

NO. 34591-2-III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

STATE OF WASHINGTON,

Respondent,

v.

TIPASA UILIATA,

Appellant.

APPEAL FROM THE SUPERIOR COURT
OF KLICKITAT COUNTY, STATE OF WASHINGTON
Superior Court No. 16-1-00039-0

BRIEF OF RESPONDENT

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A. ISSUES PRESENTED

1. Whether the affidavit in support of the search warrant contained stale information.
2. Whether the affidavit in support of the search warrant was based on a confidential informant who was credible and had a basis of knowledge.
3. Whether the seizure of the firearms during the execution of the search warrant was lawful and constitutionally permitted.
4. Whether there was sufficient evidence to support the school bus stop enhancement where the house in question was next to two bus stops.
5. Whether the trial court's failure to record the in camera review of the confidential informant was harmless error.
6. Whether there are scrivener's errors on the judgement and sentence justifying remand.

B. STATEMENT OF THE CASE

In March, 2016 Klickitat County Sherriff Office Deputy Frank Randall used a confidential informant to complete controlled drug buys from a home believed to be a drug den in Dallesport, Washington. RP 143. Deputy Randall completed two controlled buys between March 20, 2016 and March 24, 2016 through his confidential informant, resulting in the confidential informant twice obtaining methamphetamine. RP 145-46, 180.

On March 24, 2016 Deputy Randall obtained a search warrant for the Appellant's home. RP 147-48. On March 25, 2016 Deputy Randall

served the search warrant at the address while accompanied by other officers. RP 148. Upon serving the warrant the Appellant immediately fled the rear of the house attempting to run before being detained by officers. RP 188-89, 193-94. When the home was secured Deputy Randall conducted a search, finding a shotgun and two handguns in the Appellant's bedroom. RP 155, 166. Deputy Randall also discovered additional guns, methamphetamine, heroin, a glass pipe, personal paperwork, digital scales, and small plastic bags in the home. 158-166, 180-83. In total eight guns were discovered. RP 148-166.

On March 28, 2016 Appellant was charged with five counts, felonies, including: 1) RCW 69.50.401(1) – Possession with Intent to Manufacture or Deliver a Controlled Substance- Schedule I or II Narcotic Drug or Flunitrazepam; 2) RCW 69.50.401(2)(b) – Possession with Intent to Manufacture or Deliver a Controlled Substance – Amphetamine or Methamphetamine; 3) RCW 9.41.040(1)(a) – Unlawful Possession of a Firearm in the First Degree; 4) RCW 9.41.040(1)(a) – Unlawful Possession of a Firearm in the First Degree; 5) RCW 9.41.040(1)(a) – Unlawful Possession of a Firearm in the First Degree.

On May 15, 2016 a 3.6 hearing was held concerning the validity of the search warrant. RP 6. Attorney for Appellant argued that the lack of clear dates on the warrant created an issue of staleness. RP 7. The court sided with the prosecutor, finding that the issue was not stale, as the judge

issuing the warrant did, on the day the second drug purchase was made, and just days after the initial purchase was made. RP 9. The Appellant's attorney also moved to have the weapons suppressed as they were not listed in the original warrant. RP 9-10. Appellant's attorney instead argued that upon executing the search warrant for the drugs, the officers should have stopped their search and sought a second warrant when they discovered the guns. RP 12. The judge disagreed and allowed the weapons to be admitted at trial. RP 14.

In response to the Appellant's motion to pierce the informant privilege, on June 14, 2016 the court held an in camera hearing where the confidential informant in this matter was interviewed. CP 45. The Findings of Fact and Conclusions of Law re. Defendant's Motion to Disclose Confidential Information was entered on June 20, 2016, whereby the court ruled that disclosure of the confidential informant was not required and that testimony of the confidential informant's actions would be permitted but no hearsay statement would be allowed. CP 91-93. The court further found that Appellant had not met the burden to show the informant's privilege should be pierced. CP 91-93.

Trial was held on July 6 and July 7, 2016. RP 50, 314. Deputy Randall and various other officers involved in the execution of the warrant testified to the facts above regarding the warrant and the findings within the home. RP 139. The confidential informant did not testify.

Proof of the bus stop enhancement was presented through the Director of Transportation for the local school district. He testified regarding his familiarity with the routes and was able to identify the Appellant's home being within 1,000 feet of a bus stop. RP 198. Another witness, a utilities facilities technician with Klickitat County, also testified to the location of the home. RP 200. The technician testified that when he went to the Appellant's address to do measurements he measured 141 feet from one bus stop and 511 feet from another. RP 200, 208-10.

Another occupant of the house, Roger Neil, testified that he participated in drug deals with the Appellant, completing transfers of money and methamphetamine on several occasions. RP 226. He also testified that the Appellant would have frequent short term visitors at the house consistent with drug dealing. RP 225-27. On July 7, 2016 Neil also testified he observed the Appellant in possession of what appeared to be a firearm. RP 232-233.

Appellant was found guilty on all counts with a special finding by the jury that Counts I and II happened with 1000 feet of a school bus zone stop. RP 314-16.

C. ARGUMENT

1. The affidavit in support of the search warrant did not contain stale information.

It is undisputed that the investigation and controlled buys which

formed the basis for the search warrant occurred within four days and the warrant was executed on the fifth day. The fourth day was also the day the warrant was approved. This four day period included two controlled buys and subsequent law enforcement investigation. Considering the facts and circumstances of this case, the information relied upon by the magistrate was not stale.

The warrant clause of the Fourth Amendment to the United States Constitution and Article I, Section 7 of the Washington State Constitution require that a trial court issue a search warrant only on a determination of probable cause. *State v. Vickers*, 148 Wn.2d 91, 108, 59 P.3d 58 (2002). “Probable cause requires a nexus between... criminal activity and the items to be seized, and ... the items to be seized and the place to be searched.” *State v. Thein*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999) (citing *State v. Goble*, 88 Wn. App. 503, 509, 945 P.2d 263 (1997)). The review of a search warrant is limited to the four corners of the probable cause affidavit. *State v. Neth*, 165 Wn.2d 177, 182, 196 P.3d 658 (2008).

Facts supporting the issuance of a search warrant must support the conclusion that the evidence is probably at the premises to be searched at the time the judge issues the warrant. *State v. Lyons*, 174 Wn.2d 354, 360, 275 P.3d 314 (2012). Common sense is the test for staleness of a search warrant affidavit's information. *State v. Maddox*, 152 Wn.2d 499, 505, 98 P.3d 1199 (2004). Accordingly, the issuing judge must determine whether

the passage of time between the officer's or informant's observations and the application for a warrant “is so prolonged that it is no longer probable that a search will reveal criminal activity or evidence, i.e., that the information is stale.” *Lyons*, 174 Wn.2d at 360-61.

The issuing judge determines staleness based on the totality of the circumstances. *Lyons*, 174 Wn.2d at 361. Accordingly, along with the passage of time, staleness depends on the alleged criminal activity's nature and scope, the activity's length, and the nature of the property to be seized. *Maddox*, 152 Wn.2d at 506.

This case involved an on-going criminal enterprise in drug trafficking where law enforcement was able to conduct two controlled buys within the same week the warrant was executed. RP 145-46. The investigation in this case showed an ongoing drug trade, not a person possessing for his individual use. As a result, the information was not stale. *See State v. Perez*, 92 Wn. App. 1, 8-9, 863 P.2d 881 (1998) (determining information was not stale where police obtained a warrant three days after last observation and where affidavit included information and police observations suggested that Appellant was a drug dealer with ongoing drug activities). *See, e.g., United States v. Jeanetta*, 533 F.2d 651, 655 (8th Cir.), *cert. denied*, 555 U.S. 1079 (2008) (finding a “two week period between the controlled buy and issuance of the warrant did not render the informant's information presumptively stale”); *United States v.*

Formaro, 152 F.3d 768, 771 (8th Cir. 1998) (finding the two and one-half weeks lapse did not negate the existence of probable cause); *United States v. Ortiz*, 143 F.3d 728, 732-33 (2d Cir. 1998) (stating "in investigations of ongoing narcotics operations, intervals of weeks or months between the last described act and the application for a warrant [does] not necessarily make the information stale."). *See also United States v. Pitts*, 6 F.3d 1366, 1369 (9th Cir. 1993) (explaining "[w]ith respect to drug trafficking, probable cause may continue for several weeks, if not months, of the last reported instance of suspect activity."); *State v. Perez*, 92 Wn. App. at 6 (determining four day interval with known drug dealer sufficient to defeat a staleness challenge).

The investigation in this case did not occur over a protracted period as suggested by the Appellant. In fact, the information provided to the magistrate was developed over the course of four days and involved two controlled buys. Such a short time period for a home actively engaged in drug trafficking does not make the information stale, as made clear by the extensive case law above.

2. The affidavit in support of the search warrant was based on a confidential informant who was credible and had a basis of knowledge.

"When evaluating the existence of probable cause where information was provided by an informant, Washington applies the *Aguilar-Spinelli* two-pronged test." *State v. Atchley*, 142 Wn. App. 147,

161, 173 P.3d 323 (2007); citing *State v. Jackson*, 102 Wn.2d 432, 435, 688 P.2d 136 (1984). The two prongs consist of the “veracity” or the credibility of the informant, and the informant's “basis of knowledge.” *Id.* “The prongs are independent and both must be established in the affidavit.” *Id.* More specifically:

[f]or an informant’s tip (as detailed in an affidavit) to create probable cause for a search warrant to issue: (1) the officer’s affidavit must set forth some of the underlying circumstances from which the informant drew his conclusion so that a magistrate can independently evaluate the reliability of the manner in which the informant acquired his information; and (2) the affidavit must set forth some of the underlying circumstances from which the officer concluded that the informant was credible or his information reliable.

State v. Atchley, 142 Wn. App. 147, 161, 173 P.3d 323 (2007) (citing *State v. Jackson*, 102 Wn.2d 432, 435, 688 P.2d 136 (1984)).

The first prong under *Aguilar-Spinelli* is “whether the affidavit established the confidential informant's basis of knowledge. In order to satisfy this prong, the affiant ‘must explain how the informant claims to have come by the information’ and ‘the informant must declare that he personally has seen the facts asserted and is passing on firsthand information.’” *State v. Atchley*, 142 Wn. App. 147, 161, 173 P.3d 323 (2007) (citing *State v. Jackson*, 102 Wn.2d 432, 437, 688 P.2d 136 (1984)).

The second prong is of the reliability of the informant. The most common means of establishing veracity is evidence that the informant has

provided accurate information to police on numerous occasions in the past. *Jackson*, 102 Wn.2d at 437. In *State v. Casto*, 39 Wn. App. 229, 692 P.2d 890 (1984), the court looked at whether reliability of an informant for the purposes of obtaining a search warrant was satisfied by one controlled buy. The court stated:

In this case, we consider whether the controlled buy was sufficient to establish the informant's reliability, considering all the surrounding circumstances, and conclude that it was. In a "controlled buy," an informant claiming to know that drugs are for sale at a particular place is given marked money, searched for drugs, and observed while sent into the specified location. If the informant "goes in empty and comes out full," his assertion that drugs were available is proven, and his reliability confirmed. Properly executed, a controlled buy can thus provide the facts and circumstances necessary to satisfy both prongs of the test for probable cause. Where the informant can also assert that more drugs are present, or where their presence can be presumed, probable cause may be found.

Id. at 234 (citations omitted).

It is also sufficient to establish an informant's reliability when that informant has stated that a purchase may be made from a certain person and place and the purchase is in fact made thereafter. *State v. Steenerson*, 38 Wn. App. 722, 726, 688 P.2d 544 (1984).

In the present case the confidential informant provided law enforcement with information that law enforcement knew to be true, and the confidential informant had been exposed to drugs in the area for most of the confidential informant's life. CP 21. Moreover, the confidential informant had participated in two successful controlled buys under the

supervision of law enforcement. CP 21-22. These facts presented to the issuing magistrate showed both the informant's veracity and his basis of knowledge and satisfy both prongs of the test for probable cause.

3. The seizure of the firearms was constitutionally permitted.

The seizure of the firearms from the Appellant's room did not violate the Fourth Amendment to the U.S. Constitution or the Washington State Constitution. Moreover, the particularity requirement for search warrants does not even come into play in an analysis of the search in the case at bar. The weapons seized, of which the Appellant complains, were seized because they were in "plain view" and discovered during the search of the house authorized by a validly issued warrant. Law enforcement knew the Appellant was a convicted felon and his possession of any firearms was contraband and subject to immediate seizure.

The Appellant argues that because law enforcement was aware that firearms might be present and located during the search a search for firearms should have been included in the application. This claim is without merit. Claiming something might be present does not establish probable cause that something will be present. In fact, had law enforcement been granted a warrant based upon the mere allegation that there "might" be firearms in the house, he may now be arguing, and the State would probably be conceding, that such a warrant had been issued without probable cause.

The case is analogous to *State v. Olson*, 32 Wn. App. at 559, 558-59, 649 P.2d 476 (1982), where the Court of Appeals concluded that because officers were authorized to search for marijuana pursuant to a valid search warrant, they “were authorized to inspect virtually every aspect of the premises” and “[a]ny other contraband inadvertently found in the course of such lawful search [was] clearly [] subject to seizure pursuant to the 'plain view' doctrine.” The “plain view” doctrine is an exception to the warrant requirement. *State v. Kull*, 155 Wn.2d 80, 84, 118 P.3d 307 (2005). “The requirements for plain view are (1) a prior justification for intrusion, (2) inadvertent discovery of incriminating evidence, and (3) immediate knowledge by the officer that he had evidence before him.” *Id.* at 85. “The second prong, inadvertent discovery, is no longer a requirement to establish the plain view exception under the Fourth Amendment.” *Id.* at 85 n.4.

If officers discover items immediately recognizable as contraband not specified in the warrant during their search, those items are subject to seizure under the plain view doctrine. *State v. Temple*, 170 Wn.App. 156, 164, 285 P.3d 149 (2012). In order for substances to be immediately recognizable as contraband, the officer need not possess certain knowledge that the substance is contraband. *State v. Gonzales*, 46 Wn. App. 388, 400, 731 P.2d 1101 (1986). Rather, the test is whether, “considering the surrounding circumstances, the police can reasonably

conclude that the substance before them is incriminating evidence." *State v. Hudson*, 124 Wn.2d 107, 118, 874 P.2d 160 (1994).

Once the police officers were lawfully in the room with the weapons in plain view, in areas they were lawfully authorized to search, and knowing any possession of a weapon by the Appellant was illegal, the police could seize the weapons. Therefore the firearms located in the Appellant's room and which formed the basis of his convictions for Unlawful Possession of a Firearm in the First Degree (Counts III, IV and V) were found during a valid search, immediately recognized as contraband, and justified under the plain view exception to the warrant requirement.

4. There was sufficient evidence to support the school bus stop enhancement.

The Appellant was convicted in Count's I and II of violations of the Uniform Controlled Substances Act with a special verdict finding by the jury that these offenses were committed within 1,000 feet of a school bus route stop. This resulted in a sentencing enhancement of 24 months on each count. RCW 9.94A.533(6). The Appellant's claim of insufficient evidence is based upon an unpublished Division II opinion and a hyper-technical view of the evidence. The Appellant is mistaken and this claim must fail.

The standard of review for sufficiency of the evidence is

“substantial evidence.” *State v. Castillo*, 144 Wn. App. 584, 588, 183 P.3d 355 (2008); *State v. Green*, 94 Wn.2d 216, 221, 616 P.2d 628 (1980); *State v. Rangel-Reyes*, 119 Wn. App. 494, 499, 81 P.3d 157 (2003), A reviewing Court considers evidence "substantial" when the evidence is of a sufficient quantum to persuade a fair-minded person of the truth of the declared premise. *Ridgeview Props, v. Starbuck*, 96 Wn.2d 716, 719, 638 P.2d 1231 (1982); *State v. Valentine*, 75 Wn. App. 611, 620, 879 P.2d 313 (1994). A court rarely overturns a jury verdict and will do so only when it is clear that no substantial evidence exists on which the jury could have based its decision. *State v. O'Connell*, 83 Wn.2d 797, 839, 523 P.2d 872 (1974); *Valentine*, 75 Wn. App. at 620.

A court reviews challenges to the sufficiency of the evidence in the light most favorable to the State. *State v. McPhee*, 156 Wn. App. 44, 62, 230 P.3d 284 (2010). The court's review examines whether any “rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *State v. Bencivenga*, 137 Wn.2d 703, 706, 974 P.2d 832 (1999); *McPhee*, 156 Wn.App. at 62.

An Appellant’s claim of insufficiency of the evidence admits the truth of the State's evidence and all inferences that can reasonably be drawn from it. *McPhee*, 156 Wn.App. at 62. All reasonable inferences must be drawn in favor of the State and most strongly against the Appellant. *McPhee*, 156 Wn.App. at 62. Both circumstantial evidence and

direct evidence are equally reliable. Credibility determinations are for the trier of fact and are not subject to review. *McPhee*, 156 Wn. App. at 62 (citations omitted). The reviewing court defers to the fact finder on issues of conflicting testimony, witness credibility, and persuasiveness of the evidence. *State v. Davis*, 176 Wn. App. 849, 861, 315 P.3d 1105 (2013), *vacated by* 182 Wn.2d 222 (2014).

RCW 69.50.435(1)(c) creates a sentencing enhancement for anyone who possesses certain controlled substances “[w]ithin one thousand feet of a school bus route stop designated by the school district.” This requires a showing that the distance from the school bus route stop to the location of the drugs was less than 1,000 feet, according to some type of accurate, objective, and verifiable measuring device such as a map with a measuring scale, measuring tape, pacing, or other commonly accepted method. *State v. Clayton*, 84 Wn. App. 258, 321, 927 P.2d 258 (1996); *State v. Bashaw*, 169 Wn.2d 133, 142-43, 234 P.3d 195 (2010). It is not enough that the property on which a house is located was within 1,000 feet of the school. *Clayton*, 84 Wn. App. at 321-22. Instead, the measurement must extend to the location of the offense. *Clayton*, 84 Wn. App. at 322; *accord State v. Jones*, 140 Wn. App. 431, 437-38, 166 P.3d 782 (2007).

In *Clayton*, the officer measured from the school grounds perimeter to the edge of Clayton's property line and found the distance to be 962 feet and 4 inches, just 38 feet less than the statutorily required

1,000 feet for triggering the sentencing enhancement. *Clayton*, 84 Wn. App. at 322. This court reversed the school zone enhancement, noting it was possible that the crime occurred outside the 1,000-foot radius. *Clayton*, 84 Wn. App. at 323.

The facts of this case are distinguishable from *Clayton*. Mike Murphy, the Director of Transportation for the Lyle School District, whose job requires familiarity with school bus stops in the community and makes the bus routes, testified that the two closest school bus stops to the residence in question were at the intersections of Dallesport Road and Williams Street, to the south, and Cypress Road, to the north. RP 197-198, 208. In fact, Murphy testified every main street in Dallesport has a school bus stop. RP 198. Steven Jones, a Klickitat County Utilities Facility Technician, testified that his job entails making accurate measurements for the county on a regular basis and keeps his measuring device properly calibrated. RP 200. Jones testified he measured from approximately the same spot from the front of 1021 Dallesport Road, “could be a foot or two off one way or the other,” to the Cypress Road and Williams Street school bus stops. RP 209-210. Smith measured 141 feet from 1021 Dallesport Road to the Cypress Road bus stop and 511 feet from 1021 Dallesport Road to the Williams Road bus stop. RP 208-209.

While the measurement was not from the Appellant’s room where the controlled substances were found, it was from the front of a home in a

residential neighborhood. Here the distances were not as close to the 1,000 foot distance as in *Clayton*. In contrast, it is not possible that the crime occurred outside the 1,000-foot radius based on the distance of the front of the home to the bus stops – the first bus stop was 141 feet away, thus leaving 859 feet to cover the area from the street in front of the house to the room where the drugs were located. Measuring from the second bus stop the distance was 511 feet, leaving 489 feet to cover the area from the front of the house to the location of the drugs. Based on these facts and viewing the evidence in the light most favorable to the State, there is no reasonable doubt that the crime occurred within 1,000 feet of a school bus route stop and this Court should uphold the enhancement.

5. The trial court's failure to record the in camera review of the confidential informant was harmless error.

Discovery in criminal cases is regulated by CrR 4.7. A trial judge has broad authority under the rule to control the discovery process and may issue protective orders, excise materials, and impose sanctions for failure to abide by the rules. CrR 4.7(h)(4-7). The judge may also conduct in camera proceedings. CrR 4.7(h)(6). The scope of discovery is within the discretion of the trial court and will be reversed only for manifest abuse of discretion. *State v. Blackwell*, 120 Wn.2d 822, 826, 845 P.2d 1017 (1993). Discretion is abused when it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482

P.2d 775 (1971).

On June 6, 2016 a motion to disclose the identity of the confidential informant and pierce the informant privilege was held. As a result of this hearing, and over the State's objection, the court determined an in camera hearing should be held to determine if disclosure of the informant's identity was necessary. RP 21-31. An in camera hearing was held on June 14, 2017 and, unfortunately, there was not an audio or transcribed record of the proceeding as required by CrR 4.7(h)(6).¹ On June 29, 2016 the court issued an oral ruling regarding the identity of the confidential informant. After making reference to his inquiry of the informant, the court found that there was no need to pierce the informant privilege by requiring disclosure of the informant's identity. RP 45. The court also indicated that at trial he would not allow "any statements whatsoever made by the confidential informant" and "there [would] be nothing said by the officer about what the informant said." RP 46.

On June 20, 2017 the court entered Findings of Fact and Conclusions of Law to memorialize the decision based upon the in camera hearing. CP 91-93. The court found that he inquired about the confidential informant's bias, the source of the informant's knowledge and the need to

¹ While the rule seems to imply the need for an audio or transcribed record of proceedings, a record is also a documentary account of past events, usually designed to memorialize those events. Black's Law Dictionary Eighth Edition 1999, page 1301.

maintain the informant's confidentiality. CP 91-93. The court went on to conclude that the identity of the confidential informant was not required to be disclosed, that the defense has not met its burden to show the informant privilege should be pierced, and that the court would allow testimony about the confidential informant's actions but would not allow any hearsay statements to be solicited by the State. CP 91-93.

The Appellant claims the lack of a record at the in camera hearing requires remand, but never shows or claims how the ultimate decision – not to pierce the confidential informant privilege – has harmed his case or the nature and extent of the claimed error.

In fact, the request to disclose the identity of the confidential informant was premised upon the Appellant's claim that the State could not prove its case without the testimony of the informant, a claim which the State disputed and the jury ultimately put to rest. RP 22-24. The Appellant is now claiming a rule violation, without a showing of any specific harm to the Appellant's case, should result in remand. The State disagrees. While unfortunate, the lack of an audio or transcribed record of the in camera hearing should be considered harmless error.

When dealing with a rule violation rather than a violation of the Constitution, such as the case here, such error “is not prejudicial unless, within reasonable probabilities, had the error not occurred, the outcome of the trial would have been materially affected.” *State v. Smith*, 106 Wn.2d

772, 780, 725 P.2d 951 (1986) (quoting *State v. Cunningham*, 93 Wn.2d 823, 831, 613 P.2d 1139 (1980)).

This case is akin to the *State v. Enders*, No. 31022-1-III (Wash. Ct. App. Oct. 16, 2014), where the court reviewed the lack of a record of the hearing and found that “[o]ur review is hampered by the fact that the records considered at the in camera proceeding are not part of the record on appeal, leaving us unable to countermand the trial court’s view of the record.” See CrR 4.7(h)(6). However the Court was able to determine from the whole record that the trial court did not abuse its discretion governing discovery matters.

The lack of a record of an in camera hearing where the court refused to pierce the confidential informant privilege and the confidential informant did not testify and no hearsay statements from the confidential informant were admitted into evidence cannot be said to have materially affected the outcome of the trial. The evidence produced by the confidential informant established probable cause for the search warrant but was not the evidence which convicted the Appellant at trial. While the lack of a record of the in camera hearing is unfortunate, it was a rule violation which did not materially affect the outcome of the trial.

6. The scrivener’s errors identified in the Appellant’s Opening Brief are undisputed.

Two scrivener’s errors have been identified in the judgment and

sentence. It is undisputed that these errors are present. The State does not dispute these errors and defers to the Court's discretion on how to address the errors.

D. CONCLUSION

The Appellant's conviction should be affirmed. While the scrivener's errors should be corrected at the Court's discretion, no reversible error occurred. The affidavit in support of the search warrant did not contain stale information and was based on a confidential informant who was credible and had a basis of knowledge. Further, the seizure of the firearms was constitutionally permitted and there was sufficient evidence to support the school bus stop enhancement. Lastly, the absence of a recording of the in camera hearing was harmless error.

Respectfully submitted this 15th day of September, 2017.

A handwritten signature in black ink that reads "David M. Wall". The signature is written in a cursive style with a large, sweeping initial "D" that arches over the rest of the name.

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KLICKITAT COUNTY PROSECUTING ATTORNEY

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