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Court of Appeals
Division II
State of Washington
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No. 53383-9-II

THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

STATE OF WASHINGTON,

Appellant,

v.

ARTHUR S. DURONE,

Respondent.

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

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

A. INTRODUCTION..... 1

B. ISSUES PRESENTED FOR REVIEW..... 2

C. STATEMENT OF THE CASE..... 3

 1. *Mr. Durone’s pickup is searched after he is arrested for driving on a suspended license.*..... 3

 2. *The trial court determines the warrant to search the pickup from top to bottom for evidence of possessory crimes is overbroad.* 4

 3. *The court denies the prosecutor’s motion to reconsider filed days before the expiration of Mr. Durone’s speedy trial.* 7

D. ARGUMENT..... 8

 1. **The trial court correctly suppressed the evidence police seized through on an overbroad search warrant.** 8

 a. *A search warrant must describe with particularity the place to be searched and the thing to be seized.*..... 9

 b. *The trial court correctly ruled the warrant was overbroad because it failed to specify the items to be searched.* 11

 c. *This Court should affirm the trial court’s determination that the warrant was overbroad.* 19

 2. **The trial court did not err in denying the State’s legally baseless motion to reconsider that violated Mr. Durone’s speedy trial right.** 20

 a. *The court’s denial of the prosecutor’s motion to reconsider is not appealable.*..... 20

 b. *The court did not abuse its discretion in denying a legally baseless motion.*..... 22

E. CONCLUSION..... 25

TABLE OF AUTHORITIES

Washington State Supreme Court Decisions

State v. Afana, 169 Wn.2d 169, 233 P.3d 879 (2010) 20

State v. Chavez, 111 Wn.2d 548, 761 P.2d 607 (1988)..... 24

State v. Neth, 165 Wn.2d 177, 196 P.3d 658 (2008)..... 11

State v. Perrone, 119 Wn.2d 538, 834 P.2d 611 (1992).... 9, 10, 19

State v. Thein, 138 Wn.2d 133, 977 P.2d 582 (1999) 11

Washington Court of Appeals Decisions

State v. Askham, 120 Wn. App. 872, 86 P.3d 1224 (2004) 12

State v. Chambers, 88 Wn. App. 640, 945 P.2d 1172 (1997) 16,
17, 18

State v. Goble, 88 Wn. App. 503, 945 P.2d 263 (1997)... 10, 11, 16

State v. Higgins, 136 Wn. App. 87, 147 P.3d 649 (2006) 5, 10, 11,
12, 13, 14, 15

State v. Keller, 32 Wn. App. 135, 647 P.2d 35 (1982) 22

State v. Lingo , 32 Wn. App. 638, P.2d 130 (1982)..... 18

Statutes

RCW 9A.36.021..... 11

Rules

CR 59.....22, 23, 24, 26

CrR 3.6 25

LCR 7(5)..... 23

RAP 2.2 21

Washington Constitutional Provisions

Article I, section 7..... 2, 9, 20

Federal Constitutional Provisions

U.S. Const. amend. IV 9, 11, 19

United States Supreme Court Decisions

Andresen v. Maryland, 427 U.S. 463, 96 S. Ct. 273, 49 L. Ed.2d 627 (1976) 9

Coolidge v. New Hampshire, 403 U.S. 443, 91 S. Ct. 2022, 29 L. Ed. 2d 564 (1971) 9

Wong Sun v. United States, 371 U.S. 471, 83 S. Ct. 407, 9 L.Ed.2d 441 (1963) 19

United States Court of Appeals Decisions

State v. Keodara, 191 Wn. App. 305, 364 P.3d 777 (2015) 10

United States v. Christine, 687 F.2d 753 (3d Cir.1982) 13

United States v. Hurt, 795 F.2d 765 (9th Cir.1986) 12

United States v. Kow, 58 F.3d 423 (9th Cir. 1995) 13

United States v. Williams, 544 F.3d 683 (6th Cir. 2008)..... 11

A. INTRODUCTION

After Arthur Durone was arrested for driving on a suspended license, a trooper obtained a search warrant which authorized a search of the entire pickup for “evidence of the crime(s) of” possession of a controlled substance, drug paraphernalia, and being a felon in possession of a firearm.

The trial court granted Mr. Durone’s motion to suppress evidence seized pursuant to this overbroad search warrant because its generic authorization to search for “evidence of” possessory crimes gave the trooper unlimited discretion to search every corner of the vehicle for any evidence related to Mr. Durone’s status as a felon or evidence of possession, rather than a limited search for contraband in places there was reason to believe it would be found. The State later filed a motion to reconsider, which the court denied because it could not be resolved without violating Mr. Durone’s speedy trial right.

This Court should affirm the trial court’s well-reasoned determination that the warrant was overbroad and denial of the State’s motion to reconsider.

B. ISSUES PRESENTED FOR REVIEW

1. The Fourth Amendment requires warrants particularly describe the place to be searched and thing to be seized.

Likewise, Article I, section 7 prohibits the invasion of a person's privacy without authority of law. Where, as here, the officer had probable cause to search and seize specific items identified in an inventory search, but the warrant failed to specify these items, instead authorizing a general search for any "evidence of" possessory offenses in every recess of the vehicle, without a reasonable basis to believe items would be found in these locations, did the trial court properly suppress evidence seized pursuant to this overly broad warrant?

2. Is the State entitled to appeal a trial court's denial of a motion to reconsider absent any court rule authorizing review on appeal? In the alternative, did the trial court correctly deny the State's untimely motion to reconsider that was made without citation to any legal authority entitling the State to relief that could not be resolved without violating Mr. Durone's right to a speedy trial?

C. STATEMENT OF THE CASE

1. Mr. Durone's pickup is searched after he is arrested for driving on a suspended license.

When a trooper stopped Arthur Durone for speeding, he learned Mr. Durone's license was suspended and arrested him. CP 21. The trooper called for a tow truck to take Mr. Durone's pickup truck and conducted an inventory search. CP 21. During this search, the trooper saw "firearms," and a glass device that he thought could be used to smoke illegal substances. CP 21. The trooper also claimed that the bulb at the end of the device contained what he believed to be an illegal substance. CP 21.

The trooper checked Mr. Durone's criminal history and learned that he had a "drug felony" in 2000, which led the trooper to believe that Mr. Durone could not legally possess firearms. CP 20-21. Based on this information, the trooper requested a warrant to search the entire truck. CP 32-33. Rather than describe the particular items he had seen and wished to seize, the trooper requested a warrant permitting him to search for "evidence of the crime(s) of" possession of a

controlled substance, possession of drug paraphernalia, and felon in possession of a firearm. CP 21

2. The trial court determines the warrant to search the pickup from top to bottom for evidence of possessory crimes is overbroad.

Based on the above information, the magistrate issued a search warrant for Mr. Durone's pickup truck that allowed the trooper to search

[F]or the crimes of:

1. Possession of a Controlled Substance
2. Possession of Drug Paraphernalia
3. Felon in possession of a firearm.

CP 35. The warrant commanded police to:

1. Search: *the aforementioned vehicle in its entirety, from the top of the roof, to the bottom of the tires, from the very front of the front bumper, to the very rear of the rear bumper, all voids and recesses.*
2. Seize all items of evidence of the crime(s) listed above.

CP 22.

The trooper searched Mr. Durone's entire pickup and seized the clear glass smoking device with residue of a "substance," a tin can with a baggie of white powder, a "green bassie" with "brown granulate," a jar with a "brown wax substance" and "M.J.," two rifles, a shotgun, and a revolver. CP

23. Based on this evidence, the State charged Mr. Durone with two counts of possession of a controlled substance, for marijuana and cocaine, and one count of unlawful possession of a firearm in the second degree. CP 1-2.

Mr. Durone moved to suppress this evidence because the warrant was overbroad. CP 10. Mr. Durone argued the warrant should have specified the contraband to be seized, rather than allowing a generic search for “evidence of” crimes, because this lack of specificity made it “a general warrant,” which is not permitted. RP 13-14; CP 10-16. The warrant’s failure to specify items, rather than generic “evidence of” possessory crimes, gave the officer complete discretion in his “top-to-bottom check of everything” search, including areas and items with personal information. RP 13-14.

The trial court judge was very familiar with the governing case law cited by the parties, having himself been one of the trial attorneys in *State v. Higgins*,¹ a decision from this Court that establishes the test for determining whether a warrant is overbroad. RP 12; CP 14. The trial court recognized the

¹ *State v. Higgins*, 136 Wn. App. 87, 147 P.3d 649 (2006).

“particular danger” of a warrant that allows police to search for “evidence of,” followed by a list of crimes, because a crime can be committed in a number of different ways, which “would open up the officers to be able to search for all sorts of things.” RP 12; CP 41, conclusion of law 2.5.

The trial court noted the trooper mistook probable cause to seize certain items he believed to be evidence of a crime as a basis to obtain a search warrant authorizing a search for additional evidence in every crevice of the pickup:

You know, what seems to me is that he saw things that he knew he -- that he wanted to seize and he believed that he needed a warrant to do these things, to get these things. They're the things that he could see. And so really he wasn't looking for a warrant to search. He was looking for a warrant to seize. And instead of, I mean, couldn't he have just listed those things, the two guns and the handgun, the pistol, the case [...] and the glass pipe with the bowl, residue?

RP 18-19; CP 42 conclusion of law 2.2. The prosecutor agreed the officer could have specified these items, but did not. RP 19.

The trial judge recognized this broad warrant allowing a search for “evidence of” the listed crimes gave the officer total discretion to decide what constituted evidence of possessory drug and gun crimes, including “indicia of ownership” for the firearm

or vehicle, which could even include legal documents. RP 23-24; CP 42, conclusion of law 2.5, 2.6.

The trial court determined the warrant was overbroad based on the governing case law, and granted Mr. Durone's motion to suppress evidence seized pursuant to the warrant. RP 23-25; CP 39-43.

3. The court denies the prosecutor's motion to reconsider filed days before the expiration of Mr. Durone's speedy trial.

After the court's ruling, the parties met a week later to present their proposed findings of fact and conclusions of law. RP 25, 27. The prosecutor noted at this time, "we probably are going to file a motion for reconsideration. So we are going to ask to have the trial date stricken." RP 27.

Mr. Durone objected. RP 28. He was ready for trial and unwilling to waive his right to speedy trial. RP 28-29. The trial court granted the prosecutor's motion in part, extending Mr. Durone's trial date, but within speedy trial. RP 30.

Five days later, the court entered the findings of fact, based largely on the prosecutor's proposed findings. CP 39-42; RP 33. The following day, the prosecutor filed a 14-page motion

to reconsider, with attachments, even though the prosecutor noted, “I know it’s not necessarily allowed within the rules.” RP 43; CP 50. When the court asked why the prosecutor did not file a motion earlier, the prosecutor claimed, without citation to legal authority, that it was not possible without the court entering the written order. RP 44.

Because this motion would have to be resolved within two days or else violate Mr. Durone’s right to speedy trial, the trial court denied the prosecutor’s motion as untimely. RP 45. The trial court then granted the State’s motion to dismiss the charges against Mr. Durone because the prosecutor was unable to proceed without the evidence the court had suppressed. RP 45; CP 113.

The State appealed the trial court’s suppression motion and the denial of its motion to reconsider. CP 115.

D. ARGUMENT

1. The trial court correctly suppressed the evidence police seized through on an overbroad search warrant.

The search warrant was overbroad because it lacked the necessary particularity as to the items and place to be searched.

a. A search warrant must describe with particularity the place to be searched and the thing to be seized.

The Fourth Amendment demands particularity: “no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. Article I, section 7 prohibits the invasion of a person’s privacy without authority of law. General warrants are prohibited. *Andresen v. Maryland*, 427 U.S. 463, 480, 96 S. Ct. 273, 49 L.Ed.2d 627 (1976). The particularity requirement is intended to prevent the State from a “general, exploratory rummaging in a person’s belongings.” *Coolidge v. New Hampshire*, 403 U.S. 443, 467, 91 S. Ct. 2022, 29 L. Ed. 2d 564 (1971).

This Court reviews de novo whether a warrant meets the particularity requirement of the Fourth Amendment. *State v. Perrone*, 119 Wn.2d 538, 549, 834 P.2d 611 (1992). The degree of specificity required varies according to the circumstances and the type of items involved. *Id.* at 547. A description is valid if it

is as specific as the circumstances and the nature of the activity, or crime, under investigation permits. *Id.*

Three factors are relevant to determine whether a warrant is overbroad:² “(1) whether probable cause exists to seize all items of a particular type described in the warrant, (2) whether the warrant sets out objective standards by which executing officers can differentiate items subject to seizure from those which are not, and (3) whether the government was able to describe the items more particularly in light of the information available to it at the time the warrant was issued.” *Higgins*, 136 Wn. App. at 91-92.

Probable cause for issuance of a warrant requires “a nexus between criminal activity and the item to be seized, and also a nexus between the item to be seized and the place to be searched.” *State v. Goble*, 88 Wn. App. 503, 509, 945 P.2d 263 (1997).

² Cases treat the concepts of warrant overbreadth and lack of particularity interchangeably. *See e.g. State v. Keodara*, 191 Wn. App. 305, 312, 364 P.3d 777 (2015) (“A warrant is overbroad if it fails to describe with particularity items for which probable cause exists to search.”).

A search warrant should issue “only if the application shows probable cause that the defendant is involved in criminal activity and that evidence of the criminal activity will be found in the place to be searched.” *State v. Neth*, 165 Wn.2d 177, 182, 196 P.3d 658 (2008) (citing *State v. Thein*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999)). There must be “a fair probability that contraband or evidence of a crime will be found in a particular place.” *United States v. Williams*, 544 F.3d 683, 686 (6th Cir. 2008); *Goble*, 88 Wn. App. at 511.

b. The trial court correctly ruled the warrant was overbroad because it failed to specify the items to be searched.

The trial court correctly determined the warrant’s authorization to search for “evidence of” various possessory crimes lacked the specificity required by the Fourth Amendment.

The trial court closely adhered to this Court’s overbreadth analysis in *Higgins*, where a warrant listed the general crime under investigation by statute, authorizing seizure of “certain evidence of a crime, to-wit: ‘Assault 2nd DV’ RCW 9A.36.021.” *Higgins*, 136 Wn. App. at 92. This Court determined that where

the affidavit specified the particular items to be seized, including the type of pistol, spent casings, bullets, and possible entry and exit points of the bullet, these specifics should have been included in the warrant, rather than the general description of “certain evidence of a crime.” *Id.* The attached affidavit did not save the lack of particularity in the search warrant, because it was not incorporated by reference. *Id.*

Higgins also determined that a general reference to “evidence of domestic violence second degree assault” was not sufficiently particular because the listed statute encompassed six different ways to commit second degree assault. *Id.* at 91-93. A warrant to search for evidence of any such violation would allow for seizure of items for which the State had no probable cause. *Id.* at 93.

Finally, the warrant failed to “differentiate between items subject to seizure and those that were not.” *Higgins*, 136 Wn.2d at 93. The description of the items to be seized should leave nothing to the executing officers’ discretion. *State v. Askham*, 120 Wn. App. 872, 878, 86 P.3d 1224 (2004) (*citing United States v. Hurt*, 795 F.2d 765, 772 (9th Cir. 1986)). Generic

classifications in a warrant “are acceptable only when a more precise description is not possible.” *United States v. Kow*, 58 F.3d 423, 427 (9th Cir. 1995).

The State believes the trial court erred in applying the first *Higgins’s* factor, arguing the court impermissibly reviewed “whether the search warrant affidavit itself established probable cause.” Brief of Appellant at 12. However under the first *Higgins* factor, the court must first determine “whether probable cause exists to seize all items of a particular type described in the warrant.” *Higgins*, 136 Wn. App. at 91. This means the court must compare the scope of the search and seizure authorized by the warrant with the ambit of probable cause established by the supporting affidavit. *United States v. Christine*, 687 F.2d 749, 753 (3d Cir.1982).

Here, the trial court found the affidavit’s reference to a “glass smoking device” believed to contain an illegal substance” which was not included in the warrant, failed to provide probable cause to search for all “evidence of” controlled substance offenses as listed in the warrant. CP 41, conclusion of law 2.4.

The State incorrectly interprets the court's ruling as a finding there was not probable cause to search for the specific items listed in the affidavit. Brief of Appellant at 13-16. This argument misses the court's overbreadth analysis. Because the affidavit provided no probable cause to believe that there was anything other than the items listed in the affidavit in any other part of the pickup truck, the warrant's generalized authorization to search for evidence of generic crimes was not supported by probable cause. CP 21. This was a correct application of the first prong of *Higgins's* overbreadth analysis. *Higgins*, 136 Wn. App. at 91.

Indeed, the trial court carefully applied all the *Higgins* factors to find the warrant in Mr. Durone's case was overbroad. RP 18-25; CP 41-42. The warrant stated police could search and seize "all items of evidence of the crime(s)" of possession of drug paraphernalia, controlled substances and firearms. CP 21. The trial court determined the warrant's language allowing police to search for "evidence of" did not "differentiate as to what items would or wouldn't be seizable." RP 24-25; CP 42, conclusion of law 2.5. This generic search for "evidence of" various crimes

lacked “objective standards” by which officers could differentiate between items subject to seizure and those that were not.

Higgins, 136 Wn. App. at 91; RP 25; CP 42, conclusion of law 2.5. This generic permission to seek evidence of possessory crimes could have included “vehicle registration or title, receipts, and other non-illicit evidence.” CP 42 conclusion of law 2.5. The trial court noted that in this case, the general warrant even resulted in police seizing marijuana, which is “not necessarily an illegal substance.” RP 24.

As to the third factor in *Higgins*, whether the warrant could have described the items to be searched with more particularity, there is no question this was an “obvious” failing, as the trial court explained:

[The officer] knew exactly what it was he wanted to seize, but instead of just listing those items and even then saying ‘and other items’ and laying down a nexus, he doesn’t do that. He just puts down and the judge authorizes the search of basically ‘any evidence of.’

RP 25; see also CP 42 conclusion law 2.6.

This failure to limit the officer’s discretion in what constitutes evidence of possessory crimes for drugs and firearms produced an impermissible, general search warrant:

It looks like the trooper identified a meth pipe but then ended up searching for all sorts of other things rather than just seizing that pipe that he saw. So in that factor I think that weighs against validity.

RP 24.

The trooper's broad discretion to search for "evidence of" general crimes was even more problematic where there was no nexus between the items to be searched and the warrant's broad authorization to search from "the top of the roof, to the bottom of the tires," and in all "voids and recesses," without cause to believe any items would be found in those recesses. *Goble*, 88 Wn. App. at 511.

Below and on appeal, the State erroneously relies on *State v. Chambers* to argue the warrant was not overbroad. 88 Wn. App. 640, 945 P.2d 1172 (1997). Brief of Appellant at 19; CP 84; RP 19. In *Chambers*, this Court approved of a warrant that allowed police to search for "any and all controlled substances" in relation to the Uniform Controlled Substances Act *Id.* at 646. The issue in *Chambers* was whether the term "controlled substances" was too broad, or whether the warrant was required to more specifically name the controlled substances sought. *Id.*

at 646-49. *Chambers* reasoned that “a lesser degree of precision may satisfy the particularity requirement when a warrant authorizes the search for contraband or inherently illicit property.” *Id.* at 644. Because officers were authorized to search for controlled substances—a category of substances that are inherently illegal— it made no difference that the search was not more narrowly circumscribed by the particular substances sought, because, “[i]f, during their search they discover another illegal substance, the nonspecified substance would be subject to seizure.” *Id.* at 645. Officers executing the warrant had no broader discretion to search than they would have had if the warrant had specified “marijuana.” *Id.*

The trial court noted the critical distinction between *Chambers* and the warrant in Mr. Durone’s case. Unlike in *Chambers*, the warrant here was not limited to contraband, but instead allowed a general search for “evidence of” possessory crimes. CP 42, conclusion of law 2.6; RP 19-20. This generic authorization to search for evidence of possessory crimes did not limit officers to searching for “inherently illicit property” as was the case in *Chambers*. 88 Wn. App. at 644. Rather, authorization

to search for “evidence of” these crimes could include “indicia of ownership or possession of the firearms,” vehicle registration or title, receipts, ammunition, or legal documents. RP 23-24; CP 42, conclusion of law 2.5. And as the court noted, marijuana, which was seized here, is no longer inherently illegal, as was the case at the time of *Chambers*. RP 24.

The State’s citation to *State v. Lingo* further elucidates the correctness of the trial court’s determination that the warrant was overbroad. 32 Wn. App. 638, 649 P.2d 130 (1982). Brief of Appellant at 19. In *Lingo*, the search warrant set limits on what was to be seized where it included the limitation of a search for “any and all evidence,” specifically limited to the crimes of assault and rape. *Id.* at 642. The warrant was valid where it provided instruction for what officers were to search, including “female clothing, bedding and blood and semen stains.” *Id.* This specificity limited the officer’s discretion, and is precisely what is missing from the warrant here, which allowed the officer complete discretion in determining what constituted evidence of the various possessory crimes, including an array of “non-illicit evidence.” CP 42, conclusion of law 2.5; RP 23-24.

Where the warrant failed to list the specific items or class of items the officers had probable to cause to search for, the warrant's permission to "seize all evidence of the crime[s] listed above" was overbroad. This resulted in a general search of a vehicle in which an officer's discretion alone determined the scope of the search and what constituted evidence of possessory crimes, rather than the warrant itself. The trial court correctly found that the lack of specificity as to the items to be searched was overly broad and invalid under the Fourth Amendment.

c. This Court should affirm the trial court's determination that the warrant was overbroad.

Where a search warrant is unconstitutionally overbroad, "the invalidity due to unlimited language of the warrant taints all items seized." *Perrone*, 119 Wn.2d at 556; *Wong Sun v. United States*, 371 U.S. 471, 485, 83 S. Ct. 407, 9 L.Ed.2d 441 (1963) ("The exclusionary rule has traditionally barred from trial physical, tangible materials obtained either during or as a direct result of an unlawful invasion."). There is no inevitable discovery doctrine under Article I section 7 that would have provided an alternative basis of admission for the evidence

seized as a result of the unlawful warrant, and the trial court made clear that the State argued no alternative basis. *State v. Afana*, 169 Wn.2d 169, 181, 233 P.3d 879 (2010); RP 38.

Police seized the firearms, drugs, and drug paraphernalia based on an overbroad search warrant. CP 20-23. Because the trial court correctly determined the warrant was overbroad, the trial court's ruling should be affirmed.

2. The trial court did not err in denying the State's legally baseless motion to reconsider that violated Mr. Durone's speedy trial right.

The State claims the trial court erred in denying its motion to reconsider—a ruling that is not appealable— even though the prosecutor argued no legal basis for seeking reconsideration, and the “instructive” civil rules the State now cites on appeal in no way establish the court abused its discretion.

a. The court's denial of the prosecutor's motion to reconsider is not appealable.

In a criminal case, the Rules of Appellate Procedure (RAP) provide a limited set of decisions that may be appealed. The State may appeal a final decision that “in effect abates,

discontinues, or determines the case other than by a judgment or verdict of not guilty.” RAP 2.2(b)(1). This includes, but is not limited to, “a decision setting aside, quashing, or dismissing an indictment or information, or a decision granting a motion to dismiss.” RAP 2.2(b)(1). The State may also appeal an arrest or vacation of judgment, an order granting a new trial, or a juvenile disposition, none of which apply here. RAP 2.2(b)(3). Finally, the State may also appeal as here, a pretrial order suppressing evidence when the effect of that order terminates the case. RAP 2.2(b)(2).

The Rules of Appellate Procedure do not permit a State’s appeal of a motion to reconsider. Nor is there any order here to appeal. It is telling that the Order finding the State’s case is effectively terminated based on the court’s suppression ruling cites to RAP 2.2(b)(2) as the basis for appeal, but the State cites no authority for appeal of its motion to reconsider. CP 115-29.

The trial court’s denial of the State’s motion to reconsider is not reviewable by this Court where there is no rule of appellate procedure entitling the State to appellate review.

b. The court did not abuse its discretion in denying a legally baseless motion.

Even if this Court were to review the court's ruling denying reconsideration, the "instructive" civil and local court rules cited by the State do not support its claim. Brief of Appellant at 24-26.

CR 59, cited by the State, dealing with new trials and amendment of judgments, does not apply to criminal cases. *State v. Keller*, 32 Wn. App. 135, 139, 647 P.2d 35 (1982). Even if CR 59 did apply, the State acknowledges that this rule does not prohibit a party from filing a motion to reconsider before the court enters the suppression order. Brief of Appellant at 26. To the contrary, CR 59 specifically contemplates the motion to reconsider may be filed prior to entry of the findings of fact, where CR 59(e) states that when the motion to reconsider is filed, the judge may determine "[w]hether the motion shall be heard before the entry of judgment; and [w]hether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion. CR 59(e)(1), (2).

The State also claims that a local court rule prohibited the State from filing a motion to reconsider based on the court's decision after the suppression hearing.

LCR 7(5)(a) states:

Motions for reconsideration of rulings and all pleadings and documents in support thereof, must be filed and served on opposing counsel, or the opposing party, if unrepresented, and a copy delivered to the Judge or Commissioner making the ruling, within ten (10) days after entry of the judgment or order.

This rule does not mean, as claimed by the State, that “the State could not have filed its motion for consideration before the findings of fact and conclusions of law were entered.” Brief of Appellant at 26. Rather, this rule states that the reconsideration must be filed within ten days of entry of a judgment or order; not the inverse—that the judgment or order must be entered before a motion for reconsideration may be filed. And the State cites no authority that a “judgment or order” is the same as findings of fact and conclusions of law under this local rule. Even if this local rule could be read to prohibit filing a motion to reconsider until the court entered findings of fact and conclusions of law, local rules must be consistent with the

general rules of procedure in the Official Rules of Court. *State v. Chavez*, 111 Wn.2d 548, 555, 761 P.2d 607 (1988).

Though CR 59 does not require entry of findings of fact before a party can seek reconsideration of a trial court's ruling, the rule does impose strict timelines. A "motion for a new trial or for reconsideration shall be filed not later than 10 days after the entry of the judgment, order, or other decision." CR 59(b). The State failed to file its motion to reconsider within ten days of the trial court's suppression ruling. RP 25, 27-28, 43.

Thirteen days after the trial court's suppression ruling, the prosecutor argued, without citation to court rule or legal authority, that even if Mr. Durone's speedy trial was set to expire, "I couldn't have written a motion for reconsideration until the actual order was entered yesterday." RP 44. The trial court noted that Mr. Durone's scheduled trial date and his speedy trial expiration left only two days to handle this motion. RP 45. The court denied the motion as untimely. *Id.*

The State provided no legal authority which the trial court abused its discretion in denying the prosecutor's untimely motion for reconsideration. The "instructive" authority the State

now advances does not apply to criminal proceedings, and even if it did, does not prohibit the State from filing a motion to reconsider before entry of the findings of fact are entered. CR 59(e). And it certainly provides no authority for a trial court to deprive the accused of his constitutional right to speedy trial when the State fails to file a motion within ten days as required by the civil rules. CR 59(b).

This Court should decline to review the court's denial of the State's motion to reconsider because it is not an appealable order. In the alternative, this Court should affirm the trial court's denial of the prosecutor's untimely motion to reconsider.

E. CONCLUSION

This Court should affirm the trial court's well-reasoned rulings. The warrant's lack of particularity as to the items to be seized allowed for a general exploratory search which violates the Constitution. The trial court correctly denied the prosecutor's motion to reconsider made at the expense of Mr. Durone's right to speedy trial.

DATED this 25th day of February 2020.

Respectfully submitted,

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

STATE OF WASHINGTON,

Appellant,

v.

ARTHUR DURONE,

Respondent.

NO. 53383-9-II

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 25TH DAY OF FEBRUARY, 2020, I CAUSED THE ORIGINAL **BRIEF OF RESPONDENT** TO BE FILED IN THE COURT OF APPEALS – DIVISION TWO AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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