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BY RONALD R. CARPENTER

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

BEE XIONG,

Petitioner/Appellant.

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STATE OF WASHINGTON
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BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES UNION
OF WASHINGTON, ASIAN BAR ASSOCIATION OF WASHINGTON,
LATINA/O BAR ASSOCIATION OF WASHINGTON, AND LOREN
MILLER BAR ASSOCIATION

KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP
Shaakirrah R. Sanders, WSBA No. 37244
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104-1158
(206) 623-7580

AMERICAN CIVIL LIBERTIES
UNION OF WASHINGTON FOUNDATION
Sarah A. Dunne, WSBA No. 34869
Nancy Talner, WSBA No. 11196
Doug Klunder, WSBA No. 32987
705 2nd Ave, Third Floor
Seattle, Washington 98104-1723
(206) 624-2184

Attorneys for Amici American Civil Liberties
Union of Washington, Asian Bar Association of
Washington, Latina/o Bar Association of
Washington, and Loren Miller Bar Association

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I. IDENTITY AND INTEREST OF AMICI ACLU OF WASHINGTON, ASIAN BAR ASSOCIATION OF WASHINGTON, LATINO/A BAR ASSOCIATION OF WASHINGTON, AND LOREN MILLER BAR ASSOCIATION

The American Civil Liberties Union of Washington (“ACLU”) is a statewide, nonpartisan, nonprofit organization of over 20,000 members, dedicated to the preservation of civil liberties, including privacy. The ACLU strongly supports adherence to the Fourth Amendment to the United States Constitution, prohibiting unreasonable searches and seizures. It also strongly supports adherence to Article 1, § 7 of the Washington Constitution. It has participated in numerous privacy-related cases as *amicus curiae*, as counsel to parties, and as a party itself. Additionally, the ACLU is dedicated to the principles of liberty and equality embodied in the United States Constitution and the Washington State Constitution, as well as federal and state civil rights laws. It has participated in numerous cases as *amicus curiae* and as counsel to parties on these issues as well.

The Asian Bar Association of Washington (ABAW) is a professional association of Asian Pacific American (APA) and other attorneys, judges, law professors, and law students, which advocates for the legal needs and interests for the APA community. Through its network of committees, the ABAW monitors legislative developments and judicial appointments, rates judicial candidates, advocates for equal opportunity, and builds coalitions with other organizations within the legal profession and in the community at large on issues of interest to our

constituency. The ABAW opposes discrimination in the criminal justice system that is based on race, ethnicity or national origin. It is concerned that members of the APA community, particularly young and lower income Asians, and other racial and ethnic minority groups are frequently subjected to unfair treatment by law enforcement agencies. The facts of this case are of particular concern, where the factor used to single out an Asian individual for arrest and search by police (whether articulated in this manner by the State or not) appears to have been his racial identity, as opposed to other race-neutral characteristics that would have clearly indicated that he was not the person sought pursuant to a lawful arrest warrant.

The Latina/o Bar Association of Washington (LBAW) represents the concerns and goals of Latino attorneys and Latino people of the State of Washington. It encourages and promotes the active participation of all Latino attorneys throughout the State and seeks the involvement of Latino political, governmental, educational, and business leaders. Efforts are made to encourage and assist Latino students and to recognize the needs and voice the concerns of Latino people and their communities. It is further LBAW's goal to become a unified and active participant within the legal community of the State of Washington and assist in providing solutions to the problems that confront our legal system and communities. LBAW's 250 members include judges, solo practitioners, prosecutors, defense attorneys, public sector attorneys, private sector attorneys, in-house legal counsel and law students.

The Loren Miller Bar Association ("LMBA") is an affiliate chapter of the National Bar Association. LMBA is a nonprofit organization dedicated to defending the civil rights and constitutional freedoms consistent with the principles of a free democratic society. LMBA's 300 members are primarily African-American judges, attorneys, law professors and law students. LMBA is committed to defending the right of equal access to justice for all people and has appeared in Washington State courts to defend constitutional liberties as amicus curiae.

II. STATEMENT OF THE CASE

Law enforcement agents went to a home located at 3150 East 30th Street in Spokane, Washington in search of an Asian man, Kheng Xiong, intending to arrest him on an outstanding federal felony warrant. RP 5. When the officers reached the house, a minivan pulled up. RP 6. A deputy marshal claimed to believe that the passenger in the minivan was Kheng Xiong based on a black and white photo. RP 6, 24. Both the driver and passenger were immediately handcuffed, and a pat search for weapons was conducted. RP 6-7, 24.

The passenger, who in reality was Bee Xiong, Kheng Xiong's brother, did not have identification on his person. RP 7-8. There is no evidence that the officers offered to let Bee obtain identification from the house. Bee Xiong truthfully told the officers his name and that Kheng Xiong was his older brother. Bee Xiong also showed the officers his arm, which has a "B" tattooed on it. RP 7-8, 16-17. The arrest warrant was not introduced as evidence, so there is no indication what identifying

information was included with the warrant. During oral argument on the motion to suppress, defense counsel for Bee Xiong pointed out, without argument from the State, that Kheng Xiong's photo "d[id] not look even close to what . . . [Bee] Xiong looks like." RP 33. The judge noted that he could "certainly see a difference in the two [Bee Xiong and Kheng Xiong]." RP 43.

While law enforcement agents debated as to the best method for identifying Bee Xiong, one of the agents noticed a bulge in Bee Xiong's pocket. RP 8-12. When the agent touched it, Bee Xiong attempted to pull away, but truthfully stated that it was not a weapon. *Id.* Nonetheless, the agent squeezed the object, found it was hard, discussed the situation with his fellow officers, then decided to pull the object out of Bee Xiong's pocket, over his objection and while he Xiong was handcuffed. RP 12. The object turned out to be a glass pipe containing methamphetamine residue. RP 12-13, 25. Bee Xiong was arrested, and methamphetamine was found in a search incident to that arrest. RP 12, 25-26.

At roughly the same time, another officer knocked on the door of the home. Bee Xiong's mother came outside and identified him. RP 14, 27. Bee Xiong's pocket would not have been emptied if his mother had identified him first.¹ RP 19. Bee Xiong was subsequently charged with

¹ The superior court also made the following finding of fact:

" . . . Bee Xiong was cuffed. The identification process should have taken place and although may have taken a little more time to confirm whether the detained person with the 'B' tattooed on his arm was in fact Bee Xiong and

possession of methamphetamine with intent to deliver. CP 1. The superior court found the initial detention was reasonable but suppressed the evidence, finding that “the Court was unable to find from the testimony any articulable facts specific and detailed or which the officer could reasonably infer the detained individual was armed and dangerous.” RP 42-44; CP 17. The court ruled the search of Bee Xiong’s pocket was not justified as a protective search. CP 17-18.

On appeal, Division Three of the Court of Appeals refused to consider Bee Xiong’s argument that his initial detention was unreasonable, although Bee Xiong had both argued this issue at the suppression hearing and fully briefed it on appeal.² *See State v. Xiong*, 137 Wn. App. 720, 725, 154 P.3d 318 (Div. III 2007), *rev. granted*, 163 Wn.2d 1001, --- P.3d --- (2008). The court reversed the suppression in a split decision, holding

not Kheng Xiong, that once confirmed he was Bee Xiong, he would have been released uncuffed and not patted.”

CP 17.

² Instead, the majority held that:

Given the similarity in appearance between Kheng Xiong and Bee Xiong, the time necessary to clarify their initial identification, Bee Xiong’s location and Kheng Xiong’s home, the bulge in Bee Xiong’s pocket, his reaction when an agent tried to touch it, and the officer’s stated safety concerns, the agent was justified in frisking Bee Xiong’s pocket. Based on the hardness and shape of the object, the agent was justified in pulling the object out . . . [and the evidence found during] Bee Xiong’s arrest was incorrectly suppressed under well established principles governing frisks during investigatory stops.

Xiong, 137, Wn. App. at 725.

the search was justified by concerns for officer safety. *Id.* In dissent, Judge Schulteis pointed out that the State did not challenge the superior court's finding that there was no evidence from which the police could reasonably infer Bee Xiong was armed and dangerous. *Id.* at 726 (Schulteis, J., dissenting). Judge Schulteis argued that the trial court correctly relied on a *State v. Galbert*, 70 Wn. App. 721, 725-26, 855 P.2d 310 (1993), which held that a second frisk of a handcuffed and already once-frisked individual, was unconstitutional where there were no facts from which to reasonably infer the detainee was dangerous. *Id.* at 726-29 (Schulteis, J., dissenting).

This Court granted Bee Xiong's Petition for Review.

III. ARGUMENT

A. **The Police Lacked Authority to Arrest Bee Xiong. The State Failed to Meet its Burden of Proving a Reasonable Basis to Consider Him Armed and Dangerous or a Reasonable Belief that He was the Person Named in the Warrant.**

Under Article 1, § 7 of the Washington State Constitution, the analysis of whether a search was reasonable “hinges on whether a seizure [and subsequent search] is permitted by ‘authority of law’—in other words, a warrant.” *State v. Hatchie*, 161 Wn.2d 390, 397, 166 P.3d 698 (2007). Exceptions to the warrant requirement must be narrowly construed. *See, e.g., State v. Jones*, 146 Wn.2d 328, 335, 45 P.3d 1062 (2002).

Each person the police want to search holds “an independent, constitutionally protected privacy interest. This interest is not diminished

merely upon stepping into an automobile with others.” *State v. Parker*, 139 Wn.2d 486, 496, 987 P.2d 73 (1999). Nor is an individual’s privacy interest diminished simply by being present at the location where a wanted person allegedly can be found. *State v. Broadnax*, 98 Wn.2d 289, 294-95, 654 P.2d 96 (1982) (citing *Ybarra v. Illinois*, 444 U.S. 85, 100 S. Ct. 338, 62 L. Ed. 2d 238 (1979)). In *Ybarra*, a patron of a public tavern was subjected to a pat-down frisk during the execution of a search warrant authorizing a search of the premises and the bartender. The Supreme Court found the pat-down unjustified, reasoning that “a person’s mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person.” *Ybarra*, 444 U.S. at 86 (citation omitted).

The Washington Supreme Court in *Broadnax*, 98 Wn.2d at 295, cited *Ybarra* in holding that a person’s mere presence at a private residence being searched pursuant to a search warrant could not justify a frisk of that person. “Since the officers had no fear that petitioner was armed and had nothing to independently connect petitioner to the suspected illegal activity in the house, the detention and search of his person were not ‘reasonable’ under the Fourth Amendment or Const. [Article] 1, [§] 7.” *Broadnax*, 98 Wn.2d at 296.

Thus, the issuance of an arrest warrant for Kheng Xiong did not in any way diminish Bee Xiong’s expectation of privacy and arresting him

would have been without authority of law and unconstitutional under Article 1, § 7 of the Washington Constitution.³

The question becomes whether, based on the evidence in this record, the police met their burden of proving they met the requirements for a detention short of arrest, either to determine if Bee Xiong was Kheng Xiong or because Bee Xiong was reasonably believed to be armed and dangerous. The trial court's unchallenged finding of fact was that the evidence did not support a reasonable belief that Bee Xiong was armed and dangerous. He was already handcuffed and the officers were not concerned for their safety while he was cuffed. For the reasons given by the trial court, the dissenting judge in the Court of Appeals, and petitioner/appellant Bee Xiong's briefs, the State has failed to meet its burden of relying on this rationale.

³ The analysis under the Fourth Amendment would be somewhat different. *See also State v. Myrick*, 102 Wn.2d 506, 510, 688 P.2d 151 (1984) (“[T]he unique language of Const. [Article] 1, § 7 provides greater protection to persons under the Washington Constitution than U.S. Const. amend. IV provides to persons generally.”). “In short, while under the Fourth Amendment the focus is on whether the police acted reasonably under the circumstances, under [A]rticle I, [§] 7 we focus on expectations of the people being searched.” *State v. Morse*, 156 Wn.2d 1, 10, 123 P.3d 832 (2005). Using the reasonableness standard of the Fourth Amendment, the test is whether the arresting officer “has some reasonable, articulable grounds to believe the suspect is the intended arrestee.” *See State v. Smith*, 102 Wn.2d 449, 453-54, 688 P.2d 146 (1984). This is essentially the same test as used under both Article I, § 7 and the Fourth Amendment for an investigative detention. As discussed below, the detention in this case fails that test. *See also State v. Miles*, 160 Wn.2d 236, 156 P.3d 864 (2007).

Moreover, the State has equally failed to meet its burden of justifying the search of Bee Xiong based on investigating whether he was the person named in the felony warrant. This Court has held that a *reasonable* belief regarding identity of the wanted person is required:

“Where the warrant is constitutionally valid, the seizure of an individual other than the one against whom the warrant is outstanding is valid only if the arresting officer (1) acts in good faith, and (2) has reasonable, articulable grounds to believe that the suspect is the intended arrestee.”

State v. Smith, 102 Wn.2d 449, 453-54, 688 P.2d 146 (1984); *see also Hill v. California*, 401 U.S. 797, 802-04, 91 S. Ct. 1106, 28 L. Ed. 2d 484 (1971) (requiring reasonable belief that the person being arrested matches the description of the wanted person).⁴

Where “doubt as to the correct identity of the subject of ‘[a]’ warrant arise[s], the arresting officer obviously should make immediate

⁴ *Hill* is the seminal case for analyzing mistaken identity warrant arrests under the Fourth Amendment. In *Hill*, the police, with probable cause to arrest but without a search or arrest warrant, went to Mr. Hill’s apartment where they found a man matching Mr. Hill’s description. However the arrestee was someone else, and he validly denied that he was Mr. Hill. That individual was arrested because the police spotted a gun and ammunition in plain view. The United States Supreme Court held that

“when the police have probable cause to arrest one party, and when they *reasonably mistake* a second party for the first party, then the arrest of the second party is a valid arrest.”

Id. at 802 (quoting *People v. Hill*, 69 Cal. 2d 550, 553, 446 P.2d 521 (1968) (emphasis added)). Because Mr. Miller did not significantly differ from the physical description of Mr. Hill, there was at least a “sufficient probability, ‘[albeit]’ not certainty” of reasonableness under the Fourth Amendment. *Id.* at 804.

reasonable efforts to confirm or deny the applicability of the warrant to the detained individual.” *Smith*, 102 Wn.2d at 454. It is only after such reasonable efforts are made can the officer reasonably and in good faith believe that the suspect is the one against whom the warrant is outstanding. *Id.*; see also *Simons v. County of Marin*, 682 F. Supp. 1463, 1472 (N.D. Cal. 1987) (mistaken identification not per se reasonable where there was little if any reason, other than a congruence of names, to believe that the individual detained was the individual sought). An identification based implicitly or impliedly on race, without some other adequate features, should also be found unreasonable.

It is well established that the State has the burden of showing that a warrantless seizure falls within an exception to the warrant requirement. *State v. Morse*, 156 Wn.2d 1, 15, 123 P.3d 832 (2005). Here, the record is strikingly deficient in any evidence that the officers’ mistake had a reasonable basis. The photo the police were using to locate Kheng Xiong and the testimony of the officer who claimed Bee Xiong matched the description or the photo are both missing, as is the warrant under which Kheng Xiong was sought (which may have had identifying information). There is no description of Kheng Xiong or Bee Xiong, except for a black and white photo that, according to the superior court, shows a clear difference between the two. There is no evidence that the officers permitted Bee Xiong to obtain identification from the house, and it was not until ten minutes after his detention that an officer went to the house and located Bee Xiong’s mother. Ultimately, the only basis for detention

seems to be that Bee Xiong was found at Kheng Xiong's address—and they were both Asian. With this bare record, the burden of showing reasonableness has not been met. *See Hatchie*, 161 Wn.2d at 399 (requiring probable cause to believe a suspect resides in a house prior to entry into that house to execute an arrest warrant).

Additionally, the good faith belief of the police is irrelevant:

A person is not absent just because the police fail to inquire, are unaware, or are mistaken about the person's presence within the premises. If the police choose to conduct a search without a search warrant based upon the consent of someone they believe to be authorized to so consent, the burden of proof on issues of consent and the presence or absence of other cohabitants is on the police.

Morse, 156 Wn.2d at 15. The Court recognized that determinations of presence and common authority may be difficult, but deemed those difficulties insufficient to overcome the resident's constitutional right to privacy. When in doubt, "such difficulties may be avoided by the police by obtaining either a search warrant or the consent of the person whose property is to be searched." *Id.* at 15, n. 5. Here, the police could have resolved the doubts the record clearly shows they had about Bee Xiong's identity by means other than invading his privacy without justification. On this record, the constitutionality of the search cannot be upheld.

B. Because the Record Fails to Show a Reasonable Basis for Believing Bee Xiong was the Person Named in the Warrant, the Question of a Race-Based Assumption With Regards to His Identity is Raised.

As pointed out by defense counsel in the trial court, without argument from the State, the person in the photo obtained by the police

“does not look even close to what Bee Xiong looks like. . . .” RP 33. In addition, the superior court indicated that there was a certain difference in appearance between the photograph of Kheng Xiong and the Court’s observation of Bee Xiong. RP 43. Nothing in the record shows that Bee Xiong and Kheng Xiong were the same height, weight, and build, or that they shared the same hair color, eye color, or other identifying characteristics. To the extent that the confusion about Bee Xiong’s identity was based on a failure to distinguish between two males of Asian descent and a disregard for other aspects of the description of Kheng Xiong, the possibility that the police actions were based on racial assumptions or biases implicates this State’s public policy.

It has long been recognized that racial bias presents a pervasive and insidious problem for the enforcement of criminal laws. *McCleskey v. Kemp*, 481 U.S. 279, 309, 107 S. Ct. 1756, 95 L. Ed. 2d 262 (1987), (citing *Batson v. Kentucky*, 476 U.S. 79, 85, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986) (noting the Court’s “unceasing efforts” to eliminate racial bias in jury selection procedures)); see also *Atwater v. City of Lago Vista*, 532 U.S. 318, 121 S. Ct. 1536, 149 L. Ed. 2d 549 (2001) (O’Connor, J., dissenting) (“Indeed, as the recent debate over racial profiling demonstrates all too clearly, a relatively minor traffic infraction may often serve as an excuse for stopping and harassing an individual”); *Illinois v. Wardlow*, 528 U.S. 119, 132-34 & n.4, 120 S. Ct. 673, 145 L. Ed. 2d 570 (2000) (Stevens, J., dissenting) (discussing reports of racial profiling by law enforcement agencies); *Whren v. United States*, 517 U.S. 806, 813,

116 S. Ct. 1769, 135 L. Ed. 2d 89 (1996) (stops based on race of suspect are improper and subject to challenge under the Equal Protection Clause); Editorial, *Patterns of Police Violence*, The New York Times (Apr. 18, 2001) (detailing controversy about the role of race in the practices of law enforcement agencies).

It follows from these principles that race, national origin or ancestry cannot be the primary basis for even the minimal reasonable suspicion necessary to effectuate a *Terry* stop or a search incident to that stop or subsequent arrest. *State v. Barber*, 118 Wn.2d 335, 346, 823 P.2d 1068 (1992) (“Distinctions between citizens solely because of their ancestry are odious to a free people whose institutions are founded upon the doctrine of equality.”). Mistaken identity warrant arrests undermine the protections of the Fourth Amendment, which protects the “right to be let alone.” *Olmstead v. United States*, 277 U.S. 438, 479, 48 S. Ct. 564, 72 L. Ed. 944 (1928) (Brandeis, J., dissenting). It is undisputable that the state and federal constitutions would be offended by practices that target persons based on race.

It is well established that racial classifications are considered “suspect” and thus, subjected to a higher level of scrutiny--namely strict scrutiny. See *Califano v. Webster*, 430 U.S. 313, 316-17, 97 S. Ct. 1192, 51 L. Ed. 2d 360 (1977). See also *Loving v. Virginia*, 388 U.S. 1, 2, 12, 87 S. Ct. 1817, 18 L. Ed. 2d 1010 (1967); *McLaughlin v. Florida*, 379 U.S. 184, 191-94, 85 S. Ct. 283, 13 L. Ed. 2d 222 (1964); *Brown v. Board of Education*, 347 U.S. 483, 493, 74 S. Ct. 686, 98 L. Ed. 873 (1954);

Korematsu v. United States, 323 U.S. 214, 216, 65 S. Ct. 193, 89 L. Ed.

194 (1944). Given the Court's long standing and unequivocal treatment of race-based government decisions, any actions of law enforcement that appear to be based solely or primarily on race or racial assumptions and that are in disregard of the nonracial information must also be accorded strict scrutiny.

The State offers no justification for the law enforcement officials' mistaken identification of Bee Xiong. The officer who identified Bee Xiong as Kheng Xiong did not testify during the suppression hearing. Thus, it is impossible to determine whether his misidentification was based on an assumption that the two brothers looked alike because they were both Asian.

Neither the State, nor the Court of Appeals pointed to any evidence to determine whether the misidentification was reasonable. There is nothing in the record that shows the officers took reasonable efforts to confirm Bee Xiong's identity before searching him. In the absence of such efforts, even without a showing of bad faith, the mistaken identity in this case raises the question of whether Bee Xiong was targeted because he was Asian. A photograph of Kheng Xiong was provided to law enforcement officials before the mistaken arrest was made. This should have played a crucial role in the Court of Appeals' determination of whether the mistaken identity was reasonable. The State did not dispute the Superior Court's finding that the photo of Kheng Xiong was materially different in appearance from Bee Xiong. Yet, the Court of Appeals held,

without explanation, that there was a similarity in appearance between the two brothers. *See Xiong*, 137 Wn. App. at 725.

This Court should not allow such an assumption to stand without actual evidence, where the proof presented by the State indicated that Bee Xiong and Kheng Xiong do not look alike, except in that they are both Asian. Such assumptions create a practice that is ripe for abuse, especially where, as here, law enforcement officials had an opportunity to take steps to confirm Bee Xiong's identity. Their failure to do so should be held against them in the reasonableness analysis. Thus, the correct analysis is whether the State has shown that law enforcement agencies had reason to know or should have known that they were arresting the wrong individual based on all of the evidence available to them at the time, including race-neutral attributes.

The courts have recognized that strict enforcement of the rules pertaining to *Terry* stops and frisks is a necessary part of reducing racial bias in criminal law enforcement. *See, e.g. Barber, supra*. Although recognizing as well that the public has a strong interest in crime prevention, "[i]n the absence of any basis for suspecting appellant of misconduct, the balance between the public interest and appellant's right to personal security and privacy tilts in favor of freedom from police interference." *Brown v. Texas*, 443 U.S. 47, 52, 99 S. Ct. 2637, 61 L. Ed. 2d 357 (1979). Investigations, however, must comport with Fourth Amendment protections. Otherwise, "the risk of arbitrary and abusive police practices exceeds tolerable limits." *State v. Thompson*, 93 Wn.2d

838, 613 P.2d 525 (1980) (*quoting Brown*, 443 U.S. at 52 (citation omitted)).

The impact of failing to require strict adherence to *Terry* frisk rules is particularly significant for members of minority communities. Racial animus has produced disparities in criminal justice throughout history. See C. R. Mann, *Unequal Justice: A Question of Color*, 132-33, 137 (1993); Katherine Beckett, *Race and Drug Law Enforcement in Seattle* (May 3, 2004) *available at* <http://www.soc.washington.edu/users/kbeckett/Enforcement.pdf>. Since early regulation of narcotics, criminal penalties imposed severe sanctions on use of various addictive substances primarily when they became popular with minorities. See *United States v. Clary*, 846 F.Supp. 768 (E.D. Mo. 1994), *rev'd on other grounds*, 34 F.3d 709 (8th Cir. 1994) (findings regarding the historical roots of racial animus in drug enforcement).

As found by the United States Department of Justice, “[r]acial profiling sends the dehumanizing message to . . . citizens that they are judged by the color of their skin and harms the criminal justice system by eviscerating the trust that is necessary if law enforcement is to effectively protect our communities.” Fact Sheet Racial Profiling, *available at* http://justice.gov/opa/pr/2003/June/racial_profiling_fact_sheet.pdf.

Moreover, “[r]ace-based assumptions in law enforcement perpetuate negative racial stereotypes that are harmful to our diverse democracy, and materially impair our efforts to maintain a fair and just

society.” *Id.* Law enforcement practices that are perceived to be biased or unfair causes the general public, and especially minority communities, to be less willing to trust and confide in officers, report crimes, be witnesses at trials, or serve on juries. *Id.* These considerations, as well as the rules for conducting *Terry* stops and frisks, demonstrate the Court of Appeals’ legal error in approving the invasion of privacy that occurred in the case at bar.

IV. CONCLUSION

This Court should clarify the standards for detention of a person of uncertain identity while attempting to serve an arrest warrant, as well as the standards necessary to justify a “protective” search of a person during an investigative detention. Because the State has failed or was unable to show that its mistaken identity was not predicated on race-based assumptions, the subsequent arrest, detention, and search of Bee Xiong should be found unconstitutional.

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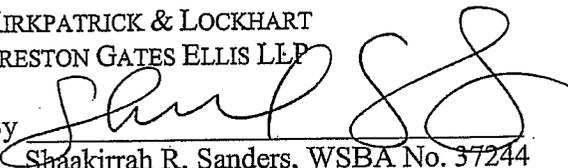
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DATED this 22nd day of April, 2008.

Respectfully submitted,

KIRKPATRICK & LOCKHART
PRESTON GATES ELLIS LLP

By


Shaakirrah R. Sanders, WSBA No. 37244
925 Fourth Avenue, Suite 2900
Seattle, WA 98104-1158
(206) 623-7580

AMERICAN CIVIL LIBERTIES
UNION OF WASHINGTON FOUNDATION
Sarah A. Dunne, WSBA No. 34869
Nancy Talner, WSBA No. 11196
Doug Klunder, WSBA No. 32987
705 2nd Ave, Third Floor
Seattle, Washington 98104-1723
(206) 624-2184

Attorneys for Amici American Civil
Liberties Union of Washington, Asian Bar
Association of Washington, Latina/o Bar
Association of Washington, and Loren
Miller Bar Association

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On April 22, 2008, I, Judy Goldfarb, delivered the foregoing to the
BY RONALD R. CARPENTER

Washington State Supreme Court, Clerk's Office, via email to _____

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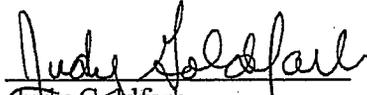
supreme@courts.wa.gov on behalf of the ACLU.

On April 22, 2008, I had delivered via U.S. Mail a copy of the

foregoing to:

Honorable Steven Tucker,
Prosecutor
Kevin Korsmo, Deputy Prosecutor
Spokane County Prosecutor's Office
County-City Public Safety Bldg.
West 1100 Mallon
Spokane, WA 99260
Attorney for the State

Eric Broman
Nielsen, Broman and Koch
1908 E Madison St
Seattle, WA 98122-2842
Attorney for Xiong



Judy Goldfarb

April 22, 2008

Date

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