

77426-3

COURT OF APPEALS, DIVISION ONE
OF THE STATE OF WASHINGTON

State of Washington, Respondent,
v.
David Haggard, Petitioner,

STATEMENT OF ADDITIONAL GROUNDS

David Haggard
Appearing Pro Se

Coyote Ridge Corrections Center
F-8C
P.O. Box 769
Connell, WA 99326

FILED
COURT OF APPEALS DIV 1
STATE OF WASHINGTON
2018 AUG 10 AM 11:33

A. DECISION BELOW

1. Following a trial to the bench, the trial court found Mr. Haggard guilty of Burglary in the Second Degree and Arson in the Second Degree.

B. ISSUES PERTAINING TO ADDITIONAL ASSIGNMENTS OF ERROR

1. Did the trial court err in denying defendant's motion to compel an unredacted copy of an affidavit in support of the search warrant granting authority of law to a search of his residence that yielded inculpatory evidence thereby denying the defendant a fair opportunity to evaluate whether the warrant contained any material misstatements or omissions?
2. Did the trial court err in denying the defendant's motion to compel investigative records pertaining to an open investigation into the disappearance of the defendant's sister, Jamie Haggard, despite evidence such records would contain information about the relationship between the defendant and the State's key witnesses in the present litigation, Carlee Chew and Jason Nolte?

3. Did the trial court err in denying defendant's motion to suppress evidence flowing from a search warrant that was neither supported by probable cause to believe that a crime had occurred nor constrained by the particularity required to ensure that search did not unreasonably encroach into Mr. Haggard's private affairs?

C. STATEMENT OF THE CASE

In June of 2016, Jamie Haggard ceased communicating with her parents shortly after her boyfriend was booked into jail for allegedly punching her in the face. Despite the complete absence of any circumstances that would suggest David Haggard had any motive whatsoever to murder his sister, or any physical evidence or circumstances suggesting that Carlee Chew's disappearance was the result of criminal activity, Detective Bartlett focused on Mr. Haggard as the primary suspect.

In mid-July Bartlett obtained a warrant authorizing a virtual deconstruction of the property at which Mr. Haggard resided with his sister and her boyfriend, Jason Nolte. This search turned up no evidence whatsoever that Mr. Haggard had murdered his sister, but, unsurprisingly, yielded evidence of unrelated criminal activity –

specifically, a burglary and arson with which Mr. Haggard was later charged in the instant litigation. Detective Bartlett then used the discovery of such activity to extract statements inculcating Mr. Haggard from Mr. Nolte and Carlee Chew both at the scene of the July search and during later interviews shortly after a subsequent search of the property on September 1, 2016. Ms. Chew was Mr. Haggard's girlfriend and also an unindicted co-conspirator to the crime charged in the trial court below.

Mr. Haggard's counsel sought to compel a copy of the affidavit in support of probable cause used to obtain the search warrant. The trial court denied the defendant's motion on the grounds that the material sought was protected by discovery rules and statute as part of an ongoing criminal investigation.

Mr. Haggard's counsel further sought to compel records pertaining to Mr. Nolte's cooperation into Detective Bartlett's homicide investigation, and the trial court again denied counsel's motion on the grounds that such records were protected by court rule and statute because they pertained to an ongoing criminal investigation.

At trial, counsel further moved to suppress the incriminating evidence obtained during Detective Bartlett's exhaustive rummaging

through Mr. Haggard's residence and Detective Brad Smith's subsequent rummaging through an abandoned house occupied by Mr. Haggard. The trial court denied the request to suppress the fruits of either search.

Following a denial of his motions to suppress, the trial court conducted a bench trial at which the defendant waived his rights to confront witnesses. At this trial, the trial court relied upon evidence obtained by Detectives Bartlett and Smith as well as hearsay statements obtained by Detective Bartlett from Jason Nolte and Carlee Chew shortly after conducting searches of their shared residence with Mr. Haggard.

D. ARGUMENT

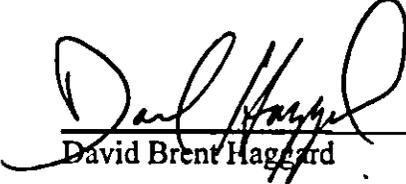
The appellant adopts the arguments raised by trial counsel and respectfully requests that this honorable court review the pleadings filed in the trial court entitled "Motion to Compel Production of Warrant Affidavit," "Motion to Compel Production of Investigative Records," and "Motion to Suppress Pursuant to CrR 3.6." These documents should be contained within the clerk's papers designated by appellate counsel for review.

E. CONCLUSION

For the foregoing reasons, this Court should reverse appellant's conviction for arson and burglary and remand for proceedings consistent with the court's disposition of the issues raised on review.

Dated this 2th day of August, 2018

Respectfully submitted,



David Brent Haggard