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No. 97583-3

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

KATHLEEN MANCINI, Petitioner,

v.

CITY OF TACOMA, Respondent.

BRIEF OF AMICUS CURIAE
WASHINGTON ASSOCIATION OF PROSECUTING ATTORNEYS

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I. INTEREST OF AMICUS CURIAE

The Washington Association of Prosecuting Attorneys (“WAPA”) represents the elected prosecuting attorneys of Washington State. Those persons are responsible by law for the prosecution of all felony cases in this state, of all gross misdemeanors and misdemeanors charged under state statutes, and to defend their respective counties against any civil suits.

WAPA is interested in cases, such as this, which have wide-ranging impact on the duties of prosecutors and upon the ability of law enforcement officers to effectively investigate and intervene in criminal activity. This brief explains why Kathleen Mancini is incorrect in her claim that if evidence had been found in her apartment, it would have been suppressed in an ensuing criminal prosecution.¹

II. ISSUE PRESENTED

Whether a police officer, having obtained sufficient evidence to support a finding of probable cause for a search warrant for a particular crime at a particular address, has a duty to seek out potentially exculpatory evidence or evidence of a greater offense before obtaining and executing the search warrant?

¹*See, e.g.*, Petition for Review of Kathleen Mancini at 16-20 (hereinafter “Petition for Review”); Supplemental Brief of Petitioner at 5, 12-15.

III. AMICUS CURIAE'S STATEMENT OF THE CASE

City of Tacoma Police Officer K. P. Smith was a veteran officer in 2010. He was assigned to the narcotics division and had received significant training regarding the investigation of drug offenses. RP 240-41, 243-44; Ex. 103 at 3-4. This training included procedures for establishing the reliability of confidential informants and the handling of CIs. RP 222, 244-48; Ex. 118.

On December 4, 2010, Officer Smith was told by a CI who had been vetted in accordance with department standards that a person named "Matt" could sell dealer size quantities of methamphetamine. RP 248-252; Ex. 103 at 2. The CI's tip did not include any specifics as to the basis of her knowledge. RP 252, 254.

Approximately one month later on January 4, 2011, Officer Smith was contacted again by the CI regarding Matt. RP 253. This time, the CI was able to provide current information regarding Matt's involvement with drugs. Specifically, the CI told Officer Smith that within the last 72-hours, the CI had been inside Matt's apartment located at "28625 16th Ave S., Apartment #B1, Federal Way, WA 98003." Ex. 103 at 2. While inside the apartment the CI observed "Matt selling quantities of methamphetamine, a drug scale and packaging material for the sell (sic) of methamphetamine." Ex. 103 at 2. *See also* RP 254, 250. The CI further reported "that within the last week, he/she observed Matt with dealer size quantities of methamphetamine inside

of [Matt's black 4-door Dodge Charger, WA license #539WFD]" Ex. 103 at 2.

The CI made her observations when she fortuitously was invited into Matt's home when she bumped into him at the casino. RP 254. The CI learned during her visit that Matt sells drugs from both his home and his vehicle, and that Matt either lives with his mother or has his apartment in his mother's name. RP 255; Ex. 103 at 2. The CI further indicated that she was uncertain whether she would have another opportunity to go back to Matt's house and was unsure if she could purchase drugs from him. RP 254, 278.

Aware of the "72-hour rule,"² Officer Smith promptly set about to corroborate the CI's information. RP 255, 276-77. Officer Smith and Officer Walkinshaw met with the CI who directed them to "28625 16th Ave S, Federal Way." Ex. 103 at 2. *See also* RP 255. Once at this address, the CI "pointed out apartment #1 and told [Officer Smith] that this was Matt's

²There are numerous "72-hour rules" that are applicable to search warrants, only one of which is codified. See RCW 69.50.509 ("return of said warrant within three days"). In the context of Officer Smith's testimony, the "72-hour rule" he was referring to is the case law developed period during which a recent observation of controlled substances will generally be fresh enough to support a search warrant. *See, e.g., United States v. Johnson*, 351 F.3d 254, 259-60 (6th Cir. 2003) (informant's observations concerning drug dealing given within three days of issuance of search warrant not stale); *Tart v. Commonwealth*, 437 S.E.2d 219 (Va. App. 1993) (search warrant was not stale because it was executed immediately after it was issued and the confidential informant stated he had seen defendant and drugs in the motel room within 72 hours). Intervals greater than 72-hours are tolerated when the suspect is a known drug trafficker. *See, e.g., United States v. Ortiz*, 143 F.3d 728, 732-33 (2d Cir. 1998) ("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.'"); *State v. Perez*, 92 Wn. App. 1, 963 P.2d 881 (1988) (4-day interval with know drug dealer sufficient to defeat a staleness challenge).

apartment and that this was the same apartment that he/she observed Matt selling quantities of methamphetamine, a drug scale and packaging materials for the sell of methamphetamine.” Ex. 103 at 2. *See also* RP 256. Officer Smith observed “a black 4-door Dodge Charger, bearing WA #539WFD parked in front of apartment #B1.” Ex. 103 at 2. The CI “confirmed that this was the same vehicle that he/she had observed Matt with dealer size quantities of methamphetamine inside of.” Ex. 103 at 2; RP 256. Because of the similarity between the buildings located at 28625 16th Ave S, Federal Way, Officer Smith double checked with the CI that the apartment in which she observed Matt selling methamphetamine was the one before which the 2006 Dodge Charger was parked and not another one in the compound. RP 256-57. The CI confirmed that she had made the observations in apartment B1. RP 256.

Officer Smith conducted a records search and found that the 2006 Dodge Charger, bearing WA license number 539WFD was registered to Matthew D. Logstrom. RP 269-71; Ex. 103 at 3. Logstrom’s height, weight, and age on records matched the CI’s description of Matt. *Compare* Ex. 103 at 2 with Ex. 103 at 3. Records further established that “Logstrom had 9 felon[y] convictions between 2004 and 2008 to include VUCSA violations, thefts and firearms.” Ex. 103 at 3. *See also* RP 221, 271-72; Ex. 107.

Officer Smith also performed other checks that established apartment B-1 was rented by a woman of the same race as Logstrom and of an age that would enable her to be Logstrom's mother. RP 260-69. These facts were consistent with the CI's report that Logstrom either lived with his mother or was in an apartment that was under his mother's name. RP 220, 262.

Armed with the information from a reliable confidential informant and his follow up investigation, Officer Smith prepared a search warrant application for evidence of the crime of "Unlawful Possession of a Controlled Substance with intent to deliver, METHAMPHETAMINE, 69.50.401." Ex. 103 at 1. This offense does not require proof of an actual delivery. Evidence is sufficient to support a conviction of this crime where a defendant possesses a large quantity of controlled substances, expert testimony establishes that the amount found exceeds personal use, and some additional evidence such as a confession, packaging materials, a scale, large amounts of money, filler materials to "cut" the drugs with and/or ledgers or records of transactions. *See, e.g., State v. Hotchkiss*, 1 Wn. App. 2d 275, 404 P.3d 629 (2017); *State v. Wade*, 98 Wn. App. 328, 989 P.2d 576 (1998); *State v. Davis*, 79 Wn. App. 591, 904 P.2d 206 (1995).

Officer Smith's search warrant application summarized his training and experience, the CI's observations, her basis of knowledge, and evidence of her reliability, Officer Smith's observation of Matt Logstrom's 2006

Dodge Charger in front of apartment B1 at 28625 16th Ave S, Federal Way, Logstrom's record of convictions, and Officer Smith's knowledge of traffickers' habits. *See* Ex. 103. While everything in the search warrant was truthful,³ RP 281, Officer Smith omitted some of the steps he took to confirm the CI's information. This additional information would have strengthened rather than weaken probable cause. RP 117, 181.

Officer Smith's search warrant application described the residence to be searched with particularity as

The residence at 28625 16th Ave S, Apartment #B1, within the City of Federal Way, County of King, State of Washington. The residence is gray in color. It is a two story structure of wood framed construction apartment complex. The letter "B" and numbers "28625" are affixed to the front side (east) of the apartment building. The number "1" is affixed to the front door.

Ex. 103 at 2.

Officer Smith submitted his search warrant application in person to Pierce County Superior Court Judge Bryan Chushcoff. RP 281-82. Judge Chushcoff determined that Officer Smith's complaint for search warrant established probable cause to believe that evidence of the crime of "Unlawful Possession of a Controlled Substance with intent to deliver, METHAMPHETAMINE, 69.50.401," ex. 104 at 1, would be found at

³Former Seattle Police Chief Norm Stamper, who testified on behalf of Ms. Mancini, expressly stated that Officer Smith did not include any deliberate falsehoods in the warrant application and that he did not fail to disclose material information that would have negated probable cause. *See* RP 117, 180.

The residence at 28625 16th Ave S, Apartment #B1, within the City of Federal Way, County of King, State of Washington. The residence is gray in color. It is a two story structure of wood framed construction apartment complex. The letter “B” and numbers “28625” are affixed to the front side (east) of the apartment building. The number “1” is affixed to the front door.

Ex. 104 at 2.⁴

Judge Chushcoff granted a warrant that authorized the police to search apartment B-1 for controlled substances, records related to the purchase and distribution of controlled substances, packaging materials, scales, United States currency, and other items. Ex. 104. The warrant also authorized police to search Logstrom and the Dodge Charger that was registered to him.

Id.

Officer Smith and other officers executed the search warrant on “28625 16th Ave S, Apartment #B1” on January 5, 2011, at approximately 9 a.m. *See* RP 283. Shortly after entry, Officer Smith and his fellow officers realized that neither methamphetamine or other evidence of possession of a controlled substance with intent to deliver would be found inside apartment B-1. RP 289-90. The officers determined that B-1 was the “wrong” apartment,⁵ in that its interior did not match the interior described by the CI.

⁴King County Superior Court Judge Steve Rosen concurred in Judge Chushcoff’s determination, finding, as a matter of law, that the search warrant for apartment B-1 was supported by probable cause. RP 518.

⁵There is an entire body of case law involving “wrong addresses.” These cases, however, involve search warrants that establish probable cause to search location X, but that list a street address other than that assigned to location X in the warrant. These cases turn on

See RP 289-90.

Despite being understandably scared by the officers' non-consensual entry into her home, Ms. Mancini was able to assist the officers in locating Logstrom's apartment. RP 231-33, 293-94. The officers, acting upon Ms. Mancini's information, ultimately arrested Logstrom and removed drugs, scales, currency, and other evidence from his apartment. Ex. 1; RP 296-304, 378, 383.

Subsequent to the execution of the search warrant on her apartment, Ms. Mancini brought suit alleging, in relevant part, negligent investigation. *See* CP 564, 569; RP 4, 5, 7-8, 727, 728, 736-737. Ms. Mancini's negligent investigation claim was largely supported by the testimony of former Seattle Police Chief Norm Stamper. Mr. Stamper's opinion was largely based upon the lack of evidence found when the search warrant was executed upon apartment B-1. RP 208. Mr. Stamper would characterize any investigation that resulted in an unfruitful search warrant as "negligent." *See* RP 101-02.

Mr. Stamper faulted Officer Smith's investigation due to the reliance on a CI, and the absence of surveillance, controlled buys, or a "so-called

whether the description of the location to be searched in the warrant is sufficiently specific. *See, e.g., State v. Smith*, 39 Wn. App. 642, 694 P.2d 660 (1984) (search warrant that was issued with incorrect address for place to be searched was not invalid because description of the place to be searched was such that the executing officer could ascertain and identify the location). In the instant case, the officers developed PC to search B-1, applied for a search warrant for B-1, obtained a search warrant for B-1, and executed the search warrant at B-1.

routine traffic stop.”⁶ *See generally* RP 131-141, 157, 200, 202. Mr. Stamper did acknowledge, however, that thousands of search warrants for drug offenses are issued every year based upon information provided by a CI that is not accompanied by surveillance or controlled buys. RP 170, 206-08.

Ms. Mancini’s negligent investigation claim was successful at trial. The Court of Appeals, however, vacated the jury’s verdict on the grounds that claimed negligence during the evidence gathering aspect of the police investigation does not present a cognizable claim. *See Mancini v. City of Tacoma*, No. 77531-6-I (Wa. App. May 13, 2019) (unpublished).

In this Court, Ms. Mancini claims that “an innocent woman like her” should have a remedy for police negligently raiding her home because if “Tacoma police had serendipitously found that [she] had committed a different crime, the exclusionary rule would have vindicated her rights in a criminal case.” Supplemental Brief of Petitioner, at 5. WAPA submits this amicus curiae brief to address this statement.

IV. ARGUMENT

A. Criminal Law Establishes an Officer’s Duty With Respect to an Investigation.

The execution of the lawfully obtained search warrant on Ms. Mancini’s apartment had negative impacts upon her sense of security and

⁶RP 136. An officer who engages in this practice in Washington would be violating article I, section 7 of the Washington Constitution. *See State v. Ladson*, 138 Wn.2d 343, 979 P.2d 833 (1999).

peace of mind. Injury, standing alone, however, imposes no liability. To sustain an actionable negligence claim, a plaintiff must establish four essential elements: duty, breach, proximate cause, and resulting harm. *Hansen v. Friend*, 118 Wn.2d 476, 479, 824 P.2d 483 (1992); *Pedroza v. Bryant*, 101 Wn.2d 226, 228, 677 P.2d 166 (1984); *Kennedy v. Sea-Land Serv., Inc.*, 62 Wn. App. 839, 856, 816 P.2d 75 (1991). If any of these elements cannot be met as a matter of law, judgment must be entered in favor of the defendant. *Beltran-Serrano v. City of Tacoma*, 193 Wn.2d 537, 554, 442 P.3d 608 (2019).

Ms. Mancini refers this Court to criminal cases arguing that they provide the standard for the tort of negligent investigation. *See generally* Supplemental Brief of Petitioner at 11-14; Petition for Review at 16-19. Ms. Mancini contends that an innocent person should be entitled to maintain an action for negligent investigation whenever a criminal defendant would be entitled to suppression of evidence under the same facts. *See* Petitioner for Review at 19 (“It would be odd if the law allowed a criminal defendant to benefit from the exclusion of inculpatory evidence but barred an innocent person from obtaining a remedy.”). Ms. Mancini claims that if this matter “had been a criminal prosecution and [if she] had been engaged in, say, trafficking in stolen goods, our state’s exclusionary rule would have afforded her a remedy.” Supplemental Brief at 13. Her assertion is contrary to

Washington law.

B. The Exclusionary Rule Would Not Apply to Evidence Seen in Plain View While the Officers Executed the Search Warrant on Apartment B-1.

Ms. Mancini is correct in her assertion that in criminal cases, Washington's "constitutionally mandated exclusionary rule provides a remedy for individuals whose rights have been violated" *State v. Winterstein*, 167 Wn.2d 620, 632, 220 P.3d 1226 (2009). However, this is only a proper sanction for an unreasonable search, and is intended to protect the privacy interests of individuals against unreasonable government intrusions. *See State v. Afana*, 169 Wn.2d 169, 180, 233 P.3d 879 (2010).

In this case, the search of Ms. Mancini's residence was made pursuant to a search warrant based on probable cause that a crime had been committed. Ex. 104. The only "fact" that Ms. Mancini provides in support of her conclusion that the search warrant obtained in this matter was erroneously granted is that officers did not find any of the evidence identified in the search warrant following their entry into her home. A search warrant, however, is good or bad when it is granted and does not change its character by what is found when the warrant is executed. *See Ker v. California*, 374 U.S. 23, 40 n.12, 83 S. Ct. 1623, 1633, 10 L. Ed. 2d 726 (1963) ("As the Court said in *United States v. Di Re*, 332 U.S. 581, 595 (1948), 'a search is not to be made legal by what it turns up. In law it is good or bad when it starts

and does not change character from' what is dug up subsequently.'"). *Accord Turngren v. King County*, 33 Wn. App. 78, 83 n.2, 649 P.2d 153 (1982) ("the mere fact that the evidence sought was not found and the suspect not prosecuted does not, in and of itself, establish prima facie proof of lack of probable cause" for a search warrant), *rev'd on other grounds*, 104 Wn.2d 293, 705 P.2d 258 (1985).

Officers who have entered a home pursuant to a valid search warrant are not required to ignore evidence of a crime other than the one listed in the warrant itself. If officers executing a search warrant for possession of a controlled substance with intent to deliver, observe items that they are immediately able to recognize as associated with another crime, such as "trafficking in stolen goods,"⁷ the officers may either seize the items or use their observations to obtain a new or expanded search warrant. *See, e.g., State v. Morgan*, 193 Wn.2d 365, 440 P.3d 136 (2019) (explaining plain view doctrine). The evidence, moreover, is admissible in a prosecution for the other crime. *See, e.g., State v. Hatchie*, 161 Wn.2d 390, 166 P.3d 698 (2007).

⁷Supplemental Brief of Petitioner at 13.

C. Criminal Law Places No Duty Upon an Officer to Delay Applying for a Search Warrant After Probable Cause Has Been Established.

Evidence found while executing a facially valid search warrant may be excluded if factual inaccuracies or omissions in the application are (a) material and (b) made in reckless disregard for the truth. *See Franks v. Delaware*, 438 U.S. 154, 155-56, 98 S. Ct. 2674, 57 L. Ed. 2d 667 (1978); *State v. Chenoweth*, 160 Wn.2d 454, 462, 158 P.3d 595 (2007). A showing of mere negligence or inadvertence is insufficient. *Franks*, 438 U.S. at 171; *Chenoweth*, 160 Wn.2d at 478-79.

This ground for exclusion of evidence is not present here. Ms. Mancini's witness, Norm Stamper, expressly acknowledged that Officer Smith did not include any deliberate falsehoods in the warrant application and that he did not fail to disclose material information that would have negated probable cause. See RP 117, 180.

Ms. Mancini requests that this Court adopt two more grounds for attacking a facially valid search warrant. Specifically, she requests tort liability for innocent persons and exclusion of evidence for non-innocent persons when (1) officers do not extend their investigation beyond that necessary to support probable cause, or (2) officers do not affirmatively seek out evidence that may negate probable cause. Ms. Mancini, however, does not identify the source of either proposed duty.

The obligation of law enforcement officers is to conduct criminal investigations in a manner that does not violate the constitutionally protected rights of the person under investigation or the rights of others who are impacted by the investigation. Whether the officers conducted the investigation professionally or negligently is not relevant to this duty. For constitutional purposes, the issue is not whether the information on which police officers base their request for a search warrant resulted from a professionally executed investigation. Rather, the issue is whether the information collected would warrant a reasonable person to believe that there is probable cause to believe that evidence of an identified crime can be found at the place to be searched. *Orsatti v. N.J. State Police*, 71 F.3d 480, 484 (3d Cir. 1995); *State v. Thein*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999).

1. Probable Cause is the Threshold for Applying for a Search Warrant.

In contrast to the Fourth Amendment, which includes a warrant clause that sets the standard of proof at probable cause, the particular requirements for issuance of a warrant in Washington are embedded in statutes and court rules governing searches and seizures. *Chenoweth*, 160 Wn.2d at 464. CrR 2.3 authorizes a superior court to issue a search warrant upon application by a prosecutor or police officer but only when there is probable cause for the issuance of the warrant. RCW 10.79.035 also provides that a search warrant may issue when a magistrate is “satisfied that there is probable cause.” RCW

10.79.015 and RCW 69.50.509 also set the evidentiary standard for issuance of a search warrant at probable cause.

The probable cause standard represents a compromise between the competing interests of enforcing the law and protecting the individual's right to privacy. *See generally Brinegar v. United States*, 338 U.S. 160, 176, 69 S. Ct. 1302, 93 L. Ed. 2d 1879 (1949); *State v. Neth*, 165 Wn. 2d 177, 182, 196 P.3d 658 (2008). Probable cause tolerates mistakes made by the affiant, including an affiant's erroneously crediting an informant⁸ who intentionally or innocently provided incorrect information. *See, e.g., Chenoweth*, 160 Wn.2d at 476 ("The fact that the affiant's information later turns out to be inaccurate or even false is of no consequence if the affiant had reason to believe those facts were true."); *State v. Seagull*, 95 Wn.2d 898, 908, 632 P.2d 44 (1981) (innocent or even negligent mistakes are insufficient to void a warrant or suppress evidence); *State v. Patterson*, 83 Wn.2d 49, 515 P.2d 496 (1973) ("Good reason for the issuance of a search warrant does not necessarily mean proof of criminal activity but merely probable cause to believe it may have occurred."); *State v. Goodlow*, 11 Wn. App. 533, 523 P.2d 1204 (1974) (evidence that the information given by an undisclosed

⁸A search warrant may issue upon probable cause, established by a sworn affidavit, which may be based in whole or in part upon hearsay provided by an informant. *Chenoweth*, 160 Wn.2d at 465-66. The informant's credibility is tested under *Aguillar/Spinelli* test. *Id.* at 466-67. Satisfaction of this test "provides adequate safeguards for the accused." *Goodlow*, 11 Wn. App. at 535-56. *Accord State v. Jackson*, 102 Wn.2d 432, 688 P.2d 136 (1984).

informant to the affiant police officer was false or materially inaccurate will not invalidate a search warrant if the officer did not intentionally or recklessly misstate the facts which led the affiant police officer to believe that the informant's hearsay was true).

Officer Smith met his Fourth Amendment, court rule, and statutory duty by submitting an application for a search warrant that satisfied probable cause. He had no duty to expand his investigation to include surveillance or a controlled buy. Ms. Mancini's negligent investigation tort claim, therefore, fails as a matter of law. This conclusion is consistent with decisions from other courts. *See, e.g., Lahm v. Farrington*, 166 N.H. 146, 90 A.3d 620 (2014) (police officers do not owe a duty to investigate beyond establishing probable cause); *Onderdonk v. State*, 170 Misc. 2d 155, 648 N.Y.S.2d 214 (1996) (homeowner whose house was searched pursuant to a warrant that was issued based on the extremely credible but completely false testimony of an informant not entitled to tort damages as there was probable cause for the issuance of the search warrant and there was no duty for the investigation to go further); *Hamilton v. City of San Diego*, 217 Cal. App. 3d 838, 266 Cal. Rptr. 215 (1990) (once probable cause for the arrest existed, there was no duty of further investigation).

2. Police Are Not Required to Seek Out Exculpatory Evidence.

Law enforcement officers have a duty to inform prosecutors of all potentially material evidence that is favorable to the defendant that is within their knowledge. *See generally Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555, 131 L. Ed. 2d 490 (1995) (prosecutors, not police officers, are responsible for deciding whether evidence must be provided to a criminal defendant pursuant to *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963) and its progeny); *Tennison v. Sanders*, 570 F.3d 1078 (9th Cir. 2009) (police officers can be found liable under 42 U.S.C. § 1983 for withholding potential exculpatory evidence from a defendant by failing to disclose the information to a prosecutor). Law enforcement officers also have a duty to inform a magistrate of all potentially material evidence that may negate a finding of probable cause that is within their knowledge when applying for a search warrant. *Franks v. Delaware*, *supra*; *State v. Chenoweth*, *supra*.

Law enforcement does not, however, have a duty to expand the scope of a criminal investigation to a search for evidence that is favorable to the suspect. *See, e.g., State v. Armstrong*, 188 Wn.2d 333, 345, 394 P.3d 373 (2017) (“Although the State is required to preserve all potentially material and favorable evidence, this rule does not require police to search for exculpatory evidence.”); *In re Personal Restraint of Gentry*, 137 Wn.2d 378,

399, 972 P.2d 1250 (1999) (“While the prosecution cannot avoid *Brady* by keeping itself ignorant of matters known to other state agents, *United States v. Hamilton*, 107 F.3d 499, 509 (7th Cir. 1997), the State has no duty to search for exculpatory evidence.”); *State v. Entzel*, 116 Wn.2d 435, 442, 808 P.2d 228 (1991) (“while the State may in some instances have a duty to preserve potentially material and exculpatory evidence, it is not required to search for exculpatory evidence”); *State v. Judge*, 100 Wn.2d 706, 717-18, 675 P.2d 219 (1984) (“Neither *Brady* nor *Wright*, or their progeny, imposes a duty on the State to expand the scope of a criminal investigation.”); *State v. Jones*, 26 Wn. App. 551, 554, 614 P.2d 190 (1980) (police or other investigators do not have a duty to search for exculpatory evidence, conduct tests, or exhaustively pursue every angle on a case).

In light of these precedents, Ms. Mancini’s contention that the Tacoma Police Department is liable to her for failing to extend its investigation to determine Logstrom’s state of birth and his mother’s name fail for lack of a duty. *See, e.g.*, RP 729-30. Law enforcement is not required to seek out exculpatory evidence in applying for, and executing on, a search warrant and therefore Ms. Mancini's request to recognize a new tort of “negligent investigation” must be rejected.

V. CONCLUSION

Based on the above legal framework, the warrant in question was supported by probable cause and Tacoma Police had no duty to expand its investigation. Ms. Mancini's request that Tacoma Police be held liable for an allegedly negligent investigation must be denied.

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PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 27th day of March, 2020, an electronic copy the document to which this proof of service is attached was served upon the following individuals via the CM/ECF System and/or e-mail:

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