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IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON
DIVISION III
No. 34525-4-III

STATE OF WASHINGTON,

Plaintiff/Respondent,

vs.

CLARK ALLEN TELLVIK,

Defendant/Appellant

Respondent's Brief

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I. ASSIGNMENTS OF ERROR

1. The trial court did not err in denying a motion to suppress physical evidence, *i.e.*, the contents of the black zippered cd case which was opened in the course of a valid inventory search when there was no indication that the cd case contained anything other than cds; there was no indication that there were drugs in the vehicle; neither man indicated that the cd case was his; and the cd case was neither locked nor within a locked receptacle.
2. It is arguable whether the motion *in limine* referenced by Appellant addresses the statements made by the victim, but if it is applicable, those statements by the victim were innocuous at best, as they did not describe the location of the recovered gun, or who had been responsible for its presence where it was recovered.

II. ISSUES PRESENTED

- A. THE BLACK ZIPPERED CD CASE LOCATED UNDER THE PASSENGER SEAT WAS NEITHER LOCKED NOR WITHIN A LOCKED RECEPTACLE, THEREFORE A SHOWING OF MANIFEST NECESSITY WAS NOT NECESSARY TO SUPPORT THE INVENTORY SEARCH OF THE CD CASE.
- B. THE MOTION *IN LIMINE* PROHIBITED CONCLUSORY TESTIMONY IN RELATION TO VIDEO OF THE EVENTS IN QUESTION AND WAS PREMISED UPON LANGUAGE SUPERIMPOSED UPON THE VIDEO WHICH WAS REMOVED PRIOR TO TRIAL. MS. POULTER TESTIFIED THAT SHE HAD SEEN A GUN ON THE VIDEO WHICH LED TO

HER CONTACT OF LAW ENFORCEMENT AND THEIR TAKING OF ADDITIONAL INVESTIGATORY STEPS AND LOCATING A GUN WHERE THE STOLEN TRUCK HAD BEEN STUCK. MS. POULTER NEVER TESTIFIED WHERE SHE HAD SEEN THE GUN IN RELATION TO THE TRUCK; NEVER TESTIFIED AS TO THE MECHANISM OF HOW THE GUN ENDED UP WHERE IT WAS FOUND, AND MOST IMPORTANTLY, NEVER REFERENCED EITHER DEFENDANT IN RELATION TO THE GUN.

III. STATEMENT OF THE CASE

On January 23, 2016, Clark Tellvik and Michael Peck drove a recently stolen vehicle down the unplowed driveway of a Kittitas County rural residence belonging to Laura Poulter. RP 80, 152, 285, 290, 338, 370.

Ms. Poulter, who had just had a video surveillance system installed at her property by an individual who had done similar work for her at her businesses, was in Cle Elum at approximately one a.m. when Clark Tellvik and Michael Peck arrived at her residence. RP 287, 291. Telling a friend about her new system, Ms. Poulter pulled up the live feed which she was able to view through an app on her phone. RP 291. Ms. Poulter was surprised to see two individuals, neither of whom she knew on her property. *Ibid.* Ms. Poulter watched as the person subsequently identified as Mr. Tellvik, approached the front door and first knocked, and then rang the doorbell. RP 335. She could

hear her dogs barking, and saw Mr. Tellvik peek in through the top of the glass door. *Ibid.* It appeared to Ms. Poulter that the truck that the two men had arrived in was stuck in the snow. RP 338, 339. Because she was upset by what she was viewing, Ms. Poulter asked her friend to call 911 and then began the approximately 20 minute return trip to her home. RP 293, 294. When Ms. Poulter arrived home, she saw the shed door open, as well as the door to her shop, and believed that the car battery and bag of tools in the back of the stolen truck the two men had arrived in were hers and had been previously located in the shop. RP 284, 317, 318, 320, 324, 325, 337, 338, 340, 373.

Kittitas County Sheriff's Office Deputy Dan Kivi testified that it was unusual to be dispatched as an event was actually occurring and under observation. RP 360. He and Corporal Green were the first two officers to arrive at the Poulter residence, followed closely by Deputies McKean and Rickey. Uncertain of how many individuals were at the scene, although they had been told two, law enforcement detained Mr. Tellvik and Mr. Peck while searching the property. The truck that the two men had arrived in had a broken rear window, as well as a screwdriver in its ignition and soon returned as having been stolen the day before in Yakima. RP 160, 439, 440. Within the truck, deputies found a GPS unit, two cellphones, and a black zippered cd case. RP

469, 470. In the bed, law enforcement located a car battery and a bag of tools. When asked, Mr. Peck indicated that the phones in the truck were theirs¹. RP 115. Mr. Peck stated that the car battery and bag of tools within the bed of the truck was his. RP 87, 115, 578, 587, 647. Mr. Peck stated that he brought the car battery and tools as Mr. Tellvik had indicated to him that the truck was not running well. RP 87, 88.

Mr. Tellvik told the officers that they were just driving around and had got lost so they had turned into Ms. Poulter's property to turn around and had gotten stuck. RP 131. He told Deputy Rickey that the truck belonged to a friend, but that he was hesitant to give the deputy his friend's name. *Ibid.* When he was asked why they had driven all the way down Ms. Poulter's driveway in order to turn around rather than turn around on the completely dry pavement of the main road, Mr. Tellvik told Deputy Rickey that he didn't know. RP 133. Neither man gave any indication of ownership of the black cd case which was wedged under the passenger side seat of the vehicle. RP 87, 114, 115, 130-133, 161, 578, 587, 647.

Law enforcement did not immediately observe any break-in activity on the property. It was not until Ms. Poulter arrived and

¹ **It is unclear whether or not either of the two men claimed ownership of the GPS system located within the truck. A search warrant was obtained and executed for both the phones and the GPS unit without any evidentiary results. RP 422-424.**

pointed out the open outbuildings which had been closed at her departure, that the deputies observed the fresh damage to the door of the shop. RP 368. Upon entering the shop, deputies also observed wet spots on the flooring. RP 372, 580. Ms. Poulter kept antiques and heirlooms within her shop, as well as a collector Camaro. RP 318, 372. It was the missing battery to the Camaro that Ms. Poulter believed that she recognized within the bed of the stolen truck. RP 319, 373. It was Mr. Peck who told law enforcement that they had entered outbuildings on the property to find items to help with the truck traction. RP 85.

The black zippered cd case, opened in the course of a subsequent inventory search, contained individual bags of different sizes containing methamphetamine and weighing 74.18 grams including its packaging. RP 484, 536. Also located within the cd case were digital scales and a glass smoking pipe, both of which also tested positive for methamphetamine. RP 161, 162, 473, 474, 479, 537-540.

The men told law enforcement that they had each had a dispute with their respective girlfriends earlier in the evening, and had decided to drive from Yakima to the casino in Ellensburg. RP 83, 574. On their way back to the highway, the two men got “lost.” RP 82, 138, 146, 384, 554, 556, 575, 586. Rather than drive back towards the

interchange where the casino was located or on towards the lights of Ellensburg, Mr. Tellvik drove the stolen vehicle down the long unplowed driveway of Ms. Poulter's four acre property. RP 284, 285, 290, 384, 557, 559, 574, 575. Mr. Tellvik initially told Corporal Green both that he had pulled in to turn around and then changed his story to say that he had pulled in to ask for directions. RP 575.

Mr. Peck's girlfriend testified that the defendant took the battery and tools with him when Mr. Tellvik picked him up as he took tools "with him usually when he – goes anywhere, just in case they break down or something –." RP 647. The owner of the truck, Shawn McCarthy, testified that there had been nothing wrong with the battery either before the truck was stolen or after it had been recovered. RP 714, 715. The deputies could tell that the truck had been driven to numerous locations on the property before getting stuck. This was evidenced by both the video footage, as well as the distinctive tire tracks left by the vehicle's racing "slicks", *i.e.*, tires. RP 368, 389, 408, 440, 462, 524.

After Ms. Poulter arrived home, she and law enforcement were able to pull up video which had captured some of the men's activity on her property. They were able to observe Mr. Tellvik unsuccessfully attempt entry into the shop, then run back to the truck, obtain a pry

bar, jimmy the shop door, and enter. RP 376, 398. A 15” blue pry bar was located outside the driver’s door of the men’s truck covered with a thin layer of snow. RP 374, 465, 582, 583.

Later that same day, two events occurred: 1) Ms. Poulter’s neighbor kindly plowed her driveway compacting the snow and ice where the truck had been stuck; and 2) Ms. Poulter watched the video feeds (three in all) in their entirety and saw an item which she believed to be a gun. RP 330, 331.

Ms. Poulter contacted law enforcement and informed them of what she had seen. She also called Troy Schlaitzer, the man who had installed the cameras to ask if he could download the video footage for law enforcement. RP 329, 331, 377.

The next day, Deputy Kivi and Corporal Green went to Ms. Poulter’s home to watch the segment of video in which she believed she had “actually seen him toss a gun.” RP 377. There is no indication, either direct or indirect, as to which “him” Ms. Poulter was referring to. *Ibid.* Deputy Kivi attempted to use one of Ms. Poulter’s large crowbars in the general area, but due to the compact nature of the snow and ice, was unable to locate anything. He and Corporal Green believed that the footage was Mr. Tellvik dropping the pry bar and looked no further. RP 377, 378.

However, still believing she had seen a gun, Ms. Poulter contacted law enforcement again the next day. RP 331. Deputy Vraves then went to Ms. Poulter's home on January 25, 2016. RP 610, 611. Deputy Vraves testified that he watched the video with Ms. Poulter and was able to see an individual by the driver's door "kneel down and put something in the snow, and then kick snow over it, kind of stomp on it, as one of our patrol vehicles pulls into the driveway." RP 597, 598. In response to the prosecutor's question, Deputy Vraves stated that he saw this individual perform this activity twice. *Ibid.*

Deputy Vraves went to the location where he believed the truck to have been and immediately realized that the area had been plowed, packing the snow. RP 598. Since it was as the deputy put it, somewhat like "finding a needle in a haystack," he called a friend who owned a metal detector. RP 598, 599. Using the metal detector, in an area consistent with what he'd observed on the video, he and Deputy Goeman were able to find a plowed location, where using his foot to chip at the snow and ice, Deputy Vraves was then able to make out the outline of a black item, which was eventually determined to be a gun. RP 599-603. *N.B.* Appellant seems to believe that Deputy Vraves first saw the outline of the black item under the snow and ice and then

utilized the metal detector to confirm the nature of the item. However, the Deputy testified that it was not until he had utilized the metal detector, received a signal, and cleared the area with his foot that he was able to see the black item, *i.e.*, the gun, under the snow and ice. BA 5, 19, 20, RP 599, 600. Pictures were taken of the weapon when it was located at the scene on January 25, 2016, two days after Mr. Tellvik and Mr. Peck were located on Ms. Poulter's property. RP 603, 610. The weapon, a Cal-tech (*sic*) PF-9 mm contained a loaded magazine. RP 605, 606.

Kyle Osborne, testified that he was the gun owner; that it had gone missing August of 2015, around the time that his camp trailer had been broken into, but that he had not reported it stolen as he was uncertain as to whether it had been in the trailer and taken, or merely mislaid. RP 450-453. Mr. Osborne testified that the gun worked both before the burglary and after he'd received it back. RP 454.

Ms. Poulter testified that the video from her property accurately depicted the scene of her property and what she had observed. RP 332.

Terry Schlaitzer testified that he was experienced with custom audio and video, data networking, and surveillance. RP 342. He had installed Ms. Poulter's system on January 21st, and 22nd, just preceding

the incident. RP 287, 343-348. He testified that in retrieving the footage, his “job was to find the data and move it into a common folder and then that data was then put onto a thumb drive and handed over to the police.” RP 345. He also testified that the data was not corrupted. RP 346. He explained that the cameras had parameters set for sensitivity and were triggered if a certain percentage of that square were turned to white by either light or movement. RP 348. Mr. Schlaitzer testified that pixels can be enlarged without either distorting or changing the video. RP 354. He had remotely downloaded the material and believed that a forensic analysis of the footage would show that it had not been either manipulated or modified. RP 349, 356, 357.

Deputy Martin testified that he had over 300 hours of specialized training in computer forensics and video. RP 401, 402. He had received the video from Ms. Poulter on thumb drives and took segments of the video to “piece them together in the timeframe that they needed to be pieced together so that it showed a cohesive time frame of everybody that was there.” RP 404. Deputy Martin reviewed the resultant video for accuracy himself and with the other deputies. RP 404, 424, 425.

IV. ARGUMENT

A. **THE BLACK ZIPPERED CD CASE LOCATED UNDER THE PASSENGER SEAT WAS NEITHER LOCKED NOR WITHIN A LOCKED RECEPTACLE, THEREFORE A SHOWING OF MANIFEST NECESSITY WAS NOT NECESSARY TO SUPPORT THE INVENTORY SEARCH OF THE CD CASE.**²

Prior to removing the stolen truck from the scene, deputies conducted an inventory search of the vehicle. RP 94, 96, 155, 160, 164. It was in the course of this search that the methamphetamine, digital scales, and glass pipe were found in the black cd case which had been located under the passenger seat. RP 161, 473, 474, 478-484, 535, 539.

When reviewing the denial of a suppression motion under CrR 3.6, an appellate court determines whether substantial evidence supports the challenged findings of fact and whether the findings support the conclusions of law. *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). Evidence is substantial when it is enough to persuade a fair-minded person of the truth of the stated premise. *State v. Reid*, 98 Wn.App. 152, 156, 988 P.2d 1038 (1999).

²CrR 3.6 Findings of Fact and Conclusions of Law on Appellant's motion to suppress were filed July 25, 2017. CP 118. The following argument addresses Appellant's Supplemental Brief filed on September 22, 2017, which Appellant filed in response to those Findings.

In its oral ruling, the Court stated:

There was no reason why the officers in this case thought that the CD bag contained any evidence. It was a CD bag and I didn't get the link that Ms. Powers (attorney for Mr. Peck) referenced to the cash that was taken from Mr. Peck. I didn't see that linked up with Deputy McKean, who did the inventory search. But even if he did, like I said, there's no evidence that there were any drugs in that CD case. The officers are required under an inventory search to do the inventory search. They have to look. I mean, you could have a toolbox in the back of the truck. There's no – why would you think there's any crime, evidence of a crime in there? There's no way the judge is going to sign a search warrant for it, but they still need to look to see if there's any tools in there. Otherwise, when the tools come up missing, somebody's going to say there was \$12,000 worth of tools in that toolbox. The tow truck operator, the Sheriff's Office, the individual officers are all going to be liable for that.

Now there's a reason we have these inventory searches and it's for the reasons that Deputy McKean spoke of. And I didn't, I didn't see anything out of the ordinary here that would make me think that he was trying to use the inventory search to try to bypass a warrant requirement. He's just doing his inventory search, so I'm going to deny the motion as well. RP 242-243.

One of the narrow exceptions to the warrant requirement is a valid inventory search which is what occurred here. Inventory searches have long been recognized as a practical necessity. *State v. Gluck*, 83 Wn.2d 424, 428, 518 P.2d 703(1974) (citing *State v. Montague*, 73 Wn.2d 381, 438 P.2d 571 (1968); *State v. Olsen*, 43 Wn.2d 726, 263 P.2d 824 (1953)). Warrantless inventory searches serve many important non-investigatory purposes, and are permissible because they (1) protect the vehicle owner's (or occupant's) property,

(2) protect law enforcement agencies/officer and temporary storage bailees from false claims of theft, and (3) protect police officers and the public from potential danger. *State v. Tyler*, 177 Wn.2d 690, 302 P.3d 165 (2013). An inventory search is permitted only to the extent necessary to achieve its purposes as stated *supra*.

The cases cited by appellant do require a showing of manifest necessity when the item sought to be searched in the course of an inventory search is either itself locked, or located within a locked area of the vehicle. Neither situation is applicable here. *See State v. White*, 135 Wn.2d 761, 958 P.2d 982 (1998), police may not open a locked trunk of a vehicle absent a manifest necessity. In this matter, the methamphetamine, pipe, and scales were all found in a black zippered cd case located under the front passenger seat and which gave no indication of containing contents other than cds.

This case is distinguishable from *State v. Wisdom*, 187 Wn.App. 652, 674, 349 P.3d 953 (2015), cited by Mr. Tellvik, in which Mr. Wisdom told law enforcement that they would find drugs in his vehicle prior to the inventory search and acknowledged ownership of the case in which the drugs were located. In *Wisdom*, the Court also noted that during the CrR 3.6 hearing, the deputy acknowledged that he was on the lookout for controlled substances in the course of his

search based upon the defendant's statements. *Wisdom* at 661-663. In Mr. Tellvik's case, while Mr. Peck claimed ownership of some of the items in the truck, *e.g.*, the phones, the car battery, the bag of tools, neither man acknowledged ownership of the black cd case located under the front passenger seat. (emphasis added). RP 87, 578, 588, 647. Nothing in this record indicates that Mr. Tellvik had a reasonable expectation of privacy in the black cd case. He offered no indication that it was his personal property. RP 131-134. While denial of ownership is not in and of itself sufficient to divest an individual of a privacy interest in an article, the court can look to the location in which the item was found. *State v. Evans*, 159 Wn.2d 402, 150 P.3d 105 (2007). Not only was the black cd case not claimed by either man, but it was also within a stolen vehicle in an accessible location where it was not readily observable, and may have been placed by the vehicle owner. RP 161, 470. There were no indicators for law enforcement to assume that the case contained anything belonging to either man or that it contained contraband. RP 160, 161, 168, 169, 470, 488, 489, 491. *Also cf. Wisdom, supra.* in which the Court in addition to discussing the need for a warrant for a locked container, also noted the personal nature of purses, luggage, and shaving kits, and an individual's heightened expectation of privacy in those items.

See State v. Kealey, 80 Wn.App. 162, 170, 907 P.2d 319 (1995)

(stating that there is a reasonable privacy interest in traditional repositories of personal belongings). A cd case simply lacks any personal association of an intimate nature.

Because of the absence of any evidence which would have led either law enforcement or a neutral and detached magistrate to believe that drugs would be found in the cd case, as well as the innocuous nature of the cd case itself, the deputy's opening of the zippered case in the course of the valid inventory search was reasonable and permissible.

B. THE MOTION IN LIMINE PROHIBITED CONCLUSORY TESTIMONY IN REGARDS TO VIDEO OF THE EVENTS IN QUESTION, AND WAS PREMISED UPON LANGUAGE SUPERIMPOSED UPON THE VIDEO WHICH WAS REMOVED PRIOR TO TRIAL. MS. POULTER TESTIFIED THAT SHE HAD SEEN A GUN ON THE VIDEO WHICH LED TO HER CONTACT OF LAW ENFORCEMENT AND THEIR TAKING OF ADDITIONAL INVESTIGATORY STEPS, AND LOCATING A GUN WHERE THE STOLEN TRUCK HAD BEEN STUCK. MS. POULTER NEVER TESTIFIED WHERE SHE HAD SEEN THE GUN IN RELATION TO THE TRUCK; NEVER TESTIFIED AS TO THE MECHANISM OF HOW THE GUN ENDED UP WHERE IT WAS FOUND, AND MOST IMPORTANTLY, NEVER REFERENCED EITHER DEFENDANT IN RELATION TO THE GUN.

Both defendants in their motions *in limine* voiced a concern with words which had been superimposed over the video recovered from Ms. Poulter. RP 207, 208. The motions *in limine* focused solely on these descriptors as to what the video displayed. *Ibid.* The Court, in its ruling, stated:

That's fine. So long as we all understand each other, yeah. The commenting on the evidence is clear, but they get to describe what it is they think they're seeing. All right, okay. Just like we say suspected methamphetamine because you don't know it's methamphetamine until it goes to the lab and is tested, same thing. Okay. So what's next? RP 210.

Appellant contends that Ms. Poulter's testimony about having seen a gun on the video footage violated the Court's order on motions *in limine* and should have resulted in a mistrial then, and must result in a dismissal of Appellant Tellvik's convictions and enhancement based upon the firearm now.

Ms. Poulter did make repeated references to having observed a gun. In her testimony she stated, "I saw the gun", "for sure it was a gun", "we still framed it on the gun", "it couldn't have been anything but a gun", and testified of having told law enforcement "there's probably a gun in the ground." RP 330, 331. However, Ms. Poulter never testified about the mechanism of how the gun got to where it was located. Contrary to Mr. Tellvik's assertion, she never testified that she saw Mr. Tellvik "bury a

gun”. BA 4. She never testified as to where she had seen it in relation to the truck. (emphasis added). Deputy Vraves, who also viewed the video, testified that he “could see the driver’s door open and a subject stand there and kneel down and put something in the snow and then kick snow over it and kind of stomp on it as one of our patrol vehicles pulls into the driveway.” RP 598. The deputy went on to testify that he had seen that action occur twice in the video. *Ibid.* Ms. Poulter never associated the gun with either man. She never testified that either man dropped the gun or even implied it. (emphasis added). The one reference to Ms. Poulter indicating how the gun had landed up where it was located was when Deputy Kivi testified that “she (Ms. Poulter) said she’d looked through the video and had actually seen him toss a gun.” RP 377. However neither man’s name was mentioned, and the deputy was not being asked about either specific man at the time of this enquiry. *Ibid.* It is somewhat arguable as to whether or not Ms. Poulter actually violated the motions *in limine*. The Court’s overruling of counsel’s objection would seem to support this inference. RP 330. Contrary to appellant’s assertion, the motion *in limine* admonition towards Ms. Poulter was that she not imply that she knew of these people (Mr. Peck and Mr. Tellvik) and of her suspicions of them. RP 205, 206, 253.

If the court's ruling on the motions *in limine* was arguably violated by Ms. Poulter's testimony, such violation was harmless error. Deputy Vraves who actually located the gun, testified that he went to the location he had observed on the video, employed the metal detector, and, only when he had received a ping from the detector, began the digging which led to his ability to see the black shape which turned out to be the gun.

The jury saw the video that Ms. Poulter saw and they saw the gun that the deputy eventually located only after he had employed a metal detector and dug through densely packed snow and ice. Any belief that Ms. Poulter had that the item was in fact was a gun was inconsequential when the same facts were well established by the actual evidence. Additionally, contrary to Appellant's assertion, Ms. Poulter never attributed the gun to either defendant or either defendant's actions. Her belief that the item was a gun was born out by its discovery. Had Ms. Poulter not said, "I saw the gun", "for sure it was a gun", "we still framed it on the gun", and "it couldn't have been anything but a gun" or "there's probably a gun in the ground", it would not have changed the video, or Deputy Vraves testimony about using the metal detector, and his subsequent discovery. It was the jury who made the determination that the gun located at the driver's side of the stolen truck driven by Mr. Tellvik had been in his possession and control prior to the arrival of the deputies and his and Mr.

Peck's subsequent arrest. It was the jury who made the determination that the gun located under the packed snow and ice where the stolen truck was stuck had in fact been dropped by Mr. Tellvik. Ms. Poulter simply never ascribed the gun to either man or either man's actions on the night in question.

Erroneous admission of merely cumulative evidence does not constitute reversible error. *Boeing v. State*, 89 Wn.2d 443, 572 P.2d 8 (1978). Error is not prejudicial unless, within reasonable probabilities, the outcome of the trial would have been materially affected had the error not occurred. *State v. Tharp*, 96 Wn.2d 591, 599, 637 P.2d 961 (1981), *State v. Cunningham*, 93 Wn.2d 823, 613 P.2d 1139 (1980).

"Improper admission of evidence constitutes harmless error if the evidence is of minor significance in reference to the evidence as a whole." *State v. Neal*, 144 Wn.2d 600, 611, 30 P.3d 1255 (2001).

The video in this case showed the defendant and Mr. Peck driving onto Ms. Poulter's property. It showed them driving around the property prior to getting stuck in the snow. It showed Mr. Tellvik knocking on Ms. Poulter's front door, ringing the bell, and peeking in through the upper door window. It showed Mr. Tellvik using a pry bar to break into her shop. It showed Mr. Tellvik dropping two items into the snow near the driver's side door and attempting to cover those items with

snow with his foot as law enforcement arrived at the scene. Located in that area during the initial contact with Mr. Tellvik and Mr. Peck, was a 15” pry bar consistent in appearance with the one Mr. Tellvik had used in his attempt to enter the shop, and a few days later, deep under snow and ice plowed subsequent to the removal of the stolen vehicle, a stolen Cal-Tech (*sic*) PF-9 mm gun which the jury concluded had been dropped in the same general location by the same individual who had also dropped the pry bar, *i.e.*, Appellant, Clark Tellvik.

V. CONCLUSION

There was no indication that the unlocked black zippered cd case which traditionally has not been held to contain items of an intimate or personal nature was not legitimately opened during the course of a valid inventory search. Furthermore, it is arguable whether the victim, Ms. Poulter, violated the Court’s motion *in limine*, but if she did, such violation was of an inconsequential nature and contributed no prejudice towards Mr. Tellvik. For the foregoing reasons, the Appellant’s motions to suppress and/or dismiss should be denied.

Respectfully submitted this 29th day of November, 2017.



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