

FILED
Apr 25, 2012
Court of Appeals
Division III
State of Washington

NO. 29895-7-III

COURT OF APPEALS

STATE OF WASHINGTON

DIVISION III

STATE OF WASHINGTON,

Plaintiff/Respondent,

V.

DARREN R. HOPKINS,

Defendant/Appellant.

REPLY BRIEF

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RAP 5.2(f) provides, in part:

If a timely notice of appeal...is filed by a party, any other party who wants relief from the decision must file a notice of appeal...with the trial court clerk within the later of (1) 14 days after service of the notice filed by the other party, or (2) the time within which notice must be given as provided in sections (a), (b), (d), or (e).

The State did not file Notice of a Cross-Appeal. The State's challenge to Conclusions of Law 3.5 and 3.6 cannot be considered due to the State's failure to comply with RAP 5.2(f).

Thus, any argument contained in the State's brief alleging error by the juvenile court must be disregarded.

The State argues that Mr. Hopkins' statement to Deputy Williams authorized Deputy Williams to open the Altoids container. The State ignores the fact that the juvenile court suppressed Mr. Hopkins' statement. Thus, the statement cannot constitute a basis for a search of the Altoids container.

The State asserts that Mr. Hopkins failed to cite any authority for the issue involving Deputy Williams opening of the Altoids container. The State is in error. *State v. Horton*, 136 Wn. App. 29, 136 P. 3d 1227

(2006) and *State v. O'Neill*, 148 Wn. 2d 564, 62 P. 3d 489 (2003) support Mr. Hopkins argument.

The State's citation to *State v. Moreno*, 21 Wn. App. 430, 585 P. 2d 481 (1978), *State v. Dennis*, 16 Wn. App. 417, 558 P. 2d 297 (1976) and *State v. Wethered*, 110 Wn. 2d 466, 755 P. 2d 797 (1988) are further support for Mr. Hopkins position concerning the unconstitutional search of the Altoids container by Deputy Williams.

Finally, the State's assertion that a valid inventory search occurred is without merit. Inventory searches are conducted as part of a booking procedure. Mr. Hopkins was never booked. He was driven home after Deputy Williams contacted juvenile authorities. *See: State v. Garcia*, 35 Wn. App. 174, 175-77, 665 P. 2d 1381 (1983).

DATED this 25th day of April, 2012.

Respectfully submitted,

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COURT OF APPEALS

DIVISION III

STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	KITTITAS COUNTY
Plaintiff,)	NO. 11 8 00006 5
Respondent,)	
)	CERTIFICATE OF
)	SERVICE
v.)	
)	
DARREN R. HOPKINS,)	
)	
Defendant,)	
Appellant.)	
_____)	

I certify under penalty of perjury under the laws of the State of Washington that on this 25th day of April, 2012, I caused a true and correct copy of the *REPLY BRIEF* to be served on:

RENEE S. TOWNSLEY, CLERK
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E-FILE

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