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Court of Appeals  
Division III  
State of Washington

NO. 33149-1-III

COURT OF APPEALS, DIVISION III  
OF THE STATE OF WASHINGTON

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THE STATE OF WASHINGTON, Respondent

v.

JACLYN RAE SLEATER, Appellant

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APPEAL FROM THE SUPERIOR COURT  
FOR BENTON COUNTY

NO. 14-1-00596-6

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BRIEF OF RESPONDENT

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**TABLE OF CONTENTS**

**TABLE OF AUTHORITIES ..... iii-v**

**I. RESPONSE TO ASSIGNMENTS OF ERROR ..... 1**

**A. The court did not err in concluding RCW 10.01.180 authorized the warrant for the defendant’s arrest for failing to pay her legal financial obligations (LFOs)..... 1**

**B. The court did not err in concluding the officers lawfully stopped the defendant..... 1**

**C. The court did not err in finding the defendant’s arrest was lawful. .... 1**

**D. The court did not err in concluding the defendant was lawfully searched. .... 1**

**E. The court did not err in denying the defendant’s motions to suppress and concluding the evidence was admissible. .... 1**

**F. The court did not err in finding the defendant guilty and entering judgment against the defendant. .... 1**

**II. STATEMENT OF FACTS..... 1**

**III. ARGUMENT ..... 4**

**A. THE TRIAL COURT PROPERLY ADMITTED THE EVIDENCE AGAINST THE DEFENDANT BECAUSE IT WAS OBTAINED AS A RESULT OF A LAWFUL ARREST. .... 4**

**1. The court did not err in concluding RCW 10.01.180 authorized the warrant for the**

	<b>defendant’s arrest for failing to pay her LFOs.....</b>	<b>5</b>
<b>2.</b>	<b>The court did not err in concluding the officers lawfully stopped the defendant. ....</b>	<b>12</b>
<b>3.</b>	<b>The court did not err in finding the defendant’s arrest was lawful. ....</b>	<b>15</b>
<b>4.</b>	<b>The court did not err in concluding the defendant was lawfully searched. ....</b>	<b>17</b>
<b>5.</b>	<b>The court did not err in denying the defendant’s motions to suppress and concluding the evidence was admissible. ....</b>	<b>20</b>
<b>6.</b>	<b>The court did not err in finding the defendant guilty of possession of methamphetamine and entering judgment against the defendant. ....</b>	<b>22</b>
<b>IV.</b>	<b>CONCLUSION .....</b>	<b>24</b>

## TABLE OF AUTHORITIES

### WASHINGTON CASES

<i>Campbell v. State of Wash. Dept. of Licensing</i> , 31 Wn. App. 833, 644 P.2d 1219 (1982).....	12
<i>City of Seattle v. McCready</i> , 123 Wn.2d 260, 868 P.2d 134 (1994).....	4, 6
<i>Clement v. State Dept. of Licensing</i> , 109 Wn. App. 371, 35 P.3d 1171 (2001).....	12
<i>King v. Dept. of Soc. &amp; Health Servs.</i> , 110 Wn.2d 793, 756 P.2d 1303 (1988).....	7
<i>Smith v. Whatcom Cnty. Dist. Court</i> , 147 Wn.2d 98, 52 P.3d 485 (2002).....	7, 8, 10
<i>State v. Arreola</i> , 176 Wn.2d 284, 290 P.3d 983 (2012).....	12, 13
<i>State v. Bower</i> , 64 Wn. App. 227, 823 P.2d 1171 (1992).....	10
<i>State v. Breazeale</i> , 144 Wn.2d 829, 31 P.3d 1155 (2001).....	7
<i>State v. Cheatam</i> , 150 Wn.2d 626, 81 P.3d 830 (2003).....	20
<i>State v. Chelly</i> , 94 Wn. App. 254, 970 P.2d 376 (1999).....	12
<i>State v. Erickson</i> , 168 Wn.2d 41, 225 P.3d 948 (2010).....	5
<i>State v. Fisher</i> , 145 Wn.2d 209, 35 P.3d 366 (2001).....	18
<i>State v. Hathaway</i> , 161 Wn. App. 634, 251 P.3d 253 (2011).....	23
<i>State v. Higgs</i> , 177 Wn. App. 414, 311 P.3d 1266 (2013).....	22
<i>State v. Ibarra-Raya</i> , 145 Wn. App. 516, 187 P.3d 301 (2008).....	23
<i>State v. Ladson</i> , 138 Wn.2d 343, 979 P.2d 833 (1999).....	12
<i>State v. Larkins</i> , 79 Wn.2d 392, 486 P.2d 95 (1971).....	22

<i>State v. Mance</i> , 82 Wn. App. 539, 918 P.2d 527 (1996) .....	15
<i>State v. Miles</i> , 160 Wn.2d 236, 156 P.3d 864 (2007) .....	4
<i>State v. Myrick</i> , 102 Wn.2d 506, 688 P.2d 151 (1984).....	4, 5
<i>State v. Parker</i> , 139 Wn.2d 486, 987 P.2d 73 (1999).....	4, 5
<i>State v. Smith</i> , 76 Wn. App. 9, 882 P.2d 190 (1994).....	18
<i>State v. Stebbins</i> , 47 Wn. App. 482, 735 P.2d 1353 (1987).....	15
<i>State v. Walker</i> , 101 Wn. App. 1, 999 P.2d 1296 (2000).....	5
<i>State v. Ward</i> , 65 Wn. App. 900, 830 P.2d 383 (1992) .....	18, 19

**UNITED STATES SUPREME COURT CASES**

<i>Bearden v. Georgia</i> , 461 U.S. 660, 103 S. Ct. 2064, 76 L. Ed. 2d 221 (1983).....	9, 10
<i>Colorado v. Bertine</i> , 479 U.S. 367, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987).....	18
<i>Tate v. Short</i> , 401 U.S. 395, 91 S. Ct. 668, 28 L. Ed. 2d 130 (1971) .....	10
<i>United States v. Edwards</i> , 415 U.S. 800, 94 S. Ct. 1234, 39 L. Ed. 2d 771 (1974).....	20, 21
<i>United States v. Mendenhall</i> , 446 U.S. 544, 100 S. Ct. 1870, 64 L. Ed. 2d 497 (1980).....	12

**UNITED STATES COURT OF APPEALS CASES**

<i>United States v. Cannon</i> , 29 F.3d 472 (9th Cir.1994).....	13
<i>United States v. Mota</i> , 982 F.2d 1384 (9th Cir. 1993).....	13
<i>United States v. Smith</i> , 802 F.2d 1119 (9th Cir. 1986).....	13

**CONSTITUTIONAL PROVISIONS**

U.S. CONST. amend. IV.....4, 6, 18  
WASH. CONST. art. I, § 7 .....4, 6, 12

**WASHINGTON STATUTES**

RCW 7.21 .....6, 7  
RCW 7.21.010(1)(b) .....7  
RCW 10.01.170 .....8  
RCW 10.01.180 ..... 1, 5-8, 15, 16, 24  
RCW 10.01.180(5).....8  
RCW 10.64.015 .....7, 8  
RCW 69.50.4013(1).....22

**RULES AND REGULATIONS**

CrR 8.3(b) .....3

## **I. RESPONSE TO ASSIGNMENTS OF ERROR**

- A. The court did not err in concluding RCW 10.01.180 authorized the warrant for the defendant's arrest for failing to pay her legal financial obligations (LFOs).**
- B. The court did not err in concluding the officers lawfully stopped the defendant.**
- C. The court did not err in finding the defendant's arrest was lawful.**
- D. The court did not err in concluding the defendant was lawfully searched.**
- E. The court did not err in denying the defendant's motions to suppress and concluding the evidence was admissible.**
- F. The court did not err in finding the defendant guilty and entering judgment against the defendant.**

## **II. STATEMENT OF FACTS**

Defendant, Jaclyn Sleater, owed several thousand dollars in Legal Financial Obligations ("LFOs") pursuant to criminal convictions in Benton County Superior Court cause numbers 09-1-00322-3, 10-1-00879-2, and 12-1-00298-7. CP 26-37. On May 3, 2013, she signed a Benton County Superior Court order placing her in its "Pay or Appear" program for each of these causes. CP 39-40. Under that order, she was required to make payments in each cause by the 30th day of each month. CP 39. If unable to make a payment, she was to appear at the Benton County Superior Court Clerk's Office by the 15th day of the following month to schedule a hearing for the defendant to explain why she had not paid. CP

39. The order further stated, “[i]f the Defendant has not made the payment as required herein and has failed to report to the Clerk’s office as required herein . . . a warrant will be issued for the Defendant’s arrest.” CP 39.

By April of 2014, clerk’s office records showed the defendant was several months behind in her payments on each of the three cause numbers, but no warrant had yet issued. 1RP<sup>1</sup> at 9. The defendant’s mother, Kathleen Hockersmith, made an online payment of \$150.00 on April 16, 2014. 1RP at 7-8, 15. The payment was applied to cause number 10-1-00879-2, and no warrant was issued on that cause number. 1RP at 7-8, 10-11. However, that payment was not sufficient to bring her up to date on cause numbers 09-1-00322-3 or 12-1-00298-7, and the clerk’s office issued bench warrants for her arrest on these two cause numbers on April 22, 2014. CP 18, 19; 1RP at 10-11.

On May 16, 2014, at approximately 1:00 a.m., the defendant was leaving the parking lot of the Road Brothers Clubhouse in Kennewick, Benton County, Washington, with her boyfriend when she was pulled over by police. 2RP at 5-6, 14-15, 25. The officers testified they ran the license plate, saw the vehicle was registered to the defendant, and saw that she had two felony warrants for her arrest. *Id.* at 15-16, 25. One of the officers

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<sup>1</sup> There are two volumes of Verbatim Report of Proceedings referenced as follows: 1RP-October 29, 2014, and February 23, 2015; 2RP – December 31, 2014.

could see that the driver was female and appeared to match the general description of Jaclyn Sleater that accompanied the warrant. *Id.* at 16.

Upon speaking with the driver of the vehicle, it was verified the driver was Jaclyn Sleater. *Id.* at 17. After confirming the warrant, the officers arrested and transported the defendant to the jail where she was searched in the process of being booked. *Id.* at 18, 26. The search revealed a vial of methamphetamine that she admitted she possessed. *Id.* at 18, 20.

The defendant first moved to suppress the evidence, arguing the warrant was based on the clerk's mistaken belief she had not paid and citing her mother's April 16, 2014, payment. CP 6-22. In her reply brief, the defendant also argued the arrest warrant was invalid because there was no showing she had any ability to pay the LFOs. CP 24-25.

The defendant also moved to either suppress the evidence or dismiss the case for governmental misconduct under CrR 8.3(b). CP 24. The basis for the motion was the court clerk's testimony that enforcement of the warrant provision of Pay or Appear program is rather haphazard, and that sometimes warrants do not issue until several months after the person has failed to pay. CP 24.

Finally, the defendant moved to suppress the evidence on the grounds that the arrest warrant was a pretext for the police to investigate the Road Brothers Clubhouse and her reasons for being there. CP 51, 56.

The court denied the various motions to suppress and/or dismiss. 1RP at 26; 1RP at 32.

In a stipulated facts bench trial, the trial court found the defendant guilty of possessing methamphetamine. CP 69, 71; 1RP at 35. The court imposed a standard range sentence of nine months and \$3,560 in new LFOs. CP 74, 76; 1RP at 47. At sentencing, Sleater agreed she was able to pay LFOs. 1RP at 45. A notice of appeal was timely filed. CP 86; 1RP at 49.

### III. ARGUMENT

**A. THE TRIAL COURT PROPERLY ADMITTED THE EVIDENCE AGAINST THE DEFENDANT BECAUSE IT WAS OBTAINED AS A RESULT OF A LAWFUL ARREST.**

The Fourth Amendment limits arrest warrants to those that are reasonable, based on probable cause, and supported by a sworn statement. U.S. CONST. amend. IV. Article I, Section 7 of the Washington Constitution requires “authority of law,” which has been interpreted as being satisfied by a warrant issued upon a sworn statement showing probable cause. *State v. Miles*, 160 Wn.2d 236, 244, 156 P.3d 864 (2007); *City of Seattle v. McCready*, 123 Wn.2d 260, 273, 868 P.2d 134 (1994). The scope of protections offered by Article I, Section 7 is “not limited to subjective expectations of privacy but, more broadly, protects ‘those privacy interests which citizens of this state have held, and should be

entitled to hold, safe from governmental trespass absent a warrant.” *State v. Parker*, 139 Wn.2d 486, 494, 987 P.2d 73 (1999) (quoting *State v. Myrick*, 102 Wn.2d 506, 511, 688 P.2d 151 (1984)). Bench warrants are not excluded from these fundamental principles. “When served, a warrant of arrest disturbs a person in his private affairs. Thus, a warrant of arrest shall not issue ‘without authority of law,’ regardless of whether it is labelled an ‘administrative’ warrant, an ‘arrest’ warrant, a ‘bench’ warrant, or something else.” *State v. Walker*, 101 Wn. App. 1, 5-6, 999 P.2d 1296 (2000).

Generally, issuance of warrants is reviewed for abuse of discretion. *State v. Erickson*, 168 Wn.2d 41, 45, 225 P.3d 948 (2010). However, when a question of law is presented, review is de novo. *Id.*

**1. The court did not err in concluding RCW 10.01.180 authorized the warrant for the defendant’s arrest for failing to pay her LFOs.**

The court did not err in concluding RCW 10.01.180 authorized the warrant for the defendant’s arrest because RCW 10.01.180 grants the court the authority to issue a warrant of arrest for non-payment of LFOs. The bench warrants that authorized the defendant’s arrest for her failure to pay for her LFOs or appear to schedule a show cause hearing were valid because the defendant willfully failed to pay her fines and because the court provided the defendant with a reasonable alternative by which the

defendant could request a hearing if defendant's financial condition had altered. CP 39.

The Washington State Constitution states that “[n]o person shall be disturbed in his private affairs, or his home invaded, *without authority of law.*” WASH. CONST. art. I, § 7. (emphasis added). “Authority of law” may be provided by the existence of a valid warrant. *McCready*, 123 Wn.2d at 272. A court may also provide the authority of law necessary. *Id.* at 273. Additionally, the Fourth Amendment states that “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.

In this case, under the direction of Commissioner Jacqueline Stam, the Benton County Superior Court Clerk's Office issued bench warrants for the defendant on cause numbers 09-1-00322-3 and 12-1-00298-1 on April 22, 2014, according to the Order Placing Defendant in Pay or Appear Program. CP 18-19, 39.

RCW 10.01.180 states that a defendant who defaults in the payment of a fine or an installment “is in contempt of court as provided in chapter 7.21 RCW.” RCW 10.01.180(1). It authorizes the court to issue a warrant for the defendant's arrest. *Id.* Since RCW 10.01.180(3) applies “[i]f a term of imprisonment for contempt for nonpayment . . . is ordered”

it is clear that a defendant may be jailed for nonpayment. *Smith v. Whatcom Cnty. Dist. Court*, 147 Wn.2d 98, 105, 52 P.3d 485 (2002). Chapter 7.21 RCW, to which RCW 10.01.180 refers, concerns contempt of court. *Id.* It defines “contempt” *inter alia*, as “intentional . . . [d]isobedience of any lawful judgment[.]” RCW 7.21.010(1)(b). “Contempt may be criminal or civil.” *State v. Breazeale*, 144 Wn.2d 829, 842, 31 P.3d 1155 (2001) (citing *King v. Dept. of Soc. & Health Servs.*, 110 Wn.2d 793, 799, 756 P.2d 1303 (1988)). “The primary purpose of the civil contempt power is to coerce a party to comply with an order or judgment.” *Breazeale*, 144 Wn.2d at 842. A civil contempt sanction is allowed as long as it serves coercive, not punitive, purposes. *King*, 110 Wn.2d at 802.

The contempt proceeding authorized by RCW 10.01.180 is civil. *Smith*, 147 Wn.2d at 105. The purpose of a Pay or Appear Program is to coerce the defendant to pay the fine imposed by the judgment. *Id.* The defendant can avoid jail by paying. *Id.* A contempt sanction is civil “if it is conditional and indeterminate, *i.e.*, where the contemnor carries the keys of the prison door in his own pocket and can let himself out by simply obeying the court order.” *King*, 110 Wn.2d at 800.

Seeking a civil contempt remedy for nonpayment of fines under RCW 10.64.015 and RCW 10.01.180 is seeking enforcement of a

judgment. Under RCW 10.64.015, when the defendant is found guilty, the court shall enter a judgment for all costs, unless the court or jury trying the cause expressly finds otherwise. RCW 10.64.015. Collecting a fine is consistently referred to as an “execution.” *Smith*, 147 Wn.2d at 106. Under RCW 10.01.170, “[w]hen a defendant is sentenced to pay a fine or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence the fine or costs shall be payable forthwith.”

“Extending time to pay a fine is described as staying its *execution*, the promise to pay is described as having the effect of a *judgment*, and sending the defendant to jail is an *execution*.” *Smith*, 147 Wn.2d at 106 (emphasis in original). RCW 10.01.180 permits a fine to be collected “by any means authorized by law for the *enforcement of a judgment*” and authorizes a “*levy of execution*.” RCW 10.01.180(5) (emphasis added). “Using these terms to describe these procedures shows that the legislature understands collection of a fine to be the execution of a judgment.” *Smith*, 147 Wn.2d at 106.

Here, the defendant was placed into a Pay or Appear Program pursuant to three criminal convictions. CP 39. Under the Pay or Appear Program, the defendant was ordered to pay \$25 per cause number, totaling \$75.00 per month. *Id.* Her monthly payment was due by the 30th day of

each month, commencing in May of 2013. *Id.* The order specified that if for any reason the defendant was unable to make the payment due as ordered, she would be required to appear at the Benton County Superior Court Clerk's Office by the 15th day of the next month to schedule a court hearing. *Id.* The hearing would allow the defendant to "explain to the Judge of the Superior Court why Defendant was unable to make the payment." *Id.* The order also stated that if the defendant had not made the payment as required or failed to report to the clerk's office as required, a warrant would be issued for the defendant's arrest. CP 39-40. The defendant read and signed the order, agreeing to all the terms and provisions. *Id.*

The government has a valid interest in imprisoning those who willfully refuse to pay their LFOs. *Bearden v. Georgia*, 461 U.S. 660, 668, 103 S. Ct. 2064, 76 L. Ed. 2d 221 (1983). In *Bearden*, the United States Supreme Court held that it violated due process to revoke probation for nonpayment of fines where a defendant was unable to pay because he was indigent. *Id.* at 672-73. This holding was based on the distinction between a defendant willfully refusing to pay, and a defendant who is unable to pay. *Id.* at 667. The court held that "in revocation proceedings for failure to pay a fine or restitution, a sentencing court must inquire into the reasons for the failure to pay." *Id.* at 672. *Bearden* requires consideration of ability

to pay, bona fide efforts to acquire the resources to pay, and, if necessary, alternative measures other than imprisonment. *Id.* The court may place the burden on the defendant to prove inability to pay. *State v. Bower*, 64 Wn. App. 227, 234, 823 P.2d 1171 (1992). However, this does not eliminate the court's duty to inquire. *Id.*

In *Tate v. Short*, 401 U.S. 395, 398, 91 S. Ct. 668, 28 L. Ed. 2d 130 (1971), the Court held that a state cannot impose a fine and automatically convert it to jail time solely because the defendant is indigent and unable to pay. The general rule is that a defendant may not be jailed for nonpayment of fines where the failure to pay is solely because of indigence. *Smith*, 147 Wn.2d at 111. However, "if the probationer has willfully refused to pay the fine or restitution when he has the means to pay, the State is perfectly justified in using imprisonment as a sanction to enforce collection." *Bearden*, 461 U.S. at 668.

Unlike in *Bearden*, the court here did not violate the defendant's due process rights because the defendant willfully failed to pay her fines. For over a year, the defendant's mother had been making payments toward the defendant's LFOs. 1RP at 15. The defendant's mother stated that she was helping her daughter make payments so that her daughter could take care of other obligations. *Id.* However, the defendant was four months behind payments on the 09-1-00322-3 cause and seven months behind on

the 12-1-00298-7 cause. CP 42-49, 89. While the defendant's mother testified that she was told by the Benton County Superior Court Clerk's office via telephone that she needed to pay \$150.00 and believed this would prevent the issuance of a warrant, it is not sufficient to show the defendant was indigent. 1RP at 16. The defendant was employed during the time the LFOs were to be due, indicating that she had the means to pay the fines. *Id.* at 15. At no time did the defendant appear at the Benton County Superior Court Clerk's office to ask for a hearing due to her inability to pay her fines. *Id.* at 10. The defendant's failure to pay her fines or verify with the clerk that her payments were up-to-date does not amount to a due process violation by the court.

The bench warrants that authorized the defendant's arrest for her failure to pay for her LFOs or appear to schedule a show cause hearing were valid because the defendant willfully failed to pay her fines and because the court provided the defendant with a reasonable alternative by which the defendant could request a hearing if defendant's financial condition had altered. Therefore issuance of the felony warrants was not in violation of the defendant's Fourth Amendment rights.

**2. The court did not err in concluding the officers lawfully stopped the defendant.**

The court did not err in concluding the officers lawfully stopped the defendant because the bench warrant established probable cause to stop and subsequently arrest the defendant.

A person is seized in the constitutional sense when his or her freedom of movement is restrained. *United States v. Mendenhall*, 446 U.S. 544, 100 S. Ct. 1870, 64 L. Ed. 2d 497 (1980). An automobile stop for any duration constitutes a seizure for purposes of Article 1, Section 7 of the Washington Constitution. *State v. Ladson*, 138 Wn.2d 343, 979 P.2d 833 (1999). An officer seizes a person when they stop a person's automobile. *State v. Chelly*, 94 Wn. App. 254, 258, 970 P.2d 376 (1999).

To be lawful, the stop must be justified at its inception and reasonable in scope. *Id.* at 258-59. Once an individual challenges the stop, the burden is upon the State "to prove that the stop was valid" under these constitutional provisions. *Clement v. State Dept. of Licensing*, 109 Wn. App. 371, 376, 35 P.3d 1171 (2001); *Campbell v. State of Wash. Dept. of Licensing*, 31 Wn. App. 833, 837, 644 P.2d 1219 (1982).

"The misuse of traffic stops in furtherance of illegitimate purposes represents an enormous threat to privacy if left unchecked." *State v. Arreola*, 176 Wn.2d 284, 296, 290 P.3d 983 (2012). "In a pretextual traffic

stop, a police officer disturbs the private affairs of an automobile's occupants without having first properly determined that a suspected traffic infraction actually merits police attention." *Id.* "A traffic stop is not pretextual as long as the investigation of either criminal activity or a traffic infraction (or multiple infractions), for which the officer has a reasonable articulable suspicion, is an actual, conscious, and independent cause of the traffic stop." *Id.* at 297.

Some courts employ a "subjective" test to determine whether a stop is pretextual. *United States v. Mota*, 982 F.2d 1384, 1386 (9th Cir. 1993). A stop is pretextual if "the motivation or primary purpose of the arresting officers" is to use the stop in order to search for evidence of an unrelated crime. *Mota*, 982 F.2d at 1386 (quoting *United States v. Smith*, 802 F.2d 1119, 1124 (9th Cir. 1986)). Recent cases utilize an "objective" test. Under the objective test, a stop is not pretextual if a reasonable officer, given the same circumstances, would have made the stop anyway, apart from his or her suspicions about other more serious criminal activity. *United States v. Cannon*, 29 F.3d 472, 476 (1994).

Here, the stop was not pretextual in nature under either inquiry. Under the subjective test, the primary purpose of the stop was to carry out a valid arrest warrant on the defendant. On May 16, 2014, Cpl. Kelly and Sgt. Isakson were working from the same patrol vehicle when they

performed a license check on a 1995 Pontiac Trans Am. CP 66; 2RP at 15. The officers performed a license check and found that the registered owner, Jaclyn Sleater, had two outstanding felony warrants for her arrest. CP 66; 2RP at 15. Cpl. Kelly observed that Jaclyn Sleater's physical description matched that of the driver of the vehicle. CP 66; 2RP at 16. The officers confirmed the defendant's identity, returned to his patrol vehicle, and ran her name through the database to confirm the warrants. CP 67; 2RP at 26. In applying the subjective test, the defendant's two felony warrants were the primary purpose for the traffic stop of her vehicle. The officers were not using the stop as a pretext to search for evidence of an unrelated crime, but simply executing a felony arrest warrant. In applying the objective test, a reasonable officer, aware that the driver of a vehicle had a felony arrest warrant, would have made the stop, thus the stop was not pretextual in nature and any evidence obtained therefrom is admissible.

Therefore, because the officers stopped the defendant's vehicle pursuant to a valid arrest warrant, the court did not err in concluding the vehicle stop was conducted lawfully.

**3. The court did not err in finding the defendant's arrest was lawful.**

The court did not err in finding the defendant's arrest was lawful because the bench warrants issued by the clerk's office on Benton County Superior Court Cause Nos. 09-1-00322-3 and 12-1-00298-7 were properly issued for delinquent LFO payments. The warrants were issued with the authority of law by a neutral magistrate. RCW 10.01.180 grants the court with authority to issue an arrest warrant for defendants who fail to pay a fine or cost.

In deciding whether police officers have probable cause to arrest a defendant, courts take into account the knowledge of the arresting officers. *State v. Stebbins*, 47 Wn. App. 482, 735 P.2d 1353 (1987). The "fellow officer" rule allows the arresting officer to rely on what the other officers or agencies knew. *State v. Mance*, 82 Wn. App. 539, 918 P.2d 527 (1996). However, this rule is also limited by deficiencies in what the issuing agency knows; if the issuing agency lacks probable cause because the information is out of date, the arresting officer also lacks probable cause. *Id.* at 542.

On April 22, 2014, under the direction of Commissioner Jacqueline Stam, two bench warrants were issued for the defendant's failure to pay her LFOs. CP 18, 19. Court clerk records indicated that the

defendant was four months behind on payments on the 09-1-00322-3 case and seven months behind on the 12-1-00298-7 case. CP 42-49, 89. Once the clerk's office discovered the defendant had fallen several months behind on her payments, they were authorized under RCW 10.01.180 to issue arrest warrants for her failure to pay her fines. In accordance with procedure, once the defendant is picked up on a bench warrant and docketed for a preliminary appearance or when the defendant appears for the court date they have scheduled pursuant to the Order Placing Defendant in Pay or Appear Program, the court will review the case for probable cause on the violation.

On May 16, 2014, after Cpl. Kelly and Sgt. Isakson found that the registered owner, Jaelyn Sleater, had two outstanding felony warrants for her arrest, they conducted a traffic stop on the vehicle. CP 66; 2RP at 15-16, 25-26. Upon verifying the defendant's identity, Sgt. Isakson advised the defendant that she had outstanding warrants for her arrest. CP 67; 2RP at 26. When the defendant denied that she had warrants, Sgt. Isakson returned to his patrol vehicle to run her name through the database to confirm the warrants. CP 67; 2RP at 26. Dispatch confirmed with Sgt. Isakson that the defendant did have two valid outstanding felony warrants for her arrest. CP 67; 2RP at 26. Sgt. Isakson returned to the defendant's vehicle and advised the defendant she was under arrest on the outstanding

warrants. CP 67; 2RP at 26. After being arrested on the two warrants, the defendant was transported to the Benton County Jail. CP 67; 2RP at 17, 26.

The bench warrants issued by the clerk's office on Benton County Superior Court cause numbers 09-1-00322-3 and 12-1-00298-7 were properly issued for delinquent LFO payment. Acting under the authority of RCW 10.01.180, two bench warrants were issued once it was determined the defendant fell several months behind on payment of her LFOs. The officers, relying on the validity of these warrants, arrested the defendant.

Therefore, because the two bench warrants were properly issued and in the court system at the time Sgt. Isakson and Cpl. Kelly initiated a traffic stop of the defendant's vehicle based upon said warrants, the stop was lawfully done.

**4. The court did not err in concluding the defendant was lawfully searched.**

The court did not err in concluding the defendant was lawfully searched because the inventory search of the defendant conducted prior to booking was a reasonable, valid search pursuant to a lawful custodial arrest.

The Fourth Amendment requires that seizures be reasonable. U.S. CONST. amend. IV. “For an arrest to be ‘reasonable’ it must serve some governmental interest which is adequate to justify imposition on the liberty of the individual.” *State v. Fisher*, 145 Wn.2d 209, 232, 35 P.3d 366 (2001). “The inventory search is a recognized exception because, unlike the probable cause search and a search incident to arrest, the purpose of an inventory search is not to discover evidence of a crime, but to perform an administrative or caretaking function.” *State v. Smith*, 76 Wn. App. 9, 13, 882 P.2d 190 (1994). Inventory searches are often justified in order “to protect the arrestee’s property from unauthorized interference” while the accused is in jail; “to protect the police from groundless claims that property has not been adequately safeguarded during detention; and to avert any danger to police or others that may have been posed by the property. Knowledge of the precise nature of the property protects against claims of theft, vandalism, or negligence.” *Id.* (citing *Colorado v. Bertine*, 479 U.S. 367, 373, 107 S. Ct. 738, 93 L. Ed. 2d 739 (1987)).

In *State v. Ward*, 65 Wn. App. 900, 902, 830 P.2d 383 (1992), the defendant, Lueron Ward, was found in possession of cocaine during booking on an outstanding warrant.

As part of the booking procedure, Mr. Ward was required to empty his pockets into a pass-through drawer at the booking window in the jail so the contents could be inventoried. A folded shiny paper packet was observed under the clear cellophane wrapper of Mr. Ward's cigarette package. The arresting officer, suspecting the bindle contained cocaine, opened it and observed a white powder. The substance tested positive for cocaine.

*Id.* The Court determined that “[t]he inventory search of Mr. Ward’s person, conducted in accordance with established procedures before booking him, was a reasonable, valid search pursuant to a lawful custodial arrest.” *Id.* at 904.

Similar to *Ward*, in the instant case, the defendant was found in possession of methamphetamine during booking on two outstanding warrants. Once the defendant was transported to the jail, she was searched by Corrections Officer Carrie Gates as part of the booking procedure. CP 93. When Officer Gates escorted the defendant into the search area, she could see something round and visible through the defendant’s shirt, wedged between her breasts. CP 16. Cpl. Kelly overheard Officer Gates ask the defendant what was in the defendant’s shirt. CP 93; 2RP at 18. The defendant responded that it was dope. CP 93; 2RP at 18. Officer Gates removed a plastic cylindrical objection approximately six inches in length from between the defendant’s breasts and handed the item to Cpl. Kelly. CP 16, 94. Inside the cylindrical item was a plastic baggie with a large amount of white crystalline substance that Cpl. Kelly immediately

recognized as methamphetamine based upon his training and experience. CP 94. The item field-tested positive for methamphetamine. CP 94. The defendant was then booked into the Benton County Jail on the warrants and Unlawful Possession of a Controlled Substance. CP 94.

Consistent with the Fourth Amendment, it was reasonable for the officers to search the defendant, as part of a routine administrative procedure at the jail pursuant to a valid arrest. Therefore, the search was both valid and reasonable pursuant to a lawful custodial arrest.

**5. The court did not err in denying the defendant's motions to suppress and concluding the evidence was admissible.**

The court did not err in denying the defendant's motions to suppress because both the stop and the arrest were lawful. The defendant's Fourth Amendment rights were not violated by the admission of evidence because it was seized pursuant to a valid arrest warrant during a routine booking procedure.

"[A]n inmate has no reasonable expectation of privacy in his or her shoes, boots, or other personal items once they have been searched by the police in a lawful search incident to arrest or they have been properly inventoried following booking." *State v. Cheatam*, 150 Wn.2d 626, 634, 81 P.3d 830 (2003). In *United States v. Edwards*, 415 U.S. 800, 802, 94 S.

Ct. 1234, 39 L. Ed. 2d 771 (1974), the defendant was arrested and placed in jail.

The Court held that:

[O]nce the accused is lawfully arrested and is in custody, the effects in his possession at the place of detention that were subject to search at the time and place of his arrest may be lawfully searched and seized without a warrant . . . . This is true where the clothing or effects are immediately seized upon arrival at the jail, held under the defendant's name in the "property room" of the jail, and at a later time searched and taken for use at the subsequent criminal trial.

*Id.* at 807.

Here, two felony warrants were issued for the defendant's arrest. CP 18-19, 93. Upon locating the defendant, officers arrested and booked her into the Benton County Jail. CP 93; 2RP at 18, 26. Pursuant to routine booking procedures, Officer Gates located methamphetamine on the defendant's person. CP 16, 94. The defendant was then advised of her Miranda warnings by Cpl. Kelly. CP 94; 2RP at 19.

Therefore, the court did not err in denying the defendant's motions to suppress because the stop and the arrest were lawful. The defendant's Fourth Amendment rights were not violated by the admission of evidence because it was seized pursuant to a valid arrest warrant during a routine booking procedure.

**6. The court did not err in finding the defendant guilty of possession of methamphetamine and entering judgment against the defendant.**

The court did not err in finding the defendant guilty of possession of methamphetamine because the defendant was in possession of a controlled substance when she was booked into the Benton County Jail on two outstanding warrants.

RCW 69.50.4013(1) provides, “[i]t is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice . . . .” In *State v. Higgs*, 177 Wn. App. 414, 311 P.3d 1266 (2013), the Court held that there was no minimum quantity requirement in unlawful possession of a controlled substance statute, and therefore evidence that the defendant possessed methamphetamine residue was sufficient to support conviction for possession, where the statute did not contain a “measurable amount” element. The Court in *State v. Larkins* notes that the legislature had the power to create such a minimum requirement in the statutory language, but has not done so. *State v. Larkins*, 79 Wn.2d 392, 394, 486 P.2d 95 (1971).

To prove unlawful possession of a controlled substance, the State must prove only the nature of the substance and the fact of possession.

*State v. Hathaway*, 161 Wn. App. 634, 251 P.3d 253 (2011). Actual possession of a controlled substance requires that the controlled substance be in the personal, physical custody of the person charged with the crime. *State v. Ibarra-Raya*, 145 Wn. App. 516, 187 P.3d 301 (2008).

Here, when Officer Gates asked the defendant what was located in between her breasts, the defendant admitted that it was dope. CP 67. The item was found to be approximately 18.4 grams and field-tested positive for methamphetamine. CP 67. The defendant was then advised of her Miranda warnings by Cpl. Kelly. CP 94; 2RP at 19. Only after being properly advised of her Miranda warnings and knowingly, freely, and voluntarily waiving her rights was the defendant questioned regarding where she obtained the methamphetamine found on her person. CP 96; 2RP at 20. The defendant stated that she put the drugs between her breasts and that the female always has to carry the drugs. CP 68; 2RP at 20. The defendant indicated that the methamphetamine was for personal use and that she would take the charge because she had it in her possession. CP 68. The substance found on the defendant's person was sent to the Washington State Patrol Crime Laboratory for testing. CP 68. The Washington State Patrol Crime Laboratory report prepared by Jason Trigg, Forensic Scientist, indicated that the knotted plastic bag containing 17.1

grams of white crystalline materials submitted was found to contain methamphetamine, a controlled substance. CP 68.

The court did not err in finding the defendant guilty of possession of methamphetamine because the defendant was in actual possession of a controlled substance when she was booked into the Benton County Jail on two outstanding warrants.

#### IV. CONCLUSION

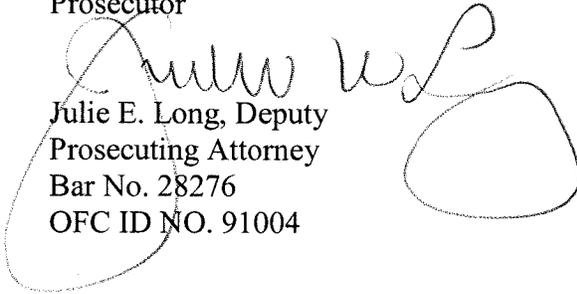
This Court should affirm the defendant's convictions because the arrest warrants were valid and authorized by RCW 10.01.180.

**RESPECTFULLY SUBMITTED** this 25th day of September, 2015.



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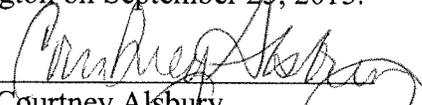
**CERTIFICATE OF SERVICE**

I certify under penalty of perjury under the laws of the State of Washington that on this day I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

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E-mail service by agreement  
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Signed at Kennewick, Washington on September 25, 2015.

  
\_\_\_\_\_  
Courtney Alsbury  
Appellate Secretary