

65875-1

65875-1

NO. 65875-1-I

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

STATE OF WASHINGTON,

Respondent,

v.

HECTOR FIGUEROA-OLGUIN,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY

The Honorable Steven J. Mura, Judge

BRIEF OF APPELLANT

JENNIFER J. SWEIGERT
Attorney for Appellant

NIELSEN, BROMAN & KOCH, PLLC
1908 East Madison
Seattle, WA 98122
(206) 623-2373

2011 JUN 20 11:16
COURT OF APPEALS
DIVISION ONE
SEATTLE, WA
JENNIFER J. SWEIGERT

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A. ASSIGNMENTS OF ERROR

1. Appellant's two convictions for possessing a controlled substance with intent to deliver violate double jeopardy prohibitions.

2. The court failed to enter written findings of fact and conclusions of law as required by CrR 3.6 and CrR 6.1(d).

Issues Pertaining to Assignments of Error

1. Appellant was convicted of two counts of possessing a controlled substance with intent to deliver. One count was based on cocaine found in appellant's pockets and one count was based on hydrocodone found on the seat next to him in his car. Under double jeopardy principles, is the State limited to one conviction when there is no evidence of intent to deliver each substance separately?

2. CrR 3.6 requires written findings of fact and conclusions of law after an evidentiary hearing. CrR 6.1(d) requires written findings of fact and conclusions of law after a bench trial. Because the record contains no findings or conclusions from the CrR 3.6 hearing or the bench trial, should this case be remanded for entry of the required findings and conclusions?

B. STATEMENT OF THE CASE

1. Procedural Facts

The Whatcom County prosecutor charged appellant Hector Figueroa-Olguin with two counts of possession with intent to deliver a controlled substance. CP 44-45. Count one referred to his possession of hydrocodone and count two referred to his possession of cocaine. CP 44-45. The court denied Figueroa-Olguin's motion to suppress the evidence as obtained via an unlawful detention. RP 50. Figueroa-Olguin waived his right to a jury trial and stipulated the court could consider the police reports. CP 27; RP 51. The court found him guilty as charged and imposed concurrent sentences of twelve months and one day. CP 20-21. Notice of appeal was timely filed. CP 2.

2. Substantive Facts

Detective Brent Hanger of the Washington State Patrol saw Michelle Bartok driving down the road in Whatcom County. RP 4. Knowing that she was a suspect who had sold cocaine to a confidential informant on previous occasions, he alerted the detective in charge of that investigation and was instructed to follow her. RP 4-5. Bartok drove to a taco truck in the parking lot of a gas station and mini mart on East Pole Road. RP 6. She ordered food, received a container in a sack, set the food on a rock and appeared to be waiting for someone. RP 6.

From the previous investigation, Hanger knew Bartok's supplier was a Hispanic male named Hector who drove a white Dodge truck and lived on East Pole Road. RP 7, 12. He had seen the supplier briefly during a previous encounter. RP 7.

After about 20 minutes, Hanger recognized Bartok's supplier as he approached from East Pole Road in a white full-sized pickup and pulled up to the gas pumps. RP 8-9. Bartok then drove around the parking lot and parked next to the white pickup. RP 9. She got in the truck with her food. RP 9. The driver of the pickup was not in the truck when Bartok got in, but he briefly entered the pickup with her a couple of times. RP 10. Finally, Bartok got out of the white pickup. RP 10. Hanger could not recall if Bartok was carrying anything when she left the car. RP 10. The white pickup left immediately. RP 10. Hanger asked another officer to stop the white pickup for further investigation of a suspected drug deal. RP 15.

Deputy Gervol stopped Figueroa-Olguin in his white truck. Appendix¹ at 4. When asked where he had been, Figueroa-Olguin replied, "Oh, just driving around." Appendix at 4. Gervol heard two different ring tones coming from Figueroa-Olguin's pants pockets. Appendix at 4. Gervol reported Figueroa-Olguin tried to distance himself from the vehicle and answered questions with questions. Appendix at 4. Gervol became more

¹ The stipulated police reports are attached as an appendix for the Court's convenience.

suspicious and asked to search the car. Appendix at 5. After being told the search was voluntary and he could refuse at any time, Figueroa-Olguin consented to a search of the truck. Appendix at 5.

Gervol saw \$250.00 in paper currency on the center bench seat in open view. Appendix at 5. Near the currency was a red prescription pill bottle with no label containing 49 hydrocodone pills. Appendix at 5. On the center floorboard hump was a small baggy of .8 grams of marijuana. Appendix at 5-6. Figueroa-Olguin admitted the cash, the pills, and the marijuana were his. Appendix at 6. At this point, Gervol arrested Figueroa-Olguin for possession of hydrocodone and marijuana. Appendix at 6.

After Miranda² warnings, Figueroa-Olguin admitted he sold \$250.00 of cocaine to Michelle Bartok. Appendix at 6. He said he had more cocaine and currency in his pockets. Appendix at 6. He said he was unemployed and sold cocaine and pills for income. Appendix at 6. Gervol then searched Figueroa-Olguin incident to his arrest and found \$361.00 in his right front pants pocket, \$906.00 in his left front pants pocket, a baggie containing 3.7 grams of cocaine in his left front coin pocket, \$1,052.00 in his right rear pocket near his wallet, and a plastic baggie containing 8.2 grams of cocaine in his right side waistband between his underwear and his jeans. Appendix

² Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

at 6-7. Subsequent testing confirmed the identification of the controlled substances. Appendix at 7.

C. ARGUMENT

1. FIGUEROA-OLGUIN'S TWO CONVICTIONS FOR POSSESSION WITH INTENT TO DELIVER VIOLATE DOUBLE JEOPARDY PROHIBITIONS.

“The double jeopardy clauses of the Fifth Amendment and article I, section 9 of the Washington Constitution prohibit multiple punishments for the same offense.” State v. Lynch, 93 Wn. App. 716, 723, 970 P.2d 769 (1999) (quoting State v. Hull, 83 Wn. App. 786, 792, 924 P.2d 375 (1996)). Where the government charges multiple violations of the same statute, double jeopardy analysis focuses on the “unit of prosecution.” In re Davis, 142 Wn.2d 165, 172, 12 P.3d 603 (2000). Legislative intent determines the appropriate unit. Davis, 142 Wn.2d at 172 (citing State v. Adel, 136 Wn.2d 629, 634, 965 P.2d 1072 (1998)).

The first step is to analyze the statutory language. To the extent that language is ambiguous, it is construed in favor of lenity. Davis, 142 Wn.2d at 172. Figueroa-Olguin was charged in counts one and two with violating RCW 69.50.401, which provides:

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug. . . is guilty of a class B felony.

RCW 69.50.401. Hydrocodone and cocaine are both Schedule II narcotics.

RCW 69.50.101(r)(1), (4); RCW 69.50.206(b)(1), (4).

The Washington Supreme Court examined this statute in Davis, where the petitioner argued that two separately located marijuana grow operations constituted a single “unit of prosecution” and, therefore, his two convictions for possession of marijuana with intent to manufacture or deliver violated double jeopardy. Davis, 142 Wn.2d at 170. The Supreme Court focused on the intent element of the statute, adopting the Court of Appeals’ holding that the “‘unit of prosecution’ in possession with intent to manufacture cases is a separate and distinct intent to manufacture drugs.” Id. at 174 (quoting In re Personal Restraint of Davis, 95 Wn. App. 917, 924, 977 P.2d 630 (1999)). If two operations are sufficiently different in time, location, or intended purpose, a defendant can be punished separately for each. Davis, 142 Wn.2d at 174. Because Davis had two separate grow operations in two different locations, he had separate intents to manufacture and committed two separate crimes. There was no double jeopardy violation in his case. Id. at 176-77.

While Davis involved possession with intent to manufacture or deliver, the Davis Court relied on two Court of Appeals decisions –

discussed at length in State v. Adel – involving possession with intent to deliver only. In the first case, State v. McFadden, 63 Wn. App. 441, 820 P.2d 53 (1991), review denied, 119 Wn.2d 629 (1992), the defendant brought 5.5 grams of cocaine into an apartment intending to sell it therein. Police also found 83.9 grams of cocaine in the defendant’s van. Because there were two separate and distinct intents to deliver – one in the apartment and one in the future using cocaine left in the van – the defendant could properly be convicted of two offenses. Davis, 142 Wn.2d at 174-75.

In the second case, however, State v. Lopez, 79 Wn. App. 755, 904 P.2d 1179 (1995), the Davis Court noted that double jeopardy had prevented two convictions. The defendant was arrested after purchasing cocaine during a controlled buy. The cocaine he had just purchased was found on the floorboard of his car. Moreover, police also found “14 bindles” of cocaine, unrelated to the controlled purchase, which appeared to be ready for distribution. Although there were two distinct quantities of cocaine, there was but one single intent – an intent to deliver these drugs in the future. Therefore, there could be but one conviction. Davis, 142 Wn.2d at 175.

Thus, the determinative issue in Figueroa-Olguin’s case is whether there were two distinct intents to deliver (now and in the future, as in

McFadden) or a single intent to deliver in the future (as in Lopez). Figueroa-Olguin's case is like Lopez. He was found with 2 baggies of cocaine on his person and hydrocodone pills in his car. Appendix at 6-7. Like the defendant in Lopez, his sole intent was to deliver these drugs at some future time. Therefore, he could be convicted on count 1 or on count 2, but he could not be punished for both.

Superficially, this case may appear similar to McFadden, but the crucial evidence of separate intent to distribute is missing in this case. McFadden went into the apartment bringing a portion of the cocaine, leaving a much larger amount in his van. Davis, 142 Wn.2d at 174-75. By contrast, Figueroa-Olguin was pulled over while driving his car. Appendix at 4. In finding intent to deliver, the court relied on the quantity of the drugs and Figueroa-Olguin's admission that he sells drugs to pay his rent. RP 56. While this is sufficient to show intent to deliver, it does not indicate two separate intents to deliver.

The only other distinction between Figueroa-Olguin's case and Lopez is that Figueroa-Olguin possessed two different substances for future delivery (cocaine and hydrocodone) while Lopez possessed multiple units of a single substance (cocaine). But this is a distinction without a difference.

Returning to the language of the statute, RCW 69.50.401(1), the Legislature made it unlawful to possess with intent to deliver “a controlled substance.” Similarly, subsection (2)(a) makes it a class B felony to possess with intent to deliver “A controlled substance classified in Schedule I or II which is a narcotic drug” The indefinite article “a” can mean “any” or it can mean “one.” Webster’s Third New Int’l Dictionary 1 (1993). Under Davis, this ambiguity is resolved in Figueroa-Olguin’s favor and “a” is interpreted as “any,” which means “all” or “every.” Webster’s Third New Int’l Dictionary 97 (1993); see also State v. Rodriguez, 61 Wn. App. 812, 817, 812 P.2d 868 (“Under this statute, it is unlawful to possess with intent to deliver any controlled substance . . . it does not matter what the specific controlled substance is.”), review denied, 118 Wn.2d 1006 (1991); State v. Russell, 84 Wn. App. 1, 3-4, 925 P.2d 633 (1996) (language “any firearm” interpreted to mean “all firearms” and defendant could only be convicted on one count of unlawful possession).

Several opinions dealing with “same criminal conduct” analysis also support the conclusion there can be only one conviction despite the presence of two drugs. These decisions are instructive because, like double jeopardy analysis, the “same criminal conduct” inquiry – where the crime is possession with intent to deliver – also focuses on whether there

was a single intent to deliver or multiple separate intents in deciding whether two crimes should be treated as one for sentencing.

In State v. Garza-Villarreal, 123 Wn.2d 42, 44, 864 P.2d 1378 (1993), a defendant was found in possession of 14 grams of heroin and 30 grams of cocaine and pled guilty to two counts of attempted possession of a controlled substance with intent to deliver. The Supreme Court concluded there was only one intent – “an intent to deliver any controlled substance in the future” – and found the presence of two separate drugs irrelevant. Garza-Villarreal, 123 Wn.2d at 1382.

The fact that the two charges involved different drugs does not by itself evidence any difference in intent. The possession of each drug furthered the overall criminal objective of delivering controlled substances in the future.

Garza-Villarreal, 123 Wn.2d at 49; see also State v. Porter, 133 Wn.2d 177, 183, 942 P.2d 974 (1997) (“Where two different substances are delivered or possessed simultaneously, we have held that a defendant possesses a singular criminal intent for both controlled substance violations.”).

Division Two’s decision in State v. Rodriguez, is consistent. Rodriguez was arrested after officers watched him engage in a drug transaction. They arrested him and, like Figueroa-Olguin, police found two different controlled substances (in Rodriguez’s case, cocaine and

heroin) in his sock. He was charged with two counts of possession with intent to deliver – one count for each drug – and convicted. Rodriguez, 61 Wn. App. at 814. In deciding whether Rodriguez’s two convictions should be treated as “same criminal conduct,” the Court said:

Focusing on intent to deliver, it is necessary, in cases involving two counts of possession with intent to deliver, to distinguish between the number of drugs possessed by the defendant, and the number of deliveries intended by the defendant. RCW 69.50.401(a) provides that it is unlawful “to possess with intent to deliver, a controlled substance.” Under this statute, it is unlawful to possess with intent to deliver any controlled substance, and for liability purposes, it does not matter what the specific controlled substance is. Thus, if two counts are different only because different drugs were possessed, they involve the same intent – the intent to deliver a controlled substance. On the other hand, if two counts are different because the defendant intended to deliver illegal drugs in two different transactions, they involve different intents – an intent to deliver at the time and place of one transaction, and an intent to deliver at the time and place of the other transaction.

Rodriguez, 61 Wn. App. at 817 (footnote omitted). Division Two concluded there was no evidence Rodriguez intended to deliver his cocaine and heroin in two different transactions. Therefore, his two convictions were treated as one for sentencing. Rodriguez, 61 Wn. App. at 819.

The language of RCW 69.50.401, the Supreme Court’s opinion in Davis, the rule of lenity, and cases addressing “same criminal conduct” all support the same conclusion: because the Legislature intended one

conviction where there was a single intent to deliver drugs in the future (no matter the type of drug), Figueroa-Olguin's two convictions for possession with intent to deliver violate double jeopardy. One of the convictions must be stricken.

2. THE TRIAL COURT FAILED TO ENTER WRITTEN FINDINGS OF FACT AND CONCLUSIONS OF LAW FROM THE CrR 3.6 HEARING AND FROM THE BENCH TRIAL.

After a CrR 3.6 hearing, the court ruled Figueroa-Olguin was not unlawfully detained. RP 50. Subsequently, after considering the bench trial on stipulated police reports, the court found Figueroa-Olguin guilty of two counts of possession of a controlled substance with intent to deliver. RP 56. The court, however, failed to enter written findings or conclusions pursuant to either the CrR 3.6 hearing or the bench trial.

CrR 3.6 provides in relevant part, "If an evidentiary hearing is conducted, at its conclusion the court shall enter written findings of fact and conclusions of law." Similarly, CrR 6.1(d) requires, "In a case tried without a jury, the court shall enter findings of fact and conclusions of law."

Although the court below rendered oral decisions following the hearing and the trial, no written findings of fact and conclusions of law have been entered in this case as of this date. A trial court's oral decision is "no

more than a verbal expression of [its] informal opinion at the time . . . necessarily subject to further study and consideration, and may be altered, modified, or completely abandoned.” Ferree v. Doric Co., 62 Wn.2d 561, 567, 383 P.2d 900 (1963). Consequently, the court’s decision is not binding “unless it is formally incorporated into findings of fact, conclusions of law, and judgment.” State v. Hescocock, 98 Wn. App. 600, 606, 989 P.2d 1251 (1999) (quoting State v. Dailey, 93 Wn.2d 454, 459, 610 P.2d 357 (1980)).

“When a case comes before this court without the required findings, there will be a strong presumption that dismissal is the appropriate remedy.” State v. Smith, 68 Wn. App. 201, 211, 842 P. 2d 494 (1992); accord State v. Cruz, 88 Wn. App. 905, 909, 946 P.2d 1229 (1997). Where no actual prejudice would arise from the failure of the court to file written findings and conclusions, the remedy is remand for entry of the written order. State v. Head, 136 Wn.2d 619, 624, 964 P.2d 1187 (1998). Here, no findings of fact and conclusions of law were filed after the CrR 3.6 hearing or the bench trial. Undersigned counsel has been informed the State intends to present findings of fact and conclusions of law shortly. In case that does not occur, remand for entry of the findings and conclusions is appropriate. Id.

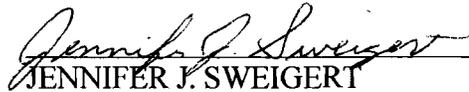
D. CONCLUSION

For the foregoing reasons, Figueroa-Olguin requests this Court vacate one of the two convictions and remand for entry of written findings of fact and conclusions of law from the CrR 3.6 evidentiary hearing and the bench trial.

DATED this 28th day of January, 2011.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC


JENNIFER J. SWEIGERT

WSBA No. 38068
Office ID No. 91051

Attorney for Appellant

Appendix

DEL. CONT. SUB. - COCAINE

EVENT NUMBER
10A-07235

No. Arrested 1

OFFENSE /
EVENT
DESCRIPTION

Adult 1 Juve 0

AST KNOWN SECURE ON:

DISCOVERED / OBSERVED ON:

REPORTED ON:

DATE

DOW

TIME

DATE

DOW

TIME

DATE

DOW

TIME

4/16/10

Fri

1918

4/16/10

Fri

1918

RECORDS ONLY

GENERAL LOCATION OF OCCURRENCE:

HANNEGAN ROAD & E. POLE ROAD

SPECIFIC LOCATION OF OCCURRENCE:

1911 HANNEGAN ROAD

GRID: 393E05

DO NOT DISCLOSE

OK TO DISCLOSE

CODE NO LAST NAME FIRST MI DOB SEX RACE AGE

RESIDENCE ADDRESS CITY STATE ZIP RES. PHONE (AREA CODE)

BUSINESS ADDRESS CITY STATE ZIP BUS. PHONE (AREA CODE)

CODE NO LAST NAME FIRST MI DOB SEX RACE AGE

RESIDENCE ADDRESS CITY STATE ZIP RES. PHONE (AREA CODE)

BUSINESS ADDRESS CITY STATE ZIP BUS. PHONE (AREA CODE)

DO NOT DISCLOSE

CODE NO LAST NAME FIRST MI DOB SEX RACE AGE

RESIDENCE ADDRESS CITY STATE ZIP WARRANT OR CIT. # RES. PHONE

BUSINESS ADDRESS CITY STATE ZIP BUS. PHONE (AREA CODE)

SERVABLE PHYSICAL ODDITIES / DESC. AKA / NICKNAME HAIR EYES HEIGHT WEIGHT DRIVER'S LICENSE & STATE

ONE NONE BLK BRO 5 06 230 112M5/WA

IMPOUND LOCATION:

ABANDONED ARREST / OTHER HAZARD RECOVERED STOLEN USED IN CRIME

YEAR MAKE MODEL COLOR(S) LICENSE NO. STATE VIN

1994 DODGE RAM WHITE A78117Y WA 1B7HC16Z7RS730267

CODE NO REGISTERED OWNER - LAST NAME FIRST MI DOB SEX RACE AGE

1 1 FIGUEROA-OLGUIN ISABEL A UNK F H ##

RESIDENCE ADDRESS CITY STATE ZIP RES. PHONE (AREA CODE)

1768 E. POLE ROAD EVERSON WA 98247 UNK

PARENTS NOTIFIED OF ARREST? YES NO PARENTS NOTIFIED OF DETENTION? YES NO

DATE TIME IF PRIOR ARREST, WHERE?

PROPERTY TOTAL VALUE RECOVERED STOLEN DAMAGED

PROPERTY: E NWRDTF & CIT DISCOVERED TWO PEOPLE ENGAGED IN AN ILLEGAL DRUG DEAL NEAR A LOCAL BUSINESS. THE (A-1) DEALER WAS ARRESTED FOR DEL. CONT. SUB. - COCAINE. THE (S-1) BUYER WAS BOOKED INTO JAIL FOR AN UNRELATED OFFENSE. SEE RELATED CASE NUMBER 10A-07245.

REPORTING DEPUTY PERS NO. REVIEWING SUPERVISOR PERS NO.

REVOL 148 CRD

EVENT NUMBER
10A-07235

1

OFFENSE DESCRIPTION: <p style="text-align: center;">Felony Drugs</p>	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	DATE: <p style="text-align: center;">4-16-10</p>	EVENT NUMBER: <p style="text-align: center;">10A-07235 10T-035</p>		
<table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> 1. Reconstruct incident and describe investigation. 2. Victim's injuries - details and where medical exam occurred. 3. Property damaged - describe and indicate amount of loss. 4. If significant, describe vehicle. </td> <td style="width: 50%; vertical-align: top;"> 5. Identify undeveloped leads. 6. List statements taken. 7. List persons from whom statements need to be taken later. 8. Physical evidence - detail what and where found, by whom, and disposition. </td> </tr> </table>				1. Reconstruct incident and describe investigation. 2. Victim's injuries - details and where medical exam occurred. 3. Property damaged - describe and indicate amount of loss. 4. If significant, describe vehicle.	5. Identify undeveloped leads. 6. List statements taken. 7. List persons from whom statements need to be taken later. 8. Physical evidence - detail what and where found, by whom, and disposition.
1. Reconstruct incident and describe investigation. 2. Victim's injuries - details and where medical exam occurred. 3. Property damaged - describe and indicate amount of loss. 4. If significant, describe vehicle.	5. Identify undeveloped leads. 6. List statements taken. 7. List persons from whom statements need to be taken later. 8. Physical evidence - detail what and where found, by whom, and disposition.				
ADDITIONAL COPIES TO:					

NARRATIVE:

I spoke to Dep. Taddonio by phone. He stated BARTOK was under arrest for DWLS and that she gave full consent to search her vehicle. Dep. Taddonio stated no drugs had been located and BARTOK denied buying drugs. BARTOK was booked into the Whatcom County Jail for DWLS and her vehicle was released By Dep. Taddonio to a third party. Reference case # 10A-07245.

Det. Bertrand contacted the store where BARTOK walked into after seeing Dep. Gervol drive by. Det. Bertrand stated he spoke to the clerk at the store regarding BARTOK. The clerk's story coincided with what I had observed from the outside. The clerk told Det. Bertrand that BARTOK went into the bathroom and then stood around the store making small talk while looking out windows. Det. Bertrand checked the bathroom and surrounding areas for any abandoned contraband to no avail.

Dep. Gervol transported FIGUEROA-OLGUIN to the U.S. Border Patrol for identification at the request of Agent Cox. FIGUEROA-OLGUIN'S vehicle was seized by the NWRDTF. Det. Shepard removed personal property from FIGUEROA-OLGUIN'S vehicle and left it at the residence. Dep. Shepard drove the vehicle to a secure county facility.

Dep. Gervol transported all evidence and seized currency to the NWRDTF office.

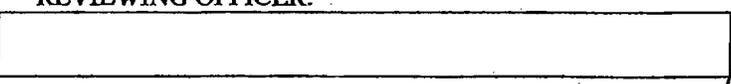
I processed all the evidence and currency. Dep. Gervol collected the evidence and currency in paper bags detailing the locations obtained on the bags. See Dep. Gervol's report for details regarding evidence locations. I processed the evidence as it was provided to me keeping it separate as it was located.

The evidence I processed included:

- Approximately 8.2 GWGs of suspected cocaine in a plastic baggie. This substance field tested positive for the presumptive presence of cocaine. Laboratory analyses was requested.
- Approximately 3.7 GWGs of suspected cocaine in a plastic baggie. This substance field tested positive for the presumptive presence of cocaine. Laboratory analyses was requested.
- A baggie of suspected marijuana, .8 gross weight grams (GWGs).
- A red prescription pill bottle with no label containing 49 white oblong pills. Laboratory analyses was requested on these pills.
 - There were 19 pills marked M360 that were identified as Hydrocodone 7.5 mg pills, a Schedule Three Controlled Substance & 30 pills marked M357 that were identified as Hydrocodone 5.0 mg pills, a Schedule Three Controlled Substance.

REPORTING OFFICER:

REVIEWING OFFICER:

Det. B. L. Hanger WSP 938 	
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2

WHATCOM COUNTY SHERIFF'S OFFICE - NARRATIVE SUPPLEMENT PAGE 7 OF 17

OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

Felony Drugs	<input type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-10	10A-07235 10T-035
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- | | |
|---|--|
| 1. Reconstruct incident and describe investigation.
2. Victim's injuries - details and where medical exam occurred.
3. Property damaged - describe and indicate amount of loss.
4. If significant, describe vehicle. | 5. Identify undeveloped leads.
6. List statements taken.
7. List persons from whom statements need to be taken later.
8. Physical evidence - detail what and where found, by whom, and disposition. |
|---|--|

ADDITIONAL COPIES TO:

NARRATIVE:

- \$250.00 in U.S. paper currency.
- \$361.00 in U.S. paper currency.
- \$906.00 in U.S. paper currency.
- \$1052.00 in U.S. paper currency.

All evidence was entered into the Whatcom County Jail.

These events occurred in Whatcom County, Washington.

2.-3 N/A

4. A white Dodge pickup, license A78117Y, seized by the NWRDTF.

5.-7. N/A

8. See attached evidence entry log.

REPORTING OFFICER:

REVIEWING OFFICER:

Det. B. L. Hanger WSP 938



3

OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

DEL. CONT. SUB. - COCAINE	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010	10A-07235
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- | | |
|---|---|
| 1. Reconstruct incident and describe investigation.
2. Victim's injuries - details and where medical exam occurred.
3. Property damaged - describe and indicate amount of loss.
4. If significant, describe vehicle. | 5. Identify undeveloped leads.
6. List statements taken.
7. List persons from whom statements need to be taken later.
8. Physical evidence - details what and where found, by whom, and disposition. |
|---|---|

ADDITIONAL COPIES TO: N/A

NARRATIVE:

On 4-16-2010 at about 1915 hours, Detective B. Hanger from the Northwest Regional Drug Task Force (NWRDTF) advised me he had observed a Hispanic male (later identified as [A-1] Hector Figueroa-Olguin) and (S-1) Michelle Bartok engage in an illegal drug transaction inside a motor vehicle, her black car (WA/940ZAM), outside a local business located at 6911 Hannegan Road near Everson, Whatcom County, Washington.

NOTE: I was on duty, in uniform, driving a fully equipped unmarked patrol vehicle (#6216). I am a member of the Whatcom County Sheriff's Office (WCSO) Criminal Interdiction Team (CIT). My partner, Deputy M. Taddonio (4A168) was in the area.

See related WCSO case number 10-A07245 for details, completed by Deputy Taddonio.

Within a few minutes of being in the area, Detective Hanger advised me the vehicle was leaving the area, E/B on E. Pole Road from Hannegan Road. Detective C. Bertrand & Agent M. Cox kept and maintained visual surveillance of the white truck driving.

At about 1918 hours, I stopped Hector as he left the area in his white truck (WA/A78117Y) E/B on E. Pole Road at Noon Road. I observed the driver was a solo occupant.

Upon stopping the white truck based on Detective Hanger's observations, the truck pulled off the roadway to the left into a private driveway at 1768 E. Pole Road.

I contacted the driver (Hector) as he exited the truck. I said, "Hello" and asked the driver to meet me between our vehicles. Hector provided his Washington State driver license, upon request. I asked Hector where he had been and he said, "Oh, just driving around." Hector looked around furtively. I heard two cell phones ringing numerous times from his pant pockets, as the ring tones were different.

A check through WACIC/NCIC by dispatch (What-Comm) revealed Hector was no wants/warrants. His driver status was clear and valid.

NOTE: Prior to the driver/want return, I engaged Hector in general conversation, he tried distancing himself from the vehicle. Hector seemed to search for answers to my general questions. Hector answered questions with questions.

Using a ruse, I advised Hector that a citizen had reported to us that they had observed Hector meet with a subject near the gas station at E. Pole Road and Hannegan Road. Hector denied meeting

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol	 4A148
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OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

DEL. CONT. SUB. - COCAINE	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010	10A-07235
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- | | |
|---|---|
| 1. Reconstruct incident and describe investigation.
2. Victim's injuries - details and where medical exam occurred.
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4. If significant, describe vehicle. | 5. Identify undeveloped leads.
6. List statements taken.
7. List persons from whom statements need to be taken later.
8. Physical evidence - details what and where found, by whom, and disposition. |
|---|---|

ADDITIONAL COPIES TO: N/A

NARRATIVE:

with anyone near the business. He denied being at the gas station. I asked Hector where he had been coming from and he said, "The taco stand." I asked him which stand and he said, "I don't know where." I asked Hector where he lived and he said, "Here" pointing to the house in front of his truck.

I observed Hector walk to the truck's passenger side door and open it. He retrieved paperwork from the glove box and handed me a calendar. He announced, "Here's my insurance." I told him the document was a calendar and asked him if he hand insurance. Hector replied, "No, I don't."

The longer the contact progressed, the more suspicious I became that crime was afoot. Based on my training and experience as a Deputy Sheriff, Hector's behavior was not consistent with that of the innocent motoring public.

At about 1932 hours, based on the information provided by Detective Hanger and my personal observations of Hector's behavior, I requested voluntary consent to search Hector's entire white truck, from the inside out, bumper to bumper to include all locked compartment and suspicious paneling.

In the presence of Agent Cox, I provided Hector with Ferrier Warnings verbally. I told him the nature of the search was entirely voluntary in nature. I told Hector he could refuse the search at any time, revoke the search at any time and/or limit the scope of the search at any time. I gave Hector time to read the form. I asked Hector if he understood and he said, "Yes." I asked Hector if he had any questions and he said, "No." A signed voluntary consent to search form was completed and obtained from Hector. See the WCSO Voluntary Consent to Search Form for details.

I located the following items of evidentiary value inside Hector's white truck's passenger compartment during the voluntary:

- \$250.00 in U.S. paper currency was on the center bench seat, in open view.
- A red prescription pill bottle with no label and numerous white oblong pills inside was near the cash, listed above, in open view.
 - There were 19 Hydrocodone 7.5 mg pills, a Schedule Three Controlled Substance & 30 Hydrocodone 5.0 mg pills, a Schedule Three Controlled Substance in the red bottle.
- A small baggy containing a green leafy vegetable like substance inside was on the truck's center floorboard hump, in open view.

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol 	4A148
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OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

DEL. CONT. SUB. - COCAINE	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010	10A-07235
---------------------------	---	-----------	-----------

1. Reconstruct incident and describe investigation.
2. Victim's injuries - details and where medical exam occurred.
3. Property damaged - describe and indicate amount of loss.
4. If significant, describe vehicle.

5. Identify undeveloped leads.
6. List statements taken.
7. List persons from whom statements need to be taken later.
8. Physical evidence - details what and where found, by whom, and disposition.

ADDITIONAL COPIES TO: N/A

NARRATIVE:

- o The baggy of suspected marijuana was .8 gross weight grams (GWGs).
- o Based on my training and experience as a Deputy Sheriff, I immediately recognized the substance in the baggy as fresh suspected marijuana

I presented and asked Hector whom the items listed above belonged to. Hector said the \$250.00, red pill bottle, the pills inside and the small baggy of marijuana were his property. Hector said he did not have a prescription for the pills and/or marijuana.

NOTE: As a Deputy Sheriff, I have been trained to recognize and identify processed and growing marijuana. I have been trained to recognize and distinguish the difference between fresh and burnt marijuana. As a Deputy Sheriff, I have been trained to recognize cocaine visually and by its distinctive odor too.

At about 1930 hours, I placed Hector under arrest for Possession of a Controlled Substance - Hydrocodone & Possession of Marijuana (less than forty grams).

At about 1931 hours, I Mirandized Hector from my issued card. I asked Hector if he understood his rights and he said, "Yes." I asked Hector if he would answer my questions and he said, "Yes."

NOTE: Hector never invoked his rights and/or asked for an attorney. Hector agreed to talk to me and answer questions voluntarily.

Hector provided the following information during the roadside interview: he said he had cocaine and more U.S. paper currency on his person, in his pockets. He admitted ownership of the cocaine. Hector said he met with a female (later positively identified as [S-1] Michelle Bartok, by Deputy Taddonio) at the gas station. Hector said he sold her \$250.00 worth of cocaine to the woman, prior to the traffic stop, as Detective Hanger had observed. Hector said he was unemployed and that he sold cocaine and pills to have income. Hector said he lived at the address he had parked at. Hector said he did not know how much money he had on his person. Hector said that he owned the truck, but, it was not in his name. Hector said he had been in trouble with law enforcement for lying, in the past. Hector said he wanted to tell me the entire truth.

I searched Hector's person incident to arrest and discovered the following items of evidentiary value:

- \$361.00 in U.S. paper currency was located in his right front pant pocket.

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol	4A148
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OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

DEL. CONT. SUB. - COCAINE	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010	10A-07235
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- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Reconstruct incident and describe investigation. 2. Victim's injuries - details and where medical exam occurred. 3. Property damaged - describe and indicate amount of loss. 4. If significant, describe vehicle. | <ol style="list-style-type: none"> 5. Identify undeveloped leads. 6. List statements taken. 7. List persons from whom statements need to be taken later. 8. Physical evidence - details what and where found, by whom, and disposition. |
|---|---|

ADDITIONAL COPIES TO: N/A

NARRATIVE:

- \$906.00 in U.S. paper currency was located in his left front pant pocket.
- A baggy containing a white powdery substance, 3.7 GWGs of suspected cocaine was located in his left front coin pocket.
 - Based on my training and experience as a Deputy Sheriff, the substance looked like suspected cocaine.
 - Hector identified the substance inside as cocaine.
- \$1052.00 in U.S. paper currency was located in his right rear pocket in his wallet.
- A baggy containing a white powdery substance, 8.2 GWGs of suspected cocaine was located in his right side waistband, between his underwear and jeans.
 - Based on my training and experience as a Deputy Sheriff, the substance looked like suspected cocaine.
 - Hector identified the substance inside as cocaine.

NOTE: The Washington State Poison Control Center (WASPPCC) was contacted to identify the pills listed above. According to the WASPPCC, the pills were identified as Hydrocodone, 7.5 mg & 5.0 mg, a Schedule Three Controlled Substance.

The bags of suspected cocaine were field tested with Reagent field test kits (letter "G"). The field tests were presumptive positive for suspected cocaine.

Later, at the NWRDTF, Hector's pills and paper currency were counted by Detective Hanger and me. The suspected cocaine and marijuana was weighed. I transferred custody of the contraband located during this investigation to Detective Hanger. All of Hector's contraband was booked into Evidence at WCSO. See the WCSO Evidence Seizure List for details.

Based on my training and experience as a Deputy Sheriff, Hector possessed more than a user quantity of suspected cocaine (11.9 gross weight grams total) & forty-nine suspected Hydrocodone pills. Based on my training and experience as a Deputy Sheriff, Hector's cocaine was packaged for individual sale & the pills are often sold individually.

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol

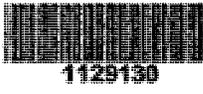
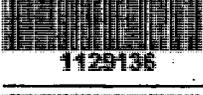
M

4A148

EVIDENCE SEIZURE LIST
WHATCOM COUNTY SHERIFF'S OFFICE

Event Number: **2010a07235**

Date: **04/16/2010**

Barcode	Item	Owner	Description of item	Time
 1129129	1	Figueroa-Olguin, Hector M	Approx. 8.2 grams of suspected cocaine removed from A-1 Rt. waistband (field test positive)	22:34:19
 1129130	2	Figueroa-Olguin, Hector M	Approx. 3.7 grams suspected cocaine removed from A-1 Lt. front pant coin pocket (field test positive)	22:40:12
 1129172	2	Figueroa-Olguin, Hector M	Surveillance Video Tape	17:33:52
 1129132	3	Figueroa-Olguin, Hector M	Approx. .8 grams of marijuana removed from floor of A-1 vehicle	22:43:10
 1129133	4	Figueroa-Olguin, Hector M	49 hydrocodone pills (19, 7.5 mg and 30, 5.0 mg) in RX bottle-no label from middle of A-1 vehicle seat	22:46:21
 1129134	5	Figueroa-Olguin, Hector M	\$361.00 U.S. currency removed from A-1 right front pant pocket	22:51:09
 1129135	6	Figueroa-Olguin, Hector M	\$906.00 U.S. currency removed from A-1 left front pant pocket	22:53:06
 1129136	7	Figueroa-Olguin, Hector M	\$1052 U.S. currency removed from A-1 wallet in right rear pant pocket	22:56:01
 1129137	8	Figueroa-Olguin, Hector M	\$250.00 U.S. currency removed from A-1 vehicle middle of seat	22:57:43

Reporting Officer 

(S)

WHATCOM COUNTY SHERIFF'S OFFICE
VOLUNTARY CONSENT TO SEARCH

PLA 14 DF 17

Event # 10A07235

I, HECTOR M. FIGUEROA-OLGUIN, D.O.B.: 072589,
being in legal custody or control of the premises or structure located at:

Address <u>1768 E. POLE RD</u>		
City <u>EVERSON</u>	County <u>WHATCOM</u>	State <u>WA</u>

and/or the following vehicle:

Color <u>WHITE</u>	Year <u>1994</u>	Make <u>DODGE</u>	Model <u>RAM</u>	License <u>A28117</u>	St/Pr <u>WA</u>
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have been informed that Devin Garcia, of the Whatcom County Sheriff's Office, is requesting permission to search the above described premises, structure, and/or vehicle.

- I understand that the purpose of such a search is to obtain evidence in a criminal investigation and that any such evidence gained by this search can be used in court against me or any other person.
- I understand that I may refuse to consent to the search.
- I understand that if I consent to the search, I may withdraw or revoke that consent at any time.
- I understand that I may limit the scope of the consent to certain areas of the premises, structure, or vehicle.

I hereby grant permission to search the above described premises, structure, and/or vehicle. The search may extend to the entire premises, structure, and/or vehicle or the following specific portions of the premises, structure, and/or vehicle:

This permission is granted without threats or promises of any kind by any police agency. The granting of this permission is a free and voluntary act.

Signed: Hector M. Figueroa-Olguin

Date: 041610

Place: Whatcom Camp, Washington

Time: 1923

Witness: Garcia 148

Witness: Bill 1312

WHATCOM COUNTY SHERIFF'S OFFICE CASE SUMMARY / PROBABLE CAUSE

OFFENSE / DESCRIPTION	DATE	CASE #	PAGE <i>160E17</i>
1.) DEL. CONT. SUB. - COCAINE 2.) POSS. W/INTENT TO DEL. - COCAINE 3.) POSS. W/INTENT TO DEL. - HYDROCODONE 4.) POSS. MARIJUANA (LESS THAN 40 GRAMS)	4-16-2010	10A-07235	OF 23

COURT			
DISTRICT	SUPERIOR	<input checked="" type="checkbox"/> JUVENILE	MUNICIPAL
SUSPECT ADMITTED OFFENSE	<input checked="" type="checkbox"/> CRIME PARTNER ADMITTED OFFENSE	CRIME PARTNER ADMITTED AND NAMED SUSPECT AS PARTICIPANT	

INJURIES RECEIVED BY VICTIM
None

MEDICAL ATTENTION REQUIRED	AT SCENE	AT HOSPITAL	DATE AND TIME OF ARREST
YES	<input checked="" type="checkbox"/> NO		LOCATION: 04-16-10 @ 1930 HRS.

NARRATIVE:

- o There were 19 Hydrocodone 7.5 mg pills, a Schedule Three Controlled Substance & 30 Hydrocodone 5.0 mg pills, a Schedule Three Controlled Substance in the bottle.
- A small baggy containing a green leafy vegetable like substance inside was on the truck's center floorboard hump, in open view.
 - o The baggy of suspected marijuana was .8 gross weight grams (GWGs).

NOTE: As a Deputy Sheriff, I have been trained to recognize and identify processed and growing marijuana. I have been trained to recognize and distinguish the difference between fresh and burnt marijuana. Based on my training and experience as a Deputy Sheriff, I immediately recognized the substance in the baggy as fresh suspected marijuana.

Hector said the \$250.00, red pill bottle, its contents and small baggy of marijuana were his property. Hector said he did not have a prescription for the pills and/or marijuana.

At about 1930 hours, I placed Hector under arrest for Possession of a Controlled Substance - Hydrocodone & Possession of Marijuana (less than forty grams).

At about 1931 hours, I Mirandized Hector; he did not invoke his rights. He agreed to talk to me. Hector said he had cocaine and more U.S. paper currency on his person. He admitted ownership of the cocaine. Hector said he met with (S-1) Michelle Bartok at the gas station and sold her \$250.00 worth of cocaine, prior to the traffic stop, as the NWRDTF Detective observed. Hector said he was unemployed and that he sold cocaine and pills to have income.

The search of Hector's person incident to arrest revealed the following items of evidentiary value:

REPORTING OFFICER:	REVIEWING OFFICER:
Deputy M. B. GERVOL <i>M</i> 4A148	

WHATCOM COUNTY SHERIFF'S OFFICE CASE SUMMARY / PROBABLE CAUSE

OFFENSE / DESCRIPTION	DATE	CASE #	PAGE 170617
1.) DEL. CONT. SUB. – COCAINE 2.) POSS. W/INTENT TO DEL. – COCAINE 3.) POSS. W/INTENT TO DEL. – HYDROCODONE 4.) POSS. MARIJUANA (LESS THAN 40 GRAMS)	4-16-2010	10A-07235	3 OF 3

COURT			
DISTRICT	SUPERIOR	JUVENILE	MUNICIPAL
	<input checked="" type="checkbox"/>		
SUSPECT ADMITTED OFFENSE	CRIME PARTNER ADMITTED OFFENSE	CRIME PARTNER ADMITTED AND NAMED SUSPECT AS PARTICIPANT	
<input checked="" type="checkbox"/>			

INJURIES RECEIVED BY VICTIM

None

MEDICAL ATTENTION REQUIRED	AT SCENE	AT HOSPITAL	DATE AND TIME OF ARREST
YES	NO		LOCATION: 04-16-10 @ 1930 HRS.
	<input checked="" type="checkbox"/>		

NARRATIVE:

- \$361.00 in U.S. paper currency was located in his right front pant pocket.
- \$906.00 in U.S. paper currency was located in his left front pant pocket.
- A baggy containing a white powdery substance, 3.7 GWGs of suspected cocaine was located in his left front coin pocket.
- \$1052.00 in U.S. paper currency was located in his right rear pocket in his wallet.
- A baggy containing a white powdery substance, 8.2 GWGs of suspected cocaine was located in his right side waistband, between his underwear and jeans.

NOTE: The Washington State Poison Control Center (WASPPCC) was contacted to identify the pills listed above. According to the WASPPCC, the pills were identified as Hydrocodone, 7.5 mg & 5.0 mg, a Schedule Three Controlled Substance. The bags of suspected cocaine were filed tested with Reagent field test kits (letter "G"). The field tests were presumptive positive for suspected cocaine.

Based on my training and experience as a Deputy Sheriff, Hector possessed more than a user quantity of suspected cocaine & suspected Hydrocodone. Based on my training and experience as a Deputy Sheriff, the cocaine was packaged for individual sale & the pills are often sold individually. The clandestine illegal drug trade is a cash business. Hector possessed approximately \$2,569.00 in U.S. paper currency from illegal drug proceeds.

Probable cause exists to arrest Hector for the criminal offenses listed above.

This event occurred in Whatcom County, Washington.

REPORTING OFFICER:	REVIEWING OFFICER:
Deputy M. B. GERVOL	4A148

(12)

CHRISTINE O. GREGOIRE
Governor



JOHN R. BATISTE
Chief

STATE OF WASHINGTON
WASHINGTON STATE PATROL

2700 116th Street NE Suite P • Tulalip, Washington 98271-9425 • (360) 651-6503 • www.wsp.wa.gov

CRIME LABORATORY REPORT

Agency: Whatcom County Sheriff's Office
Agency Rep: Holly Pomeroy
Subject: Suspect - FIGUEROA-OLGUIN, HECTOR M.

Laboratory Number: 410-000707
Agency Case Number: 2010A07235
Request Number: 0001

The following evidence was received:

Item 1

- A knotted plastic bag holding 6.63 grams of white powder which was found to contain COCAINE.

Items 2 and 4 were NOT ANALYZED.

This report may contain the analyst's opinion(s) and interpretation(s).

TEST CERTIFICATION

The undersigned certifies under penalty of perjury that:

1. I performed the test on the (substance) (object) in question;
2. The person from whom I received the (substance) (object) in question is
Property & Evidence Custodian Gail Bruder;
3. The document on which this certificate appears or to which it is attached is a true and complete copy of my official report; and
4. Such document is a report of the results of a test which report and test were made by the undersigned who has the following qualifications and experience:

B.S. Chemistry, 1971; Forensic Scientist 1972 - 1980, 1984 - present; Clinical Toxicologist 1980 - 1984.

William Marshall *5/28/10*

William Marshall, Forensic Scientist
Marysville Crime Laboratory
2700 116th St. NE, Suite P
Marysville, WA 98271-9425
(360) 651-6503

Date



13

PRIMARY AGENCY CASE NUMBER
2010A07235

WASHINGTON STATE PATROL - CRIME LABORATORY SYSTEM
REQUEST FOR LABORATORY EXAMINATION

WSP LABORATORY CASE NUMBER
410-000707
R.0001

AGENCY CROSS-REFERENCE NUMBER

NOTE: SEE REVERSE SIDE OF FORM FOR CRIME LABORATORY
LOCATIONS & INSTRUCTIONS FOR USING FORM

INTER-LAB TRANSFER

HAS OTHER EVIDENCE IN THIS CASE BEEN PREVIOUSLY
SUBMITTED TO THIS WSP CRIME LAB? YES NO

OFFENSE
VUCSA

DATE OF OFFENSE
4/16/10

SUSPECT(S) - LAST, FIRST, MI (SID #, if available)	DOB
1 Figueroa-Olguin, Hector M	7/25/89
2	
3	
4	

VICTIM(S) - LAST, FIRST, MI	DOB
1	
2	
3	
4	

INVESTIGATING OFFICER/DETECTIVE

RUSH COURT DATE:

NAME (TYPE OR PRINT) (LAST NAME, FIRST NAME)
Pomeroy, Holly

RANK/POSITION
ID Tech

BADGE #
7A894

SIGNATURE
Holly Pomeroy

AGENCY
Whatcom Co Sheriff

STREET ADDRESS
311 Grand Ave

CITY
Bellingham

STATE
WA

ZIP CODE
98225

PHONE
3606766650

E-Mail Address:

EVIDENCE ITEM #	ITEM DESCRIPTION	EXAM CODE	SPECIAL INSTRUCTIONS
1	Aprx 8.2g of susp cocaine	CON	
2	Aprx 3.7g of susp cocaine	CON	
4	49 HYDROX hydrocodone pills	CON	

FOR LAB USE ONLY

SUBMITTED BY: (PRINT NAME—LAST NAME, FIRST NAME)
Pomeroy, Holly

SIGNATURE
Holly Pomeroy

DATE
4/21/10

TIME
1200

SUBMITTAL METHOD:
 IN PERSON

UPS U.S. CERT. MAIL
 FED EX U.S. REG. MAIL

8710 0204 3560

RECEIVED BY: (PRINT NAME—LAST NAME, FIRST NAME)
SARAH L. HOLMES

SIGNATURE
Sarah Holmes

DATE
4/22/10

TIME
1:25

FOR LAB USE ONLY		
<input checked="" type="checkbox"/> TOTAL TRANSFERS	<input type="checkbox"/> PARTIAL TRANSFERS	
VIA	DATE	TIME
RELEASED BY	DATE	TIME
RECEIVED BY	DATE	TIME
VIA	DATE	TIME
RELEASED BY	DATE	TIME
RECEIVED BY	DATE	TIME

FOR LAB USE ONLY
AFFIX BARCODE STICKER HERE

RELEASED TO: (PRINT NAME—LAST NAME, FIRST NAME)

SIGNATURE

DATE

TIME

RELEASE METHOD:
 IN PERSON

UPS U.S. CERT. MAIL
 FED EX U.S. REG. MAIL

179420170360108425

RECEIVED BY: (PRINT NAME—LAST NAME, FIRST NAME)
SARAH L. HOLMES

SIGNATURE
Sarah Holmes

DATE
6/2/10

TIME
4:00

PRIMAR FOLLOW-UP

AGE 2 OF 17

- PRIMARY INVESTIGATION
- FOLLOW-UP

WHATCOM COUNTY SHERIFF'S OFFICE

DATE 4/16/10

OFFENSE / EVENT DESCRIPTION

DEL. CONT. SUB. - COCAINE

EVENT NUMBER 10A-07235

CODE S	NO 1	LAST NAME BARTOK	FIRST MICHELLE	MI K	SEX F	RACE W	AGE 38
RESIDENCE ADDRESS TRANSIENT			CITY BELLINGHAM	STATE WA	RES. PHONE (AREA CODE) NONE		
BUSINESS ADDRESS UNEMPLOYED			CITY	STATE	BUS. PHONE (AREA CODE) NONE		
HAIR BRO	EYES BRO	HEIGHT 506	WEIGHT 200	DOB 6/3/1971	DRIV. LIC & STATE 298LC/WA		

*Figueroda -
Olguin*

OBSERVABLE PHYSICAL ODDITIES / DESCRIPTION
NONE

CODE	NO	LAST NAME	FIRST	MI	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	RES. PHONE (AREA CODE)		
BUSINESS ADDRESS			CITY	STATE	BUS. PHONE (AREA CODE)		
HAIR	EYES	HEIGHT	WEIGHT	DOB	AKA/NICKNAME		
OBSERVABLE PHYSICAL ODDITIES / DESCRIPTION				CLOTHING	SCHOOL ATTENDED		

CODE	NO	LAST NAME	FIRST	MI	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	RES. PHONE (AREA CODE)		
BUSINESS ADDRESS			CITY	STATE	BUS. PHONE (AREA CODE)		
HAIR	EYES	HEIGHT	WEIGHT	DOB	AKA/NICKNAME		
OBSERVABLE PHYSICAL ODDITIES / DESCRIPTION				CLOTHING	SCHOOL ATTENDED		

CODE	NO	LAST NAME	FIRST	MI	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	RES. PHONE (AREA CODE)		
BUSINESS ADDRESS			CITY	STATE	BUS. PHONE (AREA CODE)		
HAIR	EYES	HEIGHT	WEIGHT	DOB	AKA/NICKNAME		
OBSERVABLE PHYSICAL ODDITIES / DESCRIPTION				CLOTHING	SCHOOL ATTENDED		

CODE	NO	LAST NAME	FIRST	MI	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	RES. PHONE (AREA CODE)		
BUSINESS ADDRESS			CITY	STATE	BUS. PHONE (AREA CODE)		
HAIR	EYES	HEIGHT	WEIGHT	DOB	AKA/NICKNAME		
OBSERVABLE PHYSICAL ODDITIES / DESCRIPTION				CLOTHING	SCHOOL ATTENDED		

REPORTING DEPUTY GERVOL PERS NO. 148 REVIEWING SUPERVISOR PERS NO.

(15)

WHATCOM COUNTY SHERIFF'S OFFICE

OFFENSE/EVENT DESCRIPTION DEL. CONT. SUB. - COCAINE				DATE 4/16/10		<input checked="" type="checkbox"/> CONT. NARRATION <input type="checkbox"/> FOLLOW-UP ONLY			EVENT NUMBER 10A-07235		
VEH #	LICENSE #	ST/PR	MAKE	MODEL	COLOR	YEAR	VIN				
	2 940ZAM	WA	OLDS	CUT	BLACK	1979	3R47P9M505545				
CODE	NO	REGISTERED OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
S	1										
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
CODE	NO	LEGAL OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
VEH #	LICENSE #	ST/PR	MAKE	MODEL	COLOR	YEAR	VIN				
CODE	NO	REGISTERED OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
CODE	NO	LEGAL OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
VEH #	LICENSE #	ST/PR	MAKE	MODEL	COLOR	YEAR	VIN				
CODE	NO	REGISTERED OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
CODE	NO	LEGAL OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
VEH #	LICENSE #	ST/PR	MAKE	MODEL	COLOR	YEAR	VIN				
CODE	NO	REGISTERED OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
CODE	NO	LEGAL OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
VEH #	LICENSE #	ST/PR	MAKE	MODEL	COLOR	YEAR	VIN				
CODE	NO	REGISTERED OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
CODE	NO	LEGAL OWNER LAST NAME			FIRST		MI	DOB	SEX	RACE	AGE
RESIDENCE ADDRESS			CITY	STATE	ZIP	RES. PHONE (AREA CODE)/CELL/WORK					
REPORTING DEPUTY <i>Gervol</i>				148		REVIEWING DEPUTY					

(11)

FILED IN OPEN COURT
6/28/2010
WHATCOM COUNTY CLERK

THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR WHATCOM COUNTY

By _____
Deputy

THE STATE OF WASHINGTON,) No.: 10-1-00476-1
)
Plaintiff,)
)
vs.) ORDER SETTING TRIAL DATE
) (Clerk's Action Required)
HECTOR M. FIGUEROA-OLGUIN,)
)
Defendant.)

ARRAIGNMENT: The Defendant was arraigned on: APRIL 30, 2010.

TRIAL: The matter is set for Jury Trial on _____, 20____ at 9:00 AM in Department 2 for 2 days by order of the Court.

FIT FOR TRIAL HEARING: This hearing is set for _____, 20____ at 8:30 AM by order of the Court.

TRIAL RESET: This matter is continued for trial from JUNE 21, 2010, Department 2 to 7/12, 2010 for 2 days at 9:00 AM by order of the Court.

FIT FOR TRIAL HEARING: This hearing is set for 7/6, 2010 at 8:30 AM by order of the Court.

FINDINGS: This matter has been reset for the following reason(s):
_____ by agreement of the prosecutor, defense counsel and the defendant.
_____ for good cause found by the court _____

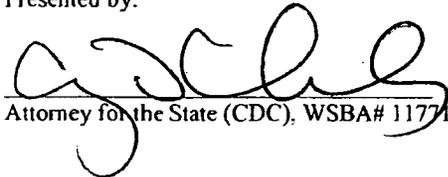
An agreed trial continuance order requires the signature of the Defendant to be valid.

The Defendant is ordered to appear at all Fit for Trial Hearings, with this exception: The defendant's appearance at the Fit for Trial Hearing may be waived if Counsel makes an affirmative representation that the Defendant spoke to him/her within three business days prior to the hearing date.

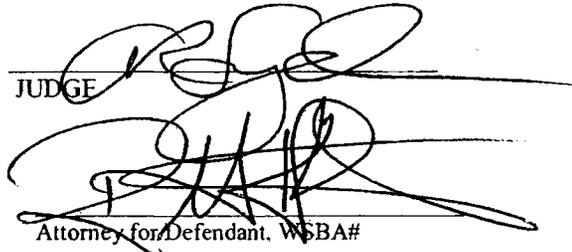
The Defendant's failure to appear at Trial or at the Fit for Trial or any other hearings set by the Court may result in issuance of a Bench Warrant, Forfeiture of Bail and/or criminal prosecution for Bail Jumping pursuant to RCW 9A.76.170.

Entered this 28 day of June, 2010.

Presented by:


Attorney for the State (CDC), WSBA# 11771

JUDGE


Attorney for Defendant, WSBA#

Defendant

OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

DEL. CONT. SUB. -- COCAINE	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010	10A-07235
1. Reconstruct incident and describe investigation. 2. Victim's injuries - details and where medical exam occurred. 3. Property damaged - describe and indicate amount of loss. 4. If significant, describe vehicle. 5. Identify undeveloped leads. 6. List statements taken. 7. List persons from whom statements need to be taken later. 8. Physical evidence - details what and where found, by whom, and disposition.			
ADDITIONAL COPIES TO: N/A			

NARRATIVE:

On 4-16-2010 at about 1915 hours, Detective B. Hanger from the Northwest Regional Drug Task Force (NWRDTF) advised me he had observed a Hispanic male (later identified as [A-1] Hector Figueroa-Olguin) and (S-1) Michelle Bartok engage in an illegal drug transaction inside a motor vehicle, her black car (WA/940ZAM), outside a local business located at 6911 Hannegan Road near Everson, Whatcom County, Washington.

NOTE: I was on duty, in uniform, driving a fully equipped unmarked patrol vehicle (#6216). I am a member of the Whatcom County Sheriff's Office (WCSO) Criminal Interdiction Team (CIT). My partner, Deputy M. Taddonio (4A168) was in the area.

See related WCSO case number 10-A07245 for details, completed by Deputy Taddonio.

Within a few minutes of being in the area, Detective Hanger advised me the vehicle was leaving the area, E/B on E. Pole Road from Hannegan Road. Detective C. Bertrand & Agent M. Cox kept and maintained visual surveillance of the white truck driving.

At about 1918 hours, I stopped Hector as he left the area in his white truck (WA/A78117Y) E/B on E. Pole Road at Noon Road. I observed the driver was a solo occupant.

Upon stopping the white truck based on Detective Hanger's observations, the truck pulled off the roadway to the left into a private driveway at 1768 E. Pole Road.

I contacted the driver (Hector) as he exited the truck. I said, "Hello" and asked the driver to meet me between our vehicles. Hector provided his Washington State driver license, upon request. I asked Hector where he had been and he said, "Oh, just driving around." Hector looked around furtively. I heard two cell phones ringing numerous times from his pant pockets, as the ring tones were different.

A check through WACIC/NCIC by dispatch (What-Comm) revealed Hector was no wants/warrants. His driver status was clear and valid.

NOTE: Prior to the driver/want return, I engaged Hector in general conversation, he tried distancing himself from the vehicle. Hector seemed to search for answers to my general questions. Hector answered questions with questions.

Using a ruse, I advised Hector that a citizen had reported to us that they had observed Hector meet with a subject near the gas station at E. Pole Road and Hannegan Road. Hector denied meeting

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol	 4A148	
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(2)

OFFENSE DESCRIPTION:

DATE:

EVENT NUMBER:

DEL. CONT. SUB. - COCAINE	<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010	10A-07235
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ADDITIONAL COPIES TO: N/A			

NARRATIVE:

with anyone near the business. He denied being at the gas station. I asked Hector where he had been coming from and he said, "The taco stand." I asked him which stand and he said, "I don't know where." I asked Hector where he lived and he said, "Here" pointing to the house in front of his truck.

I observed Hector walk to the truck's passenger side door and open it. He retrieved paperwork from the glove box and handed me a calendar. He announced, "Here's my insurance." I told him the document was a calendar and asked him if he had insurance. Hector replied, "No, I don't."

The longer the contact progressed, the more suspicious I became that crime was afoot. Based on my training and experience as a Deputy Sheriff, Hector's behavior was not consistent with that of the innocent motoring public.

At about 1932 hours, based on the information provided by Detective Hanger and my personal observations of Hector's behavior, I requested voluntary consent to search Hector's entire white truck, from the inside out, bumper to bumper to include all locked compartment and suspicious paneling.

In the presence of Agent Cox, I provided Hector with Ferrier Warnings verbally. I told him the nature of the search was entirely voluntary in nature. I told Hector he could refuse the search at any time, revoke the search at any time and/or limit the scope of the search at any time. I gave Hector time to read the form. I asked Hector if he understood and he said, "Yes." I asked Hector if he had any questions and he said, "No." A signed voluntary consent to search form was completed and obtained from Hector. See the WCSO Voluntary Consent to Search Form for details.

I located the following items of evidentiary value inside Hector's white truck's passenger compartment during the voluntary:

- \$250.00 in U.S. paper currency was on the center bench seat, in open view.
- A red prescription pill bottle with no label and numerous white oblong pills inside was near the cash, listed above, in open view.
 - There were 19 Hydrocodone 7.5 mg pills, a Schedule Three Controlled Substance & 30 Hydrocodone 5.0 mg pills, a Schedule Three Controlled Substance in the red bottle.
- A small baggy containing a green leafy vegetable like substance inside was on the truck's center floorboard hump, in open view.

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol		4A148
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OFFENSE DESCRIPTION:

DATE:

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ADDITIONAL COPIES TO: N/A			

NARRATIVE:

- o The baggy of suspected marijuana was .8 gross weight grams (GWGs).
- o Based on my training and experience as a Deputy Sheriff, I immediately recognized the substance in the baggy as fresh suspected marijuana

I presented and asked Hector whom the items listed above belonged to. Hector said the \$250.00, red pill bottle, the pills inside and the small baggy of marijuana were his property. Hector said he did not have a prescription for the pills and/or marijuana.

NOTE: As a Deputy Sheriff, I have been trained to recognize and identify processed and growing marijuana. I have been trained to recognize and distinguish the difference between fresh and burnt marijuana. As a Deputy Sheriff, I have been trained to recognize cocaine visually and by its distinctive odor too.

At about 1930 hours, I placed Hector under arrest for Possession of a Controlled Substance - Hydrocodone & Possession of Marijuana (less than forty grams).

At about 1931 hours, I Mirandized Hector from my Issued card. I asked Hector if he understood his rights and he said, "Yes." I asked Hector if he would answer my questions and he said, "Yes."

NOTE: Hector never invoked his rights and/or asked for an attorney. Hector agreed to talk to me and answer questions voluntarily.

Hector provided the following information during the roadside interview: he said he had cocaine and more U.S. paper currency on his person, in his pockets. He admitted ownership of the cocaine. Hector said he met with a female (later positively identified as [S-1] Michelle Bartok, by Deputy Taddonio) at the gas station. Hector said he sold her \$250.00 worth of cocaine to the woman, prior to the traffic stop, as Detective Hanger had observed. Hector said he was unemployed and that he sold cocaine and pills to have income. Hector said he lived at the address he had parked at. Hector said he did not know how much money he had on his person. Hector said that he owned the truck, but, it was not in his name. Hector said he had been in trouble with law enforcement for lying, in the past. Hector said he wanted to tell me the entire truth.

I searched Hector's person incident to arrest and discovered the following items of evidentiary value:

- \$361.00 in U.S. paper currency was located in his right front pant pocket.

REPORTING DEPUTY:

REVIEWING SUPERVISOR:

Deputy M. B. Gervol 	4A148
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(28)

OFFENSE DESCRIPTION:		DATE:	EVENT NUMBER:
DEL. CONT. SUB. -- COCAINE		<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010 10A-07235
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ADDITIONAL COPIES TO:		N/A	

NARRATIVE:

- \$906.00 in U.S. paper currency was located in his left front pant pocket.
- A baggy containing a white powdery substance, 3.7 GWGs of suspected cocaine was located in his left front coin pocket.
 - Based on my training and experience as a Deputy Sheriff, the substance looked like suspected cocaine.
 - Hector identified the substance inside as cocaine.
- \$1052.00 in U.S. paper currency was located in his right rear pocket in his wallet.
- A baggy containing a white powdery substance, 8.2 GWGs of suspected cocaine was located in his right side waistband, between his underwear and jeans.
 - Based on my training and experience as a Deputy Sheriff, the substance looked like suspected cocaine.
 - Hector identified the substance inside as cocaine.

NOTE: The Washington State Poison Control Center (WASPCC) was contacted to identify the pills listed above. According to the WASPCC, the pills were identified as Hydrocodone, 7.5 mg & 5.0 mg, a Schedule Three Controlled Substance.

The bags of suspected cocaine were field tested with Reagent field test kits (letter "G"). The field tests were presumptive positive for suspected cocaine.

Later, at the NWRDTF, Hector's pills and paper currency were counted by Detective Hanger and me. The suspected cocaine and marijuana was weighed. I transferred custody of the contraband located during this investigation to Detective Hanger. All of Hector's contraband was booked into Evidence at WCSO. See the WCSO Evidence Seizure List for details.

Based on my training and experience as a Deputy Sheriff, Hector possessed more than a user quantity of suspected cocaine (11.9 gross weight grams total) & forty-nine suspected Hydrocodone pills. Based on my training and experience as a Deputy Sheriff, Hector's cocaine was packaged for individual sale & the pills are often sold individually.

REPORTING DEPUTY:	REVIEWING SUPERVISOR:
Deputy M. B. Gervol <i>M</i> 4A148	

(29)

OFFENSE DESCRIPTION:		DATE:	EVENT NUMBER:
DEL. CONT. SUB. – COCAINE		<input checked="" type="checkbox"/> CONT. NARRATIVE <input type="checkbox"/> FOLLOW-UP	4-16-2010 10A-07235
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ADDITIONAL COPIES TO:		N/A	

NARRATIVE:

Based on my training and experience as a Deputy Sheriff, the clandestine illegal drug trade is a cash business. Hector possessed approximately \$2,569.00 in U.S. paper currency from illegal drug proceeds. Hector said \$250.00 of the \$2,569.00 was from an illegal cocaine transaction, prior to the stop. Hector said he has been unemployed for some time.

Hector's white truck was used as a drug conveyance in the furtherance of the illegal drug transaction. Because, Hector's white truck was used as a drug conveyance, it was seized and transported to a secure undisclosed location. Hector's \$2,569.00 in U.S paper currency was seized as illegal drug proceeds.

(A-1) Hector Figueroa-Olguin was arrested for Delivery of a Controlled Substance – Cocaine, Possession with Intent to Deliver – Cocaine, Possession with Intent to Deliver – Hydrocodone & Possession of Marijuana (less than forty grams).

Per Agent Cox's request, I transported Hector to the U.S. Border Patrol Station in Bellingham, Washington for identification purposes. Later, U.S. Border Patrol Agents transported and booked Cox into jail.

I completed a probable cause (PC) statement for Hector for the criminal offenses listed above. A copy of the PC was left for Hector at the jail (see attached).

See Detective Hanger's narrative report for details. See related WCSO case number 10A-07245 for details.

This concludes my observations and involvement in this case. No follow up is required at this time. No further action was taken.

- 2&3 N/A
- 4 White Truck (WA/A78117Y)
 Black Car (WA/940ZAM)
- 5-7 N/A
- 8 ***See the WCSO Evidence Seizure List for details.***

REPORTING DEPUTY:	REVIEWING SUPERVISOR:
Deputy M. B. Gervol <i>M</i>	4A148

(Handwritten mark)

EVIDENCE SEIZURE LIST
WHATCOM COUNTY SHERIFF'S OFFICE

Page 130 of 1
 Page 1 of 1

Event Number: 2010a07235

Date: 04/16/2010

Barcode	Item	Owner	Description of item	Time
 1129129	1	Figueroa-Olguin, Hector M	Approx. 8.2 grams of suspected cocaine removed from A-1 Rt. waistband (field test positive)	22:34:19
 1129130	2	Figueroa-Olguin, Hector M	Approx. 3.7 grams suspected cocaine removed from A-1 Lt. front pant coin pocket (field test positive)	22:40:12
 1129172	2	Figueroa-Olguin, Hector M	Surveillance Video Tape	17:33:52
 1129132	3	Figueroa-Olguin, Hector M	Approx. .8 grams of marijuana removed from floor of A-1 vehicle	22:43:10
 1129133	4	Figueroa-Olguin, Hector M	49 hydrocodone pills (19, 7.5 mg and 30, 5.0 mg) in RX bottle-no label from middle of A-1 vehicle seat	22:46:21
 1129134	5	Figueroa-Olguin, Hector M	\$361.00 U.S. currency removed from A-1 right front pant pocket	22:51:09
 1129135	6	Figueroa-Olguin, Hector M	\$906.00 U.S. currency removed from A-1 left front pant pocket	22:53:06
 1129136	7	Figueroa-Olguin, Hector M	\$1052 U.S. currency removed from A-1 wallet in right rear pant pocket	22:56:01
 1129137	8	Figueroa-Olguin, Hector M	\$250.00 U.S. currency removed from A-1 vehicle middle of seat	22:57:43

Reporting Officer

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WHATCOM COUNTY SHERIFF'S OFFICE

PL 14 DF 17

VOLUNTARY CONSENT TO SEARCH

Event # 10A07235

I, HECTOR M. FIGUEROA - OLGUIN, D.O.B.: 072589

being in legal custody or control of the premises or structure located at:

Address			Apt		
<u>1768 E. POLE RD</u>					
City	County	State			
<u>Edison</u>	<u>WHATCOM</u>	<u>WA</u>			

and/or the following vehicle:

Color	Year	Make	Model	License	S/P
<u>WHITE</u>	<u>1994</u>	<u>DODGE</u>	<u>RAM</u>	<u>A28117</u>	<u>WA</u>

have been informed that Deputy Garcia, of the Whatcom County Sheriff's Office, is requesting permission to search the above described premises, structure, and/or vehicle.

- I understand that the purpose of such a search is to obtain evidence in a criminal investigation and that any such evidence gained by this search can be used in court against me or any other person.
- I understand that I may refuse to consent to the search.
- I understand that if I consent to the search, I may withdraw or revoke that consent at any time.
- I understand that I may limit the scope of the consent to certain areas of the premises, structure, or vehicle.

I hereby grant permission to search the above described premises, structure, and/or vehicle. The search may extend to the entire premises, structure, and/or vehicle or the following specific portions of the premises, structure, and/or vehicle:

This permission is granted without threats or promises of any kind by any police agency. The granting of this permission is a free and voluntary act.

Signed: Hector Manuel Figueroa Olguin

Date: 04/6/10

Place: Whatcom County, Washington

Time: 1923

Witness: Garcia 148

Witness: Bill 3112

**WHATCOM COUNTY
SHERIFF'S OFFICE**

**BILL ELFO
SHERIFF**

PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4078
(360) 676-6650



**JEFF PARKS
UNDERSHERIFF
ART EDGE
CHIEF DEPUTY
DOUG CHADWICK
CHIEF DEPUTY
STEVE COOLEY
CHIEF INSPECTOR
WENDY JONES
CHIEF OF CORRECTIONS**

Date: 4/21/2010

NOTICE OF SEIZURE

In the Matter of the Seizure and Forfeiture
of the Below Listed Property

}
}
}

Event # 10A07235

**NOTICE TO: Hector M. Figueroa-Olguin
1768 E Pole Rd
Everson, WA 98247**

NOTICE IS HEREBY GIVEN THAT on April 16, 2010, deputies of the Whatcom County Sheriff's Office seized the below listed property, to wit:

- 1. \$2,569.00 U.S. Currency**
- 2. 1994 Dodge Ram pickup WA/ A78117Y
VIN: 1B7HC16Z7RS730267**

and that said Sheriff's Office is currently holding said property according to the provisions of chapter 69.50.505 RCW, as amended by 2001 c 168 ss 1.

Said property was seized pursuant to a law enforcement officer having probable cause to believe that the property was used or was intended for use in manufacturing, compounding, processing, delivering, importing, or exporting controlled substances in violation of the Uniformed Controlled Substance Act, chapter 69.50.505 RCW.

Notice is further given that the Whatcom County Sheriff's Office intends to forfeit the above described property for the use of said Sheriff's Office as provided by chapter 69.50.505 RCW, as amended.

You are further advised that if no person notifies the Whatcom County Sheriff's Office of a claim of ownership or right of possession in writing of the above described property **within forty-five (45) days of receipt of this Notice of Seizure**, the property may be deemed forfeited. Mail notifications to: Whatcom County Sheriff's Office, Attn: Lt. Rick Sucee, 311 Grand Avenue, Bellingham WA 98225.

Any person claiming ownership or right of possession of the above-described property in writing within the forty-five (45) day period is entitled to a reasonable opportunity to be heard as to the claim or right. The hearing shall be before William J Elfo, the chief law enforcement officer of Whatcom County, Washington, or his designate, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles seized is more than five hundred dollars (\$500). A hearing before said chief law enforcement officer and any appeal therefrom shall be under chapter 34.04 RCW.

Served with this Notice and attached hereto is a copy of chapter 69.50.505 RCW, as amended.

For: William J Elfo, Sheriff

Sergeant Richard Frakes
Unit Supervisor Northwest Regional Drug Task Force

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**WHATCOM COUNTY
SHERIFF'S OFFICE**

**BILL ELFO
SHERIFF**

*PUBLIC SAFETY BUILDING
311 Grand Avenue
Bellingham, WA 98225-4078
(360) 676-6650*



**JEFF PARKS
UNDERSHERIFF
ART EDGE
CHIEF DEPUTY
DOUG CHADWICK
CHIEF DEPUTY
STEVE COOLEY
CHIEF INSPECTOR
WENDY JONES
CHIEF OF CORRECTIONS**

Date: 4/21/2010

NOTICE OF SEIZURE

In the Matter of the Seizure and Forfeiture
of the Below Listed Property

]]]

Event # 10A07235

**NOTICE TO: Isabel A. Figueroa-Olguin
1768 E Pole Rd
Everson, WA 98247**

NOTICE IS HEREBY GIVEN THAT on April 16, 2010, deputies of the Whatcom County Sheriff's Office seized the below listed property, to wit:

- 1. 1994 Dodge Ram pickup WA/ A78117Y
VIN: 1B7HC16Z7RS730267**

and that said Sheriff's Office is currently holding said property according to the provisions of chapter 69.50.505 RCW, as amended by 2001 c 168 ss 1.

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Served with this Notice and attached hereto is a copy of chapter 69.50.505 RCW, as amended.

For: William J Elfo, Sheriff

Sergeant Richard Frakes
Unit Supervisor Northwest Regional Drug Task Force

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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON,)	
)	
Respondent,)	
)	
v.)	COA NO. 65875-1-I
)	
HECTOR FIGUEROA-OLGUIN,)	
)	
Appellant.)	

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 28TH DAY OF JANUARY, 2011, I CAUSED A TRUE AND CORRECT COPY OF THE **BREF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

[X] HILARY THOMAS
WHATCOM COUNTY PROSECUTOR'S OFFICE
311 GRAND AVENUE
BELLINGHAM, WA 98227

SIGNED IN SEATTLE WASHINGTON, THIS 28TH DAY OF JANUARY, 2011.

x *Patrick Mayovsky*

2011 JAN 28 PM 4:16
FILED
COUNTY CLERK
STATE OF WASHINGTON