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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

STEVEN SANDOZ,

Appellant.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE BETH M. ANDRUS

SUPPLEMENTAL BRIEF OF RESPONDENT

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A. ISSUE PRESENTED

Did the trial court correctly conclude that Deputy Przygocki had reasonable suspicion to justify a brief investigatory stop?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS

Steven Sandoz was charged with Violation of the Uniform Controlled Substances Act (VUCSA) for possession of cocaine. Clerk's Papers (CP) 1-4. Sandoz moved to suppress his incriminating statements and the cocaine discovered on his person during a search incident to arrest, arguing that his initial detention was illegal. CP 6-15. The trial court denied his motion following a combined CrR 3.5 and 3.6 suppression hearing, and Sandoz elected to proceed to a stipulated facts bench trial. CP 26-28. He was convicted and sentenced to a residential treatment-based drug offender sentencing alternative. CP 29-40, 41-43.

Division One of the Court of Appeals affirmed. State v. Sandoz, 180 Wn. App. 1032, 2014 WL 1600596 (2014). Sandoz petitioned for review, which this Court granted.

2. SUBSTANTIVE FACTS

King County Sheriff's Office Deputy Chris Przygocki is a patrol officer in SeaTac under a contract between that city and King County. 1RP 9.¹ His duties include responding to 911 calls, making traffic stops, investigating suspicious person reports, and having contact with the community. Id. Additionally, Przygocki works on SeaTac's "problem solver projects" to address specific crime in specific areas. 1RP 14-15.

From January through May 2012, Przygocki had been working on a problem solver project at an apartment complex that had been a hub of criminal activity since the 1990s. 1RP 15-16. The complex generated an "unbelievable" number of service calls, with hundreds of documented criminal incidents occurring there. 1RP 15-16. Through his work, Przygocki knew all five occupants of the apartment building by name and what vehicles they drove. 1RP 16. He also knew that four of the five occupants had convictions for narcotics-related activity. 1RP 17. One of those four, Jennifer Meadows, had a history of convictions for possession of controlled substances with intent to distribute. 1RP 17. "In the

¹ The verbatim record of proceedings consists of three volumes, cited as follows: 1RP = 1/3/13; 2RP = 1/7/13; 3RP = 2/1/13. This citation convention corresponds to citations in the Brief of Appellant.

Washington Problem Solving Project at this point in time, [Przygocki] had seen ... upwards of 60 different people coming and going from ... her particular apartment, not to mention the vehicles that would come and-go." 1RP 17.

At about 11:30 p.m. on May 23, 2012, Przygocki noticed a Jeep in front of the complex in a "no-parking, fire, handicapped area." 1RP 18. Przygocki had never seen the Jeep or its occupants before. Id. As he drove by the Jeep, he noticed the driver "slump[] down in the driver's seat of the vehicle almost to hide himself from [Przygocki's] presence." Id. Przygocki parked at the end of a cul-de-sac and watched the Jeep for 10 to 15 minutes before deciding to contact its occupants. 1RP 19.

Przygocki asked the driver what he was doing and why he slumped down when he saw the patrol car. 1RP 20. The driver explained that he was there to pick up Sandoz, who had called the driver for a ride, but did not explain why he slumped down. 1RP 20, 38. As Przygocki was speaking with the Jeep's passengers, he saw Sandoz emerge from Meadows's apartment and walk toward the Jeep. 1RP 20. When Sandoz saw the deputy, "his eyes got big," and he got into the rear passenger seat of the Jeep. 1RP 20-21.

Przygocki asked Sandoz what was going on. 1RP 21. Sandoz claimed that the driver had given him a ride to the complex to collect a \$20 debt from Meadows, "which was contradicting what his friend had told me." 1RP 21. When Przygocki pointed out that the driver's story differed, Sandoz started looking around, "shaking visibly," and his face was pale and thin. Id. Przygocki asked Sandoz if he would mind "stepping outside the car and just talking with me." 1RP 21-22.

Once outside, Sandoz gave another explanation for his presence that Przygocki believed contradicted the one he first gave.² Sandoz admitted that he had a drug problem and that he was carrying a crack pipe. 1RP 23-24. Sandoz agreed to give the pipe to Przygocki, who retrieved it from Sandoz's pocket. 1RP 23. The deputy then arrested Sandoz for possession of drug paraphernalia under the SeaTac Municipal Code. 1RP 23-24; STMC 8.05.380(B).

² Deputy Przygocki testified that Sandoz explained that he was there to collect \$20 from Meadows while he was in the car, and that once Sandoz exited the car, he said that "he was actually there to collect \$20 from Meadows, which was a contradiction to what he told me prior." 1RP 21, 23. It appears that Przygocki partially misspoke. His incident report states that Sandoz first said he was collecting a debt and later said he was paying one. Pretrial Ex. 1 at 4. This report, which was marked but not admitted, explains why Przygocki testified that Sandoz's second explanation "was a contradiction to what he told me prior." 1RP at 23.

Przygocki conducted a pat-down search for officer safety. 1RP 24. During the search, Przygocki felt some objects in Sandoz's "groin area." 1RP 24. Sandoz immediately dropped his head to his chest, and Przygocki advised him of his rights. 1RP 24-25. Sandoz said he understood his rights and told the deputy that the objects in his underwear contained cocaine. 1RP 25, 27.

The deputy waited for another officer to arrive before removing the cocaine from Sandoz's underwear; then placed the drugs in his patrol car trunk and put Sandoz in the backseat. 1RP 26. Sandoz admitted he had a drug problem, asked for help, and advised that he would be coming off narcotics. 1RP 28-29.

C. SUMMARY OF ARGUMENT

Under Terry v. Ohio, police officers may conduct a warrantless investigatory stop if they have a reasonable and articulable suspicion that an individual is involved in criminal activity; i.e., that there is a substantial possibility that criminal conduct has occurred or is about to occur. Whether reasonable suspicion justifies a Terry stop depends upon the totality of the circumstances known to the officer at the stop's inception. Among the relevant circumstances are the officer's training and experience.

The existence of "drug houses" wherein convicted drug dealers sell drugs to a parade of drug users presents a danger to our communities and a drain on law enforcement resources that cannot be ignored. While not every visit to a residence suspected of being a "drug house" creates a reasonable suspicion justifying police intrusion into a person's private affairs, facts and circumstances surrounding such a visit will warrant an investigatory stop in some cases. This is such a case.

The existence of rampant illegal drug activity at the apartment Sandoz visited was well-documented, as was the extensive drug-related criminal history of the person who resided there. Sandoz spent at least 10 minutes inside the drug dealer's apartment around midnight. He emerged, saw the deputy, immediately became visibly frightened and nervous, and then climbed into an illegally-parked vehicle with people the deputy already suspected of drug-related loitering. Sandoz then provided inconsistent explanations for his presence that contradicted that of his companion. While a momentary stop at a suspected drug house may fall short of creating a reasonable and articulable suspicion of criminal activity, the circumstances of the instant case

provide a well-founded basis for an investigatory stop. This Court should affirm.

D. ARGUMENT

THE TRIAL COURT PROPERLY ADMITTED EVIDENCE
DISCOVERED DURING THE DEPUTY'S LAWFUL
ENCOUNTER WITH SANDOZ.

Sandoz challenges the trial court's conclusion that Deputy Przygocki had reasonable suspicion to support an investigatory stop when he asked Sandoz to step outside the Jeep, and argues that the drugs subsequently discovered on Sandoz's person should have been suppressed. Because the totality of the circumstances furnished reasonable suspicion to support the stop, this Court should affirm.

In reviewing the denial of a motion to suppress, the appellate court determines whether substantial evidence supports the trial court's factual findings, and whether those findings support its conclusions of law. State v. Schultz, 170 Wn.2d 746, 754, 248 P.3d 484 (2011). Conclusions of law are reviewed de novo. Id.

Brief investigatory "Terry" stops are well-established exceptions to the general rule that warrantless seizures are

unconstitutional. Terry v. Ohio, 392 U.S. 1, 30-31, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968); State v. Acrey, 148 Wn.2d 738, 746-47, 64 P.3d 594 (2003). A Terry stop is justified when an officer has specific and articulable facts that give rise to a reasonable suspicion that the person stopped has been, or is about to be, involved in a crime. Acrey, 148 Wn.2d at 747. A reasonable suspicion is the "substantial possibility that criminal conduct has occurred or is about to occur." State v. Kennedy, 107 Wn.2d 1, 6, 726 P.2d 445 (1986). "The reasonableness of the officer's suspicion is determined by the totality of the circumstances known to the officer at the inception of the stop." Id. The totality of the circumstances includes factors such as the officer's training and experience, the location of the stop, the conduct of the person detained, the purpose of the stop, the amount of physical intrusion upon the suspect's liberty, and the length of time the suspect is detained. Acrey, 148 Wn.2d at 747.

Sandoz contends that Deputy Przygocki lacked reasonable suspicion to conduct a Terry stop by asking him to speak outside of the vehicle. He points to several of the circumstances leading to the stop and evaluates them independently to argue that none of them gave rise to a reasonable suspicion. But the question is not

whether any of the circumstances independently justified an investigative stop, but whether the combination of all of these factors gave Deputy Przygocki reasonable and articulable suspicion that Sandoz was involved in criminal activity. State v. Glover, 116 Wn.2d 509, 514, 806 P.2d 760 (1991).

Deputy Przygocki testified that he suspected Sandoz and the other Jeep occupants of drug-related loitering. 1RP 46, 58-60. The SeaTac Municipal Code prohibits loitering "under circumstances manifesting the intent to engage in drug-related activity[.]" STMC 8.05.930(C)(1). Circumstances that manifest such an intent include that a "person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is then engaged in an unlawful drug-related activity," "[t]he area involved is by public repute known to be an area of unlawful drug use and trafficking," and "[t]he premises involved are known to have been reported to law enforcement as a place of suspected drug activity." STMC 8.05.930(C)(2)(c), (h), (i).

Przygocki encountered Sandoz and his companions in an area of frequent, documented illegal activity, in which "the sale and possession of narcotics, stolen vehicles, warrant arrests, and vehicle prowls have all been prevalent[.]" 1RP 15. This particular

complex had been designated a "problem solving project" because of an "unbelievable" number of calls for service and "hundreds of documented criminal incidents that occurred there." Id. Neighbors had reported "heavy foot and vehicle traffic coming from certain apartments," and deputies had confirmed the reports through observation. Id. As a result of the rampant criminal activity, the complex's owner had given express authority to remove any non-occupants loitering on the premises. 1RP 42-43, 51.

When Przygocki drove by the illegally parked Jeep in his marked patrol car, the driver slouched down to avoid being seen. The Jeep and its occupants remained in the no-parking fire zone for 10 to 15 minutes with no apparent purpose before Przygocki approached. The Jeep's driver did not explain why he tried to slump out of view, but said that he was waiting to pick Sandoz up from the complex. Przygocki then saw Sandoz emerge from Meadows's apartment. Meadows was a known drug dealer with a history of convictions for drug possession with intent to distribute, and Przygocki had personally observed "upwards of 60 different people coming and going" from her apartment. 1RP 15. Sandoz was startled to see the deputy; his eyes widened and he was visibly shaking and pale. He then explained that the driver had given him

a ride to the complex. Przygocki testified that Sandoz's explanation contradicted the driver's story. 1RP 21.

Together, these circumstances gave rise to a reasonable suspicion that Sandoz was engaged in drug-related activity and thus justified a Terry stop to investigate a violation of the STMC. They also distinguish this case from State v. Doughty, 170 Wn.2d 57, 239 P.3d 572 (2010), on which Sandoz primarily relies.

In Doughty, this Court held that a single person's late-night, two-minute visit to a suspected drug house did not justify a Terry stop. 170 Wn.2d at 64. But there, the police based their suspicions about the house on nothing but neighbor complaints; there was no "actual evidence of drugs, controlled buys, reports of known drug users or dealers frequenting the house, and so forth." Id. at 60. In contrast, the complex at issue here – and Meadows's apartment in particular – was the scene of numerous documented criminal incidents including drug sales, and Meadows was a known drug dealer with a history of VUCSA convictions. As Justice Chambers pointed out in his concurrence, had such evidence existed in Doughty, it would likely have changed the court's analysis. Id. at 65 (Chambers, J., concurring).

Sandoz also relies on State v. Gleason, 70 Wn. App. 13, 18, 851 P.2d 731 (1993), in which Division Three of the Court of Appeals held it improper to seize a person merely for exiting an apartment complex that had a history of drug trafficking. But in Gleason, the "officers' suspicion of criminal activity was based solely on [the Caucasian] Mr. Gleason's presence at an apartment complex where the tenants were primarily Hispanic." 70 Wn. App. at 18. The officers did not see Gleason engage in any drug transaction, did not observe him acting suspiciously, and had no basis to arrest him for loitering. Id. at 18.

This case is not like Gleason. First, Przygocki did not rely on racial incongruity to justify a seizure. Second, Przygocki did not merely see Sandoz "leaving an apartment complex where narcotics had been sold in the past," 70 Wn. App. at 18. Rather, he saw Sandoz leaving the apartment of a known drug dealer in a complex where narcotics trafficking and other crime were so rampant that the complex was singled out as a "problem solving project" and the complex owner authorized police to trespass any non-occupants loitering on the premises. Although Przygocki did not witness Sandoz's drug transaction, Sandoz's reaction to seeing the officer, and his and the driver's contradictory explanations for his presence,

were suspicious. Moreover, the Jeep's loitering occupants were waiting there at Sandoz's request, and the driver himself behaved suspiciously upon seeing the officer. These facts provide the reasonable and articulable suspicion found lacking in Gleason.

Sandoz has argued that there is no basis in the record for the trial court's finding that he and the driver provided inconsistent explanations for their presence. He is mistaken. Deputy Przygocki testified that Sandoz's explanation "that his friend had given him a car ride to collect \$20 from Ms. Meadows ... was contradicting what his friend had told me." 1RP 21. Although Przygocki did not fully articulate the inconsistency in his testimony, the deputy's testimony that he understood the two explanations as contradictory supports the trial court's finding. Together with Sandoz's late-night visit to a known drug dealer's apartment while his friends loitered in a no-parking zone and his startled reaction to seeing the officer, the contradictory explanations demonstrated a substantial possibility that Sandoz was involved in criminal conduct.

Sandoz has also argued that Przygocki lacked reasonable suspicion to investigate him for drug-related loitering because he was visiting Meadows, not loitering. But when Sandoz left Meadows's apartment, he entered the Jeep, the occupants of which were observed "remain[ing] in or near a place in an idle or apparently idle manner" – the dictionary definition of "loiter" that Sandoz adopted in his Court of Appeals brief.³ Brief of Appellant at 14 (citing Webster's Third New World Dictionary 1331 (1993)). It is undisputed that the Jeep's occupants were loitering,⁴ and they were reportedly doing so at Sandoz's request. This fact contributed to Przygocki's reasonable suspicion that Sandoz was also involved in unlawful activity.

Given the totality of the circumstances, the trial court correctly concluded that Deputy Przygocki had reasonable suspicion that Sandoz was engaging in illegal drug activities, which justified an investigative stop. This Court should affirm.

³ As Sandoz points out, neither the Revised Code of Washington nor the STMC defines "loitering."

⁴ Indeed, Przygocki testified that he suspected all of the Jeep's occupants of drug loitering, and he issued trespass warnings to all of them. 1RP 58-60.

E. CONCLUSION

For all of the foregoing reasons, the State respectfully asks this Court to affirm Sandoz's conviction for Violation of the Uniform Controlled Substances Act (VUCSA) – possession of cocaine.

DATED this 15th day of September, 2014.

Respectfully submitted,

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

No. 12-1-05007-1 KNT

vs.

STEVEN PAUL SANDOZ,

Defendant,

WRITTEN FINDINGS OF FACT AND
CONCLUSIONS OF LAW ON CrR 3.6
MOTION TO SUPPRESS PHYSICAL,
ORAL OR IDENTIFICATION
EVIDENCE

A hearing on the admissibility of physical, oral, or identification evidence was held on January 3, 2013, before the Honorable Judge Beth Andrus. After considering the evidence submitted by the parties and hearing argument, to wit: the testimony of King County Sheriff Deputy Christopher Przygocki,

the court makes the following findings of fact and conclusions of law as required by CrR 3.6:

FINDINGS OF FACTS:

1. On May 23, 2012, at around 11:30 p.m., King County Sheriff Deputy Christopher Przygocki was working on a King County Sheriff Department Problem Solving Project at 19278 11 Pl. S., Seatac, Washington. The deputy was working as a contracted City of Seatac officer for KCSO at this time.
2. Deputy Przygocki was sitting in his marked patrol vehicle, without a partner, acting as a presence at this particular problem solving area to stop drug activity. The deputy was outfitted with his usual department issued uniform, ~~indicating~~ *indicating* he is a police officer. The

WRITTEN FINDINGS OF FACT AND
CONCLUSIONS OF LAW - 1

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1 area the deputy was in was deemed a problem solving area due to reported criminal
2 activity, through 911 calls and investigations of narcotics and vehicle thefts.

- 3 3. Deputy Przygocki is particularly familiar with this area and specifically this complex as it
4 is a known high crime area, including being known for the sale and possession of
5 narcotics, stolen vehicle activity, and other criminal activities. The deputy had written
6 authority by the owner of this private apartment complex to trespass non-occupants at the
7 complex, if there was a legitimate basis.
- 8 4. Deputy Przygocki has documented different vehicles coming and going from this
9 complex. The deputy is familiar with the tenants of this complex and the vehicles they
10 own or drive.
- 11 5. Deputy Przygocki is familiar with one of the tenants of the complex, Jennifer Meadows.
12 Meadows has a history of VUCSA and VICE convictions and the deputy has viewed at
13 least sixty different people coming and going from this complex.
- 14 6. Deputy Przygocki was seated in his patrol car when he observed a White Jeep Grand
15 Cherokee parked in a handicap/no parking lane directly in front of the problem solving
16 project apartment complex. The deputy knew that none of the tenants owned the Jeep
17 and he had never seen the Jeep at the complex before.
- 18 7. Deputy Przygocki drove past the Jeep and saw three males inside the vehicle. The deputy
19 noticed one of the males slouch down, when he drove past the vehicle.
- 20 8. Deputy Przygocki parked his patrol car and watched the vehicle for approximately 15
21 minutes. After none of the occupants left the vehicle and none got into the vehicle, the
22 deputy approached the vehicle on foot. The deputy did not activate his overhead lights or
23 block the vehicle. The deputy talked to the occupants of the vehicle and asked them what
24 they were doing. The driver of the vehicle, Daniel Cain, indicated he received a call from
Steven Sandoz, the defendant, who asked him to pick him up at this apartment.
9. Deputy Przygocki then walked to the passenger side and was talking to the passenger
occupant, when he saw the defendant exit Meadows apartment. When the defendant saw
the officer, the defendant's eyes widened in apparent surprise. The defendant got into the
backseat of the vehicle. The deputy did not impede the defendant from entering the
vehicle.
10. Deputy Przygocki contacted the defendant, while the defendant was seated in the vehicle.
The defendant was visibly shaking and pale. The deputy asked what was up and the
defendant indicated that he received a ride from Cain to Meadows apartment because
Meadows owed him money. The deputy told the defendant that Cain told him something
different. The defendant began to look around and had visible body shakes.
11. Deputy Przygocki asked to speak to the defendant privately and the defendant agreed.
The defendant exited the vehicle and they both walked a few feet behind the jeep. The

WRITTEN FINDINGS OF FACT AND
CONCLUSIONS OF LAW - 2

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1 deputy did not order the defendant out of the vehicle or attempt to touch his weapon, as
2 he had no safety concerns with the defendant. The deputy was the only law enforcement
3 officer present.

4 12. Deputy Przygocki's demeanor during this contact was calm and even toned.

5 13. Deputy Przygocki believed this contact was voluntary, but also believed that had the
6 defendant chose to not speak to the deputy privately, he had both reasonable suspicion to
7 investigate and probable cause that the defendant was committing a violation of the
8 ordinance of Drug Traffic Loitering, under the Seatac Municipal Code.

9 14. Outside the vehicle, Deputy Przygocki asked the defendant why the stories between him
10 and Cain were different. The defendant stated he was actually at Meadows apartment to
11 pay her back. The defendant then volunteered the information that he has a drug problem
12 and he had a crack pipe on him. The deputy asked to retrieve the pipe and the defendant
13 stated "yes." Deputy Przygocki removed a pipe from the defendant's pants pockets; the
14 pipe had residue on it.

15 15. The defendant was not free to leave after the pipe was located and the defendant was
16 placed under arrest for Possession/Use of Drug Paraphernalia. Search incident to arrest,
17 the deputy felt two objects that seemed like rolled up paper and seemed to be underneath
18 the defendant's jeans. The defendant dropped his head when those items were felt.

19 16. Deputy Przygocki read the defendant his Miranda Rights. The defendant stated he
20 understood his rights. The defendant then told the officer that the object the officer was
21 feeling was cocaine hidden in his underwear. The defendant stated there were two
22 envelopes and cocaine was in one of the envelopes.

23 17. Deputy Bartolo then arrived on scene and watched as Deputy Przygocki removed the
24 cocaine from Sandoz's underwear. The defendant indicated that there should be about 5
grams of cocaine in the envelopes. The defendant stated he purchased the cocaine from
Meadows and said that Meadows must have set him up since the deputy was waiting
outside the apartment. The defendant would not give a written statement about where he
purchased the cocaine because he had "integrity," but the defendant did admit to having a
drug problem.

18. The defendant made no furtive movements or attempts to hide the suspected cocaine
when he was being searched.

19. Deputy Przygocki asked the defendant if there was anything in the Jeep the defendant
would like retrieved. The defendant stated he had a black travel bag in the Jeep, but he
did not want it. The defendant confessed that the bag was his but that there was probably
more drugs, heroin, in the bag. The defendant stated that he did not know which pocket
the heroin was in or if it was still in there, but last time he checked there was heroin in the
bag.

WRITTEN FINDINGS OF FACT AND
CONCLUSIONS OF LAW - 3

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- 1 20. After Deputy Przygocki transported the defendant to Seatac City Hall for booking, the
 2 defendant told the deputy he was cold and would be coming off of narcotics. The deputy
 3 searched that bag at City Hall and located the following: 2.8 grams of suspected heroin
 in a small baggy, a burnt spoon, smoking pipe, digital scale, rubber tube, and hypodermic
 needles.
- 4 21. One of the envelopes located in the defendant's underwear contained a clear plastic
 5 baggy containing 7.3 grams of suspected cocaine. The second envelope contained 1.9
 grams of suspected cocaine; it was not in a plastic baggy.
- 6 22. The suspected cocaine that was located in envelopes in the defendant's underwear was
 7 field tested and was positive for cocaine.
- 8 23. Deputy Przygocki's testimony was credible.

CONCLUSIONS OF LAW

I.

11 a. The initial encounter, where the deputy approached the defendant on foot while
 12 the defendant was an occupant in a parked vehicle, was merely a social contact, as
 13 under State v. O'Neil, 148 Wn.2d 564, the defendant was essentially a pedestrian
 14 and no show of authority or restraint on liberty had been placed on the defendant.
 15 Under an objective analysis, a reasonable person would feel free to leave given
 16 the actions of the deputy, up to this point. Even though the deputy had some
 17 suspicions when he approached the defendant, the test is not the subjective
 18 mindset of the deputy, but rather whether a reasonable person would feel free to
 19 leave;

20 b. The encounter with the defendant became a Terry stop, requiring reasonable and
 21 articulable suspicion, once the officer asked the deputy to talk in private at the
 22 back of the car. Since the deputy ^{testified} believed that he ^{would have arrested the defendant} had probable cause for Drug
 23 Traffic Loitering ^{if the defendant refused to speak to him} at this point, a reasonable person would have felt compelled to

1 comply with the officers request to talk to the defendant in private outside of the
2 vehicle;

- 3 c. The deputy had reasonable and articulable suspicion to conduct a Terry stop of
4 the defendant, when he asked to talk to the defendant privately at the back of the
5 vehicle. The area that this occurred was an area of extremely high drug activity,
6 known to the officer based on objective 911 calls reporting drug activity and
7 investigations into drug dealing. The deputy was aware that occupants of the
8 apartment complex, specifically the one apartment the defendant exited, was
9 known as a place where drug deals occurred. Unlike in State v. Dougherty, 170
10 Wn.2d 57 (2010), the deputy in this case had knowledge that the specific
11 apartment the defendant exited was occupied by a known drug dealer, Meadows,
12 who had numerous VUCSA convictions, including convictions for possession
13 with intent to deliver narcotics. The deputy had express authority from the
14 complex owner people to trespass people who were non-occupants loitering at the
15 complex. The Jeep seen did not belong to any occupants of the complex. The
16 driver of the Jeep slouched down when the deputy drove past. The driver and the
17 defendant had conflicting stories as to why they were in the area. The defendant
18 looked surprised when he saw the deputy. The defendant was visibly shaking and
19 pale when the deputy initiated contact with him. At this point, the deputy had
20 reasonable and articulable suspicion to ~~investigate that the defendant~~
21 was engaging in illegal drug activities, ~~Loitering, under the Seattle Municipal Code;~~
22 investigate that the defendant
23 was engaging in illegal drug activities,
24 Loitering, under the Seattle Municipal Code;

WRITTEN FINDINGS OF FACT AND
CONCLUSIONS OF LAW - 5

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d. The deputy had probable cause to arrest the defendant for Use/Possession of Drug Paraphernalia, once the "crack" pipe was located and completed a valid search incident to arrest after that.

II.

The deputy's contact with the defendant was initially a social contact. Once the deputy asked the defendant to speak privately, the contact became a Terry stop. Once the contact became a Terry stop, the deputy had reasonable and articulable suspicion to briefly detain the defendant. The defense motion to suppress evidence is denied.

III.

Judgment should be entered in accordance with Conclusion of Law II. In addition to these written findings and conclusions, the court hereby incorporates its oral findings and conclusions as reflected in the record.

Signed this 1ST day of FEB, 2013.

Beth M Andrus
JUDGE Beth M. Andrus

Presented by:

Kelsey Scherman
Kelsey Scherman, WSBA#41684
Deputy Prosecuting Attorney

George Sjursen
George Sjursen, WSBA#28682
Attorney for Defendant

Approved as to form

WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW - 6

Daniel T. Satterberg, Prosecuting Attorney
Norm Maleng Regional Justice Center
401 Fourth Avenue North
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Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Kevin A March, the attorney for the appellant, at MarchK@nwattorney.net, containing a copy of the Supplemental Brief of Respondent in State v. Steven Paul Sandoz, Cause No. 90270-4 consolidated under 90039-6, in the Supreme Court, for the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Dated this 15th day of September, 2014.

W Brame

Name:

Done in Seattle, Washington

OFFICE RECEPTIONIST, CLERK

To: Brame, Wynne
Cc: Joseph, Jennifer; MarchK@nwattorney.net; Sloane, John
Subject: RE: State v. Steven Sandoz, Supreme Court No. 90270-4 consolidated under 90039-6

Received 9/15/14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Brame, Wynne [mailto:Wynne.Brame@kingcounty.gov]
Sent: Monday, September 15, 2014 4:01 PM
To: OFFICE RECEPTIONIST, CLERK
Cc: Joseph, Jennifer; MarchK@nwattorney.net; Sloane, John
Subject: State v. Steven Sandoz, Supreme Court No. 90270-4 consolidated under 90039-6

Please accept for filing the attached documents (Supplemental Brief of Respondent) in State of Washington v. Steven Sandoz, No. 90270-4 consolidated under 90039-6.

Thank you.

Jennifer P. Joseph
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This e-mail has been sent by Wynne Brame, paralegal (phone: 206-296-9650), at Jennifer Joseph's direction.

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