 (PPD07144) Waller, Jon |
| 20160707 | 16:48:10 | Event Remark | py04 | PYC12038 | Preempt:CAD AUTOMATIC PREEMPT Unit PY319 |
| 20160707 | 16:48:23 | Add Supplemental | py04 | PYC12038 | THORNTON, STEVEN P - 19790816 |
| 20160707 | 16:48:23 | Event Remark | py04 | PYC12038 | Unit [PY264] Inf Issue Qry 0:LESP0 WACIC.DW.WA027X23N.NAM/THORNTON, STEVEN P.DOB/19790816 |
| 20160707 | 16:48:46 | Event Remark | py04 | PYC12038 | PY264 -- THORNTON IS I/C |
| 20160707 | 16:56:13 | Dispatched | py04 | PYC12038 | PY319 (PPD07144) Waller, Jon |
| 20160707 | 16:56:14 | Arrive | py04 | PYC12038 | PY319 (PPD07144) Waller, Jon |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license 3E9032 |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license 425497A |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license 525915A |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license 535097A |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license 6604QK |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license ACH2237 |
| 20160707 | 16:56:14 | Add Supplemental | py04 | PYC12038 | license C99731F |
| 20160707 | 16:56:14 | Event Remark | py04 | PYC12038 | Duplicate Event:, Type = WAR WARRANT SERVICE/SUBJ WITH WARR, Call Source = OFFICER, Alarm Level = 1 |
| 20160707 | 16:56:14 | Event Remark | py04 | PYC12038 | End of Duplicate Event data |

Field Event | Unit [PY319] Inf Issue Qry 0:LESP0

| | | | | | |
|----------|----------|------------------|---------|----------|---|
| 20160707 | 16:56:14 | Event Remark | py04 | PYC12038 | WACIC.RV.WA027X23N.LIC/535097A Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/C99731F Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/425497A Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/525915A Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/ACH2237 Unit- [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/3E9032 PY319 -- 425497A, PD TAÇOMA STOLEN Unit [PY319] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/6604QK PY319 -- CONFIRMED STOLEN CONTACT, LEWIS ESTRODA 253-330-3681 Preempt:CAD AUTOMATIC PREEMPT Unit PY319 ** Event held for 60 minutes and unit PY319 |
| 20160707 | 16:57:20 | Arrive | py04 | PYC12038 | PY264 (PPD07089) Temple, Dave |
| 20160707 | 16:57:20 | Arrive | py04 | PYC12038 | PY288 (PPD07113) Massey, Greg |
| 20160707 | 16:57:20 | Arrive | py04 | PYC12038 | PY315 (PPD07140) Barry, Eric |
| 20160707 | 17:04:55 | Event Remark | py04 | PYC12038 | Duplicate Event:Location = 6601 114TH AVCT E PCO : @U LOCK IT SELF STORAGE, Cross Street 1 = 65TH STCT E, Cross Street 2 = BENSTON DR E, Type = WARCC WARRANT HANDLED BY COMM CENTER, Caller Name = PY288, Alarm Level = 1 98372 |
| 20160707 | 17:04:55 | Event Remark | py04 | PYC12038 | End of Duplicate Event data |
| 20160707 | 17:04:55 | Event Remark | py04 | PYC12038 | FOR 315 STORE EZ STORAGE THORTON, STEVEN WILL BE ON TAC 1 / NSN Preempt Unit PY315 Preempt:CAD AUTOMATIC PREEMPT Unit PY288 ** Event held for 60 minutes and unit PY288 |
| 20160707 | 17:06:54 | Event Remark | py04 | PYC12038 | Alarm Timer Extended: 0 |
| 20160707 | 17:25:27 | Dispatched | \$PY289 | PPD07114 | PY289 (PPD07114) Ketter, Mark |
| 20160707 | 17:25:36 | Arrive | \$PY289 | PPD07114 | PY289 (PPD07114) Ketter, Mark |
| 20160707 | 17:26:08 | Transport | \$PY289 | PPD07114 | PY289 (PPD07114) Ketter, Mark |
| 20160707 | 17:26:08 | Event Remark | \$PY289 | PPD07114 | Transporting 1 Male(s) and 1 Female(s) |
| 20160707 | 17:28:35 | Event Updated | py04 | PYC12038 | Location: 6601 114TH AVCT E PCO |
| 20160707 | 17:39:23 | Case Number | py04 | PYC12038 | P16005064 |
| 20160707 | 17:39:23 | Disposition | py04 | PYC12038 | ASSNCASE |
| 20160707 | 17:39:54 | Add Supplemental | py04 | PYC12038 | license 535097A |
| 20160707 | 17:39:54 | Event Remark | py04 | PYC12038 | Unit [PY288] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/535097A |
| 20160707 | 17:40:03 | TransportArrive | \$PY289 | PPD07114 | PY289 (PPD07114) Ketter, Mark |
| 20160707 | 17:40:26 | Add Supplemental | py04 | PYC12038 | license 535097A |
| 20160707 | 17:40:26 | Event Remark | py04 | PYC12038 | Unit [PY288] Inf Issue Qry 0:LESP0 WACIC.RV.WA027X23N.LIC/535097A |
| 20160707 | 17:40:43 | Event Remark | \$PY288 | PPD07113 | Unit [PY288] Inf Issue Qry 0:4007113 DOLPHOTO: .OLN/THORNSP212NW |
| 20160707 | 17:40:43 | Event Remark | \$PY288 | PPD07113 | Unit [PY288] Inf Issue Qry 0:PY1J0 DOL.D.WA02701J0.OLN/THORNSP212NW |
| 20160707 | 17:40:43 | Event Remark | \$PY288 | PPD07113 | Unit [PY288] Inf Issue Qry 0:PY1J0 NLETS.DQ.WA02701J0.*TRID000000.OLN/ THORNSP212NW |
| 20160707 | 17:40:46 | Event Remark | \$PY315 | PPD07140 | Unit [PY315] Inf Issue Qry 0:4007140 DOLPHOTO: .OLN/THORNSP212NW |
| 20160707 | 17:40:46 | Event Remark | \$PY315 | PPD07140 | Unit [PY315] Inf Issue Qry 0:PY1K8 DOL.D.WA02701K8.OLN/THORNSP212NW |
| 20160707 | 17:40:46 | Event Remark | \$PY315 | PPD07140 | Unit [PY315] Inf Issue Qry 0:PY1K8 NLETS.DQ.WA02701K8.*TRID000000.OLN/ THORNSP212NW |
| 20160707 | 17:41:02 | Event Remark | \$PY288 | PPD07113 | Unit [PY288] Inf Issue Qry 0:4007113 DOLPHOTO: .OLN/THORNSP212NW |
| 20160707 | 17:41:02 | Event Remark | \$PY288 | PPD07113 | Unit [PY288] Inf Issue Qry 0:PY1J0 DOL.D.WA02701J0.OLN/THORNSP212NW |
| 20160707 | 17:41:02 | Event Remark | \$PY288 | PPD07113 | Unit [PY288] Inf Issue Qry 0:PY1J0 NLETS.DQ.WA02701J0.*TRID000000.OLN/ THORNSP212NW |
| 20160707 | 17:41:05 | Event Remark | \$PY315 | PPD07140 | Unit [PY315] Inf Issue Qry 0:4007140 |

EXHIBIT C

In the Superior Court of the State of Washington
In and for the County of Pierce
Search Warrant

FILED
IN COUNTY CLERK'S OFFICE

JUL 08 2016

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

State of Washington)
)SS:
County of Pierce)

No. 16 1 51257 9

The State of Washington to the Sheriff or any peace officer of said County:

WHEREAS, Detective E. Barry has this day made complaint on oath to the undersigned one of the judges of the above entitled court in and for said county that on or about the 7th day of July, 2016 in the State of Washington, County of Pierce, felonies and misdemeanor/s to-wit;

*Unlawful Possession Of A Firearm
RCW 9.41.040
Possession Of A Stolen Vehicle
RCW 9A.56.068*

I. Items sought in the execution of search warrant

And, that these felonies and misdemeanor/s were committed by the act, procurement or omission of another, and that the following evidence is material to the investigation, to-wit:

1. Conveyances, including vehicles which are used or intended for use, in any manner to facilitate the sale, delivery, or receipt of property;
2. Books, records, receipts, notes, ledgers, research products and materials, papers, and photographs developed and undeveloped which are used or intended for use in the furtherance of the violations listed above;
3. Moneys, Negotiable instruments, securities, stolen property, or other tangible and/or intangible property of value which is furnished, or intended to be furnished, by any person in exchange for ~~illegal narcotics~~ ^{stolen goods}; *JSK*
4. Tangible and intangible personal property, stolen property, proceeds or assets.
5. Moneys, negotiable instruments, and securities used, or intended for use to facilitate the furtherance of the violations listed above;
6. Firearms, pistols, rifles, and/or any other dangerous weapons defined in Chapter 9.41 RCW which are possessed, used, or intended for use, in the furtherance of the violations listed above;

7. Computer equipment including hard drives, floppy disks, compact discs, monitors, keyboards, printers, and/or computer manuals used, or intended for use, in the furtherance of the violations listed above;
8. Digital pagers, cellular telephone, telephone caller I.D. readouts, and any communication equipment used, or intended for use, in the furtherance of the violations listed above;
9. Indicia of occupancy and/or ownership if the vehicle described in this search warrant including, but not limited to, registration, title/s, cancelled envelopes, registration certificates and keys;
10. Addresses and/or telephone numbers of conspirators, ^{SIR}drug associates, or any other people related to the violations listed above or any other items identifiable as stolen.

II. Person place or thing to be searched

Furthermore, Detective E. Barry verily believes that the above listed items of evidence are concealed in or about a particular vehicle, and/or thing, to wit;

A Storage Unit (unit#3) located at 6601 114th Ave Ct E and a Chevrolet K2 Pickup (WA-License-#C99731F towing trailer WA-License#6604QK.

The Storage unit is located at 6601 114th Ave Ct E and the Chevrolet K2 Pickup is parked in front of the storage unit. The storage unit and vehicle are currently being observed by Puyallup Police Officers.

THEREFORE, in the name of the State of Washington you are commanded that within ten days from this date, with necessary and proper assistance, you enter into the said premises, and then and there diligently search for said evidence, or any other; and if same, or evidence material to the investigation or prosecution of said felony, or any part thereof be found on such search, bring the same forthwith before me, to be disposed of according to law. A copy of this warrant shall be served upon the person or persons found in or on said premises. If no person is found in or on said premises, a copy of this warrant shall be posted upon any conspicuous place in or on said premises, and a copy of this warrant and inventory shall be returned to the undersigned judge or his agent promptly after execution. BAIL IS TO BE SET IN OPEN COURT.

Given under my hand this 7th day of July, 2016. *cy: ex PM*



Superior Court Judge.

EXHIBIT D

15) To exclude evidence of State's potential witness L. Stroda's criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 2006 NVOL and 2007 DWLS3. None of these convictions are admissible at trial, as they are not crimes of dishonesty, and both occurred more than 10 years ago. ER 404(b), ER 608, ER 609.

State's Motion in Limine #15 is reserved.

16) To exclude evidence of State's potential witness K. Wells' criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 2016 Unlawful Possession of a Controlled Substance (methamphetamine), Unlawful Possession of a Controlled Substance (marijuana), and Reckless Endangerment. None of these convictions are admissible at trial, as they are not crimes of dishonesty. ER 404(b), ER 608, ER 609.

State's Motion in Limine #16 is reserved.

17) To exclude evidence of State's potential witness S. Sands' criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions that are greater than 10 years old or that are not crimes of dishonesty. The State requests the court analyze the following convictions pursuant to ER 609(b): 1996 Possessing Stolen Property in the Second Degree, 2000 Forgery, 2002 Possessing Stolen Property in the First Degree, 1995 Theft in the Third Degree, 2000 Theft in the Third Degree, as they are greater than 10 years old. The only criminal convictions the State agrees would be admissible are: 2008 False Statement, 2008 Theft3, 2009 False Statement. All of his other convictions are inadmissible at trial, as they are not crimes of dishonesty, or occurred more than 10 years ago, or both. ER 404(b), ER 608, ER 609.

State's Motion in Limine #17 is reserved.

18) To exclude evidence of State's potential witness L. Stroda's criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 2006 NVOL and 2007 DWLS3. None of these convictions are admissible at trial, as they are not crimes of dishonesty, and one occurred more than 10 years ago. ER 404(b), ER 608, ER 609.

State's Motion in Limine #18 is reserved.

19) To exclude evidence of State's potential witness C. Larson's criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions that are greater than 10 years old or that are not crimes of

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dishonesty. The State agrees that the following criminal convictions would be admissible: 2007 Robbery in the Second Degree, 2010 Identity Theft in the Second Degree (x2), 2010 Identity Theft in the Second Degree (x2), 2012 Attempted Burglary in the Second Degree, 2013 Identity Theft in the Second Degree, 2016 Burglary in the Second Degree, Theft in the First Degree, 2016 Unlawful Possession of a Stolen Vehicle, 2009 False Statement, 2009 Theft in the Third Degree, 2012 Theft in the Third Degree, 2011 False Statement, Theft in the Third Degree. All of his other convictions are inadmissible at trial, as they are not crimes of dishonesty, or occurred more than 10 years ago, or both. ER 404(b), ER 608, ER 609.

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State's Motion in Limine #19 is Reserved.

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20) To exclude evidence of State's potential witness J. Van Buskirk's criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 1988 Negligent Driving, 1994 NVOL. None of these convictions are admissible at trial, as they are not crimes of dishonesty, and both occurred more than 10 years ago. ER 404(b), ER 608, ER 609.

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State's Motion in Limine #20 is Reserved.

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21) To exclude evidence of State's potential witness J. Butt's criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 2011 Reckless Driving. This conviction is not admissible at trial, as it is not a crime of dishonesty. ER 404(b), ER 608, ER 609.

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State's Motion in Limine #21 is Reserved.

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22) To exclude evidence of State's potential witness W. Fehrs' criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 1964 Burglary in the Second Degree. This conviction is not admissible at trial, as it occurred more than 10 years ago. ER 404(b), ER 608, ER 609.

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State's Motion in Limine #22 is Reserved.

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23) To exclude evidence of State's potential witness H. Morrow, Jr.'s criminal history. This potential witness has prior criminal convictions. The State has provided a copy of a criminal history compilation for this potential witness to the defense. The State moves to exclude the potential witness' prior convictions for: 2004 Contempt of Court, 2004 FTA, Contempt of Court, 2007 Violation of Profession/Occupation Act. None of these convictions are admissible at trial, as they are not crimes of dishonesty, and the all occurred more than 10 years ago. ER 404(b), ER 608, ER 609.

EXHIBIT E

RENTAL AGREEMENT

This agreement dated May 14, 2016 between STEVEN J. SANDS (hereinafter referred to as "TENANT") and STOR-EZE (hereinafter referred to as "MANAGEMENT").

MANAGEMENT does hereby rent to TENANT storage unit number A003 (12 x 24) in a building located at 6601 114th Ave Ct E, Puyallup, WA 98372 to be used as storage for personal or business property for the monthly rate of \$219.00 payable on the first (1st) day of each month hereinafter. Rental payment is payable in advance.

MANAGEMENT acknowledges receipt of 136.00 as per your receipt, including the first (1st) month's rent (which has been prorated to the first (1st) day of next month where applicable). All payments made to MANAGEMENT pursuant to the agreement shall be applied first to administrative and late charges, then the balance to accrued and unpaid rent, this agreement shall expire on the last day of each month and automatically renew for one (1) additional month, SUBJECT TO THE CONDITIONS ON THE NEXT PAGE. Rental payments made after day 7 of the month are subject to a \$15.00 Late Charge. Mailed payments must be postmarked by day 7 of the month to avoid Late Charge. A returned Check is subject to a charge of \$30.00.

TENANT shall give MANAGEMENT ten (10) days written notice to vacate in order to avoid responsibility for the payment of the next month's rent.

TENANT is an active member of the United States Armed Forces: Yes _____ No X

TENANT acknowledges that MANAGEMENT does not carry any insurance which in any way covers any loss whatsoever that TENANT may have or claim by renting the Storage Unit. All property stored in the Storage Unit shall be at TENANT'S sole risk.

TENANT ACKNOWLEDGES THAT HE HAS READ THE CONDITIONS ON THE NEXT PAGE AND AGREES TO BE BOUND BY THEM.

Executed on May 14, 2016

Tenant Name: STEVEN J. SANDS

By (Management Agent): Lana Broeker

(Tenant Signature)

(Management Signature)

(Tenant Company Name)

142 JIMMY COME LATELY RD
(Tenant Street Address)

SEQUIM, WA 98382
(Tenant City, State, Zip)

Lease Number: 1444

Please Remit To:
STOR-EZE
6601 114th Ave Ct E
Puyallup, WA 98372

252-227-6417
(Tenant Home Phone)

(Tenant Work Phone)

ANDSSJ381OE
(Tenant Drivers License No.)

AA
(State)

EMERGENCY CONTACT INFORMATION

Alternate Phone _____

0152
15860
2/14/2017

Conditions

1. Tenant further covenants with Management that at the expiration of terms of this Lease, peaceable possession of the premises shall be given to the Management, in as good condition as they are now, normal wear, inevitable accidents and loss by fire excepted; and the Tenant agrees not to let, sublet, or assign the whole or any part of the premises without written consent of the Management. Tenant agrees not to affix shelving or other articles to the walls, ceiling or doors. Tenant must provide his own lock and keep unit locked at all times, using only one lock per unit door hasp.
2. Tenant shall not place or keep in the premises explosives, flammable liquids, contraband or other goods prohibited by the law and agrees to abide by any rules promulgated by Management governing the use of these premises. Tenant shall not permit damage to the premises and shall indemnify and hold Management harmless from any claim or cause of action arising out of Tenant's use of the premises. Tenant assumes responsibility for any loss or damage to property stored by Tenant in the premises and may or may not elect to provide insurance coverage for the same. **MANAGEMENT DOES NOT MAINTAIN INSURANCE FOR THE BENEFIT OF TENANT**, which in any way covers any loss whatsoever that tenant may have or claim by renting the storage space or premises MAY and expressly releases management from any losses and/or damages to said property causes by fire, theft, water, rainstorms, tornado, explosion, riot rodents, civil disturbances, insects, sonic boom, land vehicles, unlawful entry or any other cause whatsoever, nor shall management be liable to tenant and/or tenant's guest or invitees or agents while on or about management premises.
3. All leases expire on the last day of each month. The management may terminate said lease at his option if Tenant is not in full compliance with the terms of this Lease, subject to Management's approval. **TENANT'S FAILURE TO VACATE THE PREMISES OR REMOVE THEIR LOCK ON THE LAST DAY OF THE MONTH AUTOMATICALLY RENEWS THE LEASE FOR ONE (1) MONTH.**
4. Tenant agrees to give Management ten (10) days written notice of his intention to vacate his storage unit. **THERE ARE NO PRORATED RENT REFUNDS IN THE EVENT THE UNIT IS VACATED BEFORE THE LAST DAY OF THE MONTH.** If the unit is vacated on or after the first of the month, a full month's rent is due.
5. Rental payments are due on the first (1st) of each month without demand. Payments made after day 7 of the month are subject to a \$15.00 Late Charge. Mailed payments must be postmarked by day 7 of the month to avoid the Late Charge. If rental payments are not paid in full within five (5) days of the due date, including Late Charge, and/or Returned Charge, of Miscellaneous Charge, the Management may, at his option, declare the Tenant in default. No notice need be given of default. **MANAGEMENT DOES NOT SEND OUT BILLINGS FOR MONTHLY RENTAL CHARGES.**
6. The Management may, at his option, take possession of the goods in the Storage Unit on or after day 8 of the month if full payment is not received by the date. Taking possession of the goods shall consist of over-locking the Storage Unit door to prevent Tenant's access to the Storage Unit until all rental, late fees and miscellaneous charges are paid in full.
7. The personal property in Storage Unit may be sold to satisfy the lien if Tenant is in default. Management shall have a lien on all personal property stored within each Storage Unit for rent, labor, or expenses reasonably incurred in the sale, pursuant of Washington State RCW 19.150.060. All moving, storage and/or sales costs associated with sale of goods shall be borne by Tenant. After a lien against the personal property in the unit arises, **ONLY A PAYMENT IN THE FULL AMOUNT OF THE LIEN WILL BE ACCEPTED TO SATISFY LIEN, PARTIAL PAYMENTS WILL NOT STOP ANY AUCTION PROCEDURES OR LEGAL ACTIONS.**
8. The Management may, at his option, **REMOVE THE TENANT'S LOCK AT TENANT'S EXPENSE TO APPRAISE STORED GOODS FOR SALE.** The administrative charge for lock cutting is \$25.00. Management may at this time move property to another location to be stored and Tenant agrees to be solely liable for any damage, loss or expenses incurred by his action. And the parties agree that Management shall have a lien upon all personal property stored in the unit to secure payment of this charge, as well as all other charges owed to Management. If the rental account is brought current, the Management shall remove its lock. **IT IS THE TENANT'S RESPONSIBILITY TO REPLACE HIS LOCK AT THE TIME OF PAYMENT TO INSURE THE SECURITY OF HIS STORAGE UNIT AND TO SECURE HIS STORAGE UNIT BY A LOCK (only one lock per unit door hasp). AT ALL TIMES, MANAGEMENT WILL NOT SUPERVISE USE OF UNIT IN ANYWAY. THE SAFETY OF ITEMS STORED BY THE TENANT IS THE RESPONSIBILITY OF THE TENANT.**
9. In the event Management is required to obtain the services of an attorney to enforce any of the provisions of this Lease, Tenant agrees to pay in addition to the sums due hereunder, an additional amount as and for attorney's fees and cost incurred.
10. Management will have the right in the event of an emergency to enter the storage unit with what ever reasonable force is necessary. They may at their discretion, deny access to premises in case of inclement weather or emergencies.
11. A returned check is subject to a charge of \$30.00, which shall be considered part of the rental. Unit shall be in default and overlocked by Management, until amount of the returned check, returned check charge, and any additional charges due are paid in full. Payment must be made by money order or certified check.
12. The Monthly Rental rate, deposit amount, late charge, cut-lock, and returned check charge are each subject to increase on day 1 of each month. Tenant shall be given thirty (30) days written notice of such increases and this Lease shall be deemed to be so altered if the Tenant continues his occupancy beyond the effective date of the increase. Notice shall be deemed given when Management deposits first-class mail, postage prepaid to Tenant at address given on this Lease or official change of address. Tenant shall apprise Management of any change in his/her mailing address in writing within twenty (20) days of such change. A new Lease does not have to be executed for any new rental rate increases.
13. All tenants in default or tenants having prior returned checks, must pay by money order. All tenants must pay by check/money order.
14. Any right granted herein to Management may be exercised by Management's Rental Agent or other representative or agent.
15. The covenants herein contained shall extend to and be binding upon the parties hereto, their heirs, executors, administrators and assigns.

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