

66564-2

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No. 66564-2

IN THE COURT OF APPEALS OF  
THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

TERESA D. ORT,

Appellant.

FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2011 JUL -5 AM 11:08

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

The Honorable Judge Farris

APPELLANT'S OPENING BRIEF

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ORIGINAL

**TABLE OF CONTENTS**

**I. ASSIGNMENTS OF ERROR.....1-2**

*Assignments of Error*

- a. The court erred when it denied the Defendant’s Motion to Suppress Evidence. She specifically takes exception to the first paragraph of the Court’s Findings re: CrR3.6 as not being supported by the evidence introduced at the suppression hearing.

*Issues Pertaining to Assignments of Error*

- a. The entry of the police onto the Defendant’s property for the purpose of searching the wheel well of her vehicle which was located behind her residence violated the Defendant’s reasonable expectation of privacy. Evidence directly obtained as a result of this illegal entry, as well as any derivative evidence, should have been suppressed by the trial court.

<b>II.</b>	<b>STATEMENT OF THE CASE.....</b>	<b>2-10</b>
<b>III.</b>	<b>ARGUMENT.....</b>	<b>10-16</b>
	1. The search of the wheel well of the Appellant’s vehicle while parked in her back yard, next to her home, violated her reasonable expectation of privacy.	
<b>IV.</b>	<b>CONCLUSION.....</b>	<b>16-17</b>
<b>V.</b>	<b>CERTIFICATE OF SERVICE.....</b>	<b>18</b>

## **TABLE OF AUTHORITIES**

### **WASHINGTON CASES**

<u>State v. Eisfeldt</u> , 163 Wash.2d 628, 634, 185 P.3d 580 (2008).....	11
<u>State v. Parker</u> , 139 Wash.2d 486, 493-94, 987 P.2d 73 (1999).....	11
<u>State v. Garvin</u> , 166 Wash.2d 242, 249, 207 P.3d 1266 (2009).....	11
<u>State v. Niedergang</u> , 43 Wash.App.656, 659, 719 P.2d 576 (1986) .....	12
<u>State v. Seagull</u> , 95 Wash.2d 898, 902-03, 632 P.2d 44 (1981).....	12
<u>State v. Perez</u> , 41 Wash.App. 481, 483, 704 P.2d 625 (1985).....	14
<u>State v. Miles</u> , 159 Wash.App. 282, 291, 244 P.3d 1030, 1035 (2011).....	15-16

### **FEDERAL CASES**

<u>Wong Sun v. United States</u> , 371 U.S. 471, 83, S.Ct. 407, 9 L.Ed.2d 441 (1963).....	15
<u>Brown v. Illinois</u> , 422 U.S. 590, 603-04, 95 S.Ct. 2254, 2261- 62, 45 L.Ed.2d 416 (1975).....	15

### **TREATISES**

Annot., “Fruit of the Poisonous Tree” Doctrine Excluding Evidence Derived from Information Gained in Illegal Search, 43 A.L.R.3d 385, 397 (1972).....	16
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## **I. ASSIGNMENTS OF ERROR**

### Assignments of Error

1. The court erred when it denied the Defendant's Motion to Suppress Evidence. She specifically takes exception to the first paragraph of the Court's Findings re: CrR3.6 as not being supported by the evidence introduced at the suppression hearing. That paragraph reads:

The defendant's driveway leads directly from the street to the back of the defendant's house. This constitutes an invitation to the public to use the driveway to access the back of the house. The defendant made no effort to hide the Vitara from public view. Baker did not stray from this driveway and therefore remained in an area impliedly open to the public throughout his short time on the property. The fact that his intent was to investigate does not alter this conclusion.

### Issues Pertaining to Assignments of Error

1. The entry of the police onto the Defendant's property for the purpose of searching the wheel well of her

vehicle which was located behind her residence violated the Defendant's reasonable expectation of privacy. Evidence directly obtained as a result of this illegal entry, as well as any derivative evidence, should have been suppressed by the trial court.

## **II. STATEMENT OF THE CASE<sup>1</sup>**

On October 9, 2009, Ms. Ort was proceeding to her home in Sultan, Washington, having left the veterinarian's office. The route home required her to cross the Old Mill Road Bridge. The weather was clear, but the bridge has no artificial illumination, nor were there sidewalks on which pedestrians can walk. **RPIII 124-26, 130.**

Ms. Ort frequently drove over this bridge as it provided the main means of ingress and egress from her

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<sup>1</sup> There are three volumes of transcripts from the trial. They will be designated REI, RPII and RPIII. Designations of RP3.6 are from the 3.6 hearing that occurred on August 5, 2010 before Judge Lucas.

home. She was aware that transients (homeless people) frequently camped out under the bridge. She also was aware that they frequently would leave bags of trash on the bridge.

As Ms. Ort proceeded across the bridge to her house, without any prior warning she felt her car strike something in the road. She had not observed anything prior to this time. She checked her rear view mirror and observed what she believed to be a black trash bag in the road. Believing that it was a trash bag, which she had struck with her, she proceeded home. Ms. Ort had been driving at a reasonable speed. She did not brake before hitting the trash bag as she had not observed anything in her path. It is unclear whether she braked after hitting what she believed to be the trash bag though it is undisputed that she did not stop. **RPIII 135-37.**

The car following Ms. Ort did stop. The people in the car, Terrence Daily and his son, Ben, got out to see

what it was that Ms. Ort's car had struck. They had observed the left side of Ms. Ort's car go up as if going over a speed bump. What they found was the body of Paula Stierms. **RPI 82.** Mrs. Stierms, who was dressed in a black jacket, apparently had been struck by Ms. Ort's car and died almost immediately. Terrence Daily called 911 and stayed with Mrs. Stierms until the police and medical personnel could attend. **RPI 90.** Mrs. Stierms was transported from the scene, but was dead before she arrived at the hospital. **RPI 96.** During their inspection of the scene, the police found a piece of plastic, which apparently had come from the vehicle, which had hit Mrs. Stierms. **RPI 136-7.** This was the only trace evidence discovered at the scene, which could link a vehicle to the accident.

After some research, the detectives assigned to the case concluded that the plastic piece found at the scene

originated in the wheel well of a car and that car probably was a Suzuki Vitara. **RPI 152.** The police disseminated flyers asking for the public's assistance in locating the vehicle, which struck Mrs. Stierms. On October 29, 2009 a citizen notified the police that he had observed a green Suzuki, which fit the description of the vehicle being sought by the police. **RPI 157.** Detective Baker went to the address at which the Suzuki had last been seen. While he did not have the plastic piece with him, he was familiar with its appearance. When he arrived at the address, which turned out to be Ms. Ort's residence, he observed the Suzuki partially parked behind Ms. Ort's house facing toward the road.

There is a driveway on the side of the house. However, the car was not parked on the driveway. It was off of the driveway behind the house, in the backyard, on

the grass. See Exhibits 1, 3, 7 and 9 from the suppression hearing.

Det. Baker pulled his van into Ort's driveway. **RP3.6 25.** Although he could observe some front end damage to the Suzuki from the driveway, what he really needed to do in order to link this Suzuki to the accident was inspect its wheel well. He had examined other Suzukis prior to this that had body damage, but that were not missing part of the wheel well. **RP3.6 26.** He went directly toward the Suzuki. He did not go to the front door, nor was it his intention to contact anyone at the residence. **RP3.6 19.** He walked from the driveway into the backyard, away from the house and inspected the front left wheel well of the Suzuki. Based on his examination, he concluded that the piece of plastic most likely had come from this Suzuki and that he now had

probable cause to arrest whoever had been driving the Suzuki.

Detective Baker then waited on the road outside of Ms. Ort's residence until her return. He also called his supervisor, provided him with his observations and requested a search warrant. Ms. Ort returned to her home a few minutes later. The Detective had her enter his van, close the door, and began to question her. He read her the Miranda warnings and then told her that he was confident that her car had struck and killed Mrs. Stiern. Specifically he told her<sup>2</sup>:

Det. Baker: Your car is the one that hit him.

Ort: Okay.

Det. Baker: The one that hit her.

Ort: How do you know that?

Det. Baker: Because I have those zip ties and I

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<sup>2</sup> During the trial the State played the tape recorded interview for the jury. It was admitted as Exhibit 8. Attached hereto as Appendix A is a true and accurate copy of the transcript of that tape recording.

have part of the car that matched, that probably matches up to your car that was left at the scene.

Ort: Okay.

**RPI 169, Appendix A at page 4.**

He taped recorded the conversation which lasted approximately 15 minutes until Ms. Ort invoked her right to remain silent. Det. Baker then placed her under arrest for Hit and Run – Death. He contacted Detective Goffin, provided him with the information he obtained while on the Ort property. Detective Goffin prepared the search warrant affidavit, presented it to a Judge who authorized the search.

On February 11, 2010 the State charged Ms. Ort with Hit and Run Fatality. **CP 1, Page 30-31.** The defense filed a Motion to Suppress. **CP 18, Page 28-29.** An evidentiary hearing was held on August 5, 2010

before Judge Lucas. Judge Lucas found that there was a misrepresentation in the search warrant affidavit, but even if excised from the affidavit the remainder was sufficient to establish probable cause. He denied the Motion to Suppress. **CP 30, Page 24-27.** The matter proceeded to a jury trial before Judge Farris. The defense requested a continuing objection to evidence obtained through the warrantless inspection of the defendant's vehicle. The court allowed the continuing objection. The State introduced the opinions of the accident reconstruction expert linking the piece of plastic to the wheel well of Ms. Ort's vehicle. **RPII 86-7.** This witness also gave his opinion that a piece of material removed from the Vitara during the execution of the search warrant was consistent with the material from the jacket that Ms. Stierms had been wearing when the car struck her. **RPII 82.** It also played the tape-recorded

interview between Ms. Ort and Detective Baker. Exhibit 8, RPI 169.

At the conclusion of the trial, the jury found Ms. Ort guilty as charged. On January 13, 2011 Judge Farris ordered Ms. Ort to serve 33 months in the Department of Corrections. **CP 61, Page 13-23.** She allowed Ms. Ort to remain free upon posting of a \$5,000.00 appellate bond. Ms. Ort posted the bond and filed a timely Notice of Appeal. **CP 64, Page 1-12.**

### **III. ARGUMENT**

The search of the wheel well of the appellant's vehicle while parked in her backyard, next to her home violated her reasonable expectation of privacy.

The Fourth Amendment provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” Similarly, Article I, Section 7 provides that “[n]o person shall be disturbed in his private affairs, or his home

invaded, without authority of law.” While the protections guaranteed by the Fourth Amendment and Article I, Section 7 are qualitatively different, the provisions protect similar interests. State v. Eisfeldt, 163 Wash.2d 628, 634, 185 P.3d 580 (2008). In some cases, Article I, Section 7 may provide greater protection than the Fourth Amendment; however, Article I, Section 7 “necessarily encompasses those legitimate expectations of privacy protected by the Fourth Amendment.” State v. Parker, 139 Wash.2d 486, 493-94, 987 P.2d 73 (1999).

Generally, warrantless searches are per se unreasonable under both the Fourth Amendment and Article I, Section 7. State v. Garvin, 166 Wash.2d 242, 249, 207 P.3d 1266 (2009) (citing State v. Duncan, 146 Wash.2d 166, 171, 43 P.3d 513 (2002)). There are limited exceptions to the warrant requirement, and the State bears the burden of establishing that one of these narrowly drawn exceptions applies. *Id.* at 249-50, 207 P.3d 1266. Appellant contends that the State failed to

satisfy its burden and that the Court erred when it entered its Conclusion of Law.

Fourth Amendment protection of a citizen's house, as well as Article I, Section 7, extends to its curtilage. See, State v. Niedergang, 43 Wash.App. 656, 659, 719 P.2d 576 (1986). Whether an officer is lawfully within a curtilage depends on whether he or she remains within the scope of an implied invitation to be there.

It is clear that police with legitimate business may enter areas of the curtilage which are impliedly open, such as access routes to the house. In so doing they are free to keep their eyes open. An officer is permitted the same license to intrude as a reasonably respectful citizen. However, a substantial and unreasonable departure from such an area, or a particularly intrusive method of viewing, will exceed the scope of the implied invitation and intrude upon a constitutionally protected expectation of privacy.

State v. Seagull, 95 Wash.2d 898, 902-03, 632 P.2d 44

(1981)(citations omitted) (footnote omitted).

In this case Detective Baker candidly admitted that his reason for entering onto Ms. Ort's property was to inspect the

wheel well of her car to see if the plastic piece found at the scene of the accident originated from her car. He was there to gather evidence. He bypassed the front door because his intent was not to make contact with Ms. Ort until he confirmed that it was likely that it was her car that struck Mrs. Stierns. Ms. Ort parked her car within a short distance of the rear of her home within its curtilage. Even if it can be argued that there was an implied invitation for someone to drive down her driveway, the Detective exceeded the scope of that invitation when he got out of his car, walked from the driveway onto the grass to look at her wheel well. Detective Baker should not have approached the car to examine it without Ms. Ort's permission or a warrant.

While Detective Baker did not open the door of the vehicle; his examination of the wheel well, at the location at which it was parked, nonetheless constituted a search. This is not a situation in which the Detective made his observation from a place at which he was authorized to be. He did not make the observation from the driveway. He left the driveway

and walked into the backyard so that he could look behind the front driver side tire. Accordingly, his observation is “plain view” rather than “open view.” In the “plain view” situation, the view takes place after an intrusion into activities or areas as to which there is a reasonable expectation of privacy. The officer has already intruded and, if his intrusion is justified, the objects of obvious evidentiary value in plain view, sighted inadvertently, may be seized lawfully and will be admissible. State v. Perez, 41 Wash.App. at 483, 704 P.2d 625 (quoting State v. Kaaheena, 59 Haw. 23, 28, 575 P.2d 462 (1978)). However, if, as appellant asserts is the case here, his intrusion is not justified, the information gathered (in this case the missing piece of plastic) is not admissible.

If the view of the wheel well was not justified, information obtained from that view and included in the search warrant affidavit must be excised. Appellant contends that absent the information about the piece of plastic the only facts included in the search warrant affidavit sufficient to establish

probable cause are the appellant's admission that she most likely struck Ms. Stiern.

During his questioning of Ms. Ort, which occurred within minutes of his search of the car, Detective Baker confronted her with the results of his examination of the wheel well of her car. Appellant's position is that Detective Baker used the information he acquired through the illegal search (that he had part of her car that matched – the piece of wheel liner) to obtain an admission from her. As such the interrogation is tainted by the initial illegality. See, See Wong Sun v. United States, 371 U.S. 471, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963) (incriminating statements that are indirect fruits of an illegal search are inadmissible when they bear a sufficiently close relationship to the underlying illegality); Brown v. Illinois, 422 U.S. 590, 603-04, 95 S.Ct. 2254, 2261-62, 45 L.Ed.2d 416 (1975) (listing factors to guide determination whether underlying illegality taints incriminating statements); State v. Miles, 159 Wash.App. 282, 291, 244 P.3d 1030,

1035 (2011); see generally Annot., “ Fruit of the Poisonous Tree” Doctrine Excluding Evidence Derived from Information Gained in Illegal Search, 43 A.L.R.3d 385, 397 (1972) (explaining that “fruits” doctrine applies to confession obtained via an illegal search).

The State used the observations of Detective Baker, the information gathered during the execution of the search warrant, and the statement of Ms. Ort as the main stay of its case. Had Judge Lucas granted the motion to suppress, none of that evidence would have been admitted at trial. Its admission violated the defendant’s constitutional rights and requires a new trial.

#### **IV. CONCLUSION**

The Court erred when it refused to suppress the evidence acquired through the search warrant. Evidence introduced at trial by the State either was acquired illegally or was tainted by the initial illegality. This Court should vacate the Judgment

and Sentence and remand to the trial court for further proceedings.

DATED THIS 1 DAY OF JULY, 2011.

A handwritten signature in black ink, appearing to read "Mark D. Mestel", written over a horizontal line.

MARK D. MESTEL, WSBA# 8350  
Attorney for Appellant

**V. CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Appellant's Opening Brief was served upon the following by United States Postal Service, addressed to:

- |   |  |
|---|--|
| 1. Court of Appeals<br>Division One<br>600 University Street<br>One Union Square<br>Seattle, WA 98101 | 2. Snohomish County Prosecutor<br>3000 Rockefeller Ave<br>M/S 504<br>Everett, WA 98201 |
| 3. Teresa Ort<br>3118 – 172 <sup>nd</sup> St SW<br>Lynnwood, WA 98037                                 |  |

DATED this 1<sup>st</sup> day of July, 2011.

Brandy L. Ellis  
Brandy L. Ellis, Secretary

# APPENDIX “A”

# SNOHOMISH COUNTY SHERIFF'S OFFICE

## RECORDED INTERVIEW TRANSCRIPT

**SCSO Case #** 09-20461  
**Interviewing Officer:** Detective Alan Baker #1194  
**Address of Incident:** 311<sup>th</sup> Ave bridge/ Mann Rd, Sultan

**Det. Baker:** There just put it right there Teresa now that that's on, okay? Ah this is the statement of Teresa Ort ah date of birth 09-20 of 63. Today's date is 10-29 of 2009. The time is now 9:10 in the morning. I am Detective Al Baker of the Snohomish county Sheriff's Office. This statement is being recorded at ah 16025 358<sup>th</sup> Ave SE ah in my van across the street from the residence. There is one person in the room which is ah Teresa Ort. Teresa Ort, do you understand this statement is being recorded?

**Teresa Ort:** Yeah

**Det. Baker:** Would you please give your full name and spell it?

**Teresa Ort:** T-E-R-E-S-A, D-I-A-N-E, O-R-T.

**Det. Baker:** And what is your address?

**Teresa Ort:** 16025 358<sup>th</sup> Ave SE um Sultan, Washington 98294.

**Det. Baker:** Okay. Home phone number?

**Teresa Ort:** 360-799-2358.

**Det. Baker:** Do you have a work phone number?

**Teresa Ort:** No.

**Det. Baker:** Ah would you give your date of birth?

**Teresa Ort:** 9-20-63.

**Det. Baker:** Okay. Before I ask you any questions, I'm going to advise you of your constitutional rights. You have the ah and the following rights are you have the right to remain silent. Anything you ah any statement that you do make and will be used as evidence against you in a court of law. You have the right at this time to have an attorney of your choosing and to have him or her present during any questioning if you're making any ah before you make any statements. If you cannot afford an attorney, one will be ah- you are entitled to have one

appointed to you by the court without cost to you and to have him or her present before or during questioning or the making of any statements. You have the right to exercise any of the above rights at any time before or during the questioning if you so desire. Okay. You have had read ah the above explanation of your constitutional rights. Do you understand them?

Teresa Ort: Yes.

Det. Baker: Okay. Would you sign right there that you understand them? (Pause for signing). Okay the next question is, understand your constitutional rights, ah have you decided not to exercise these rights at this time? Are you willing to talk to me without having an attorney present?

Teresa Ort: Well ah yeah.

Det. Baker: Okay would you sign that you're..

Teresa Ort: But I don't even know what I'm talking to you for.

Det. Baker: Okay.

Teresa Ort: Or what's going on, so..?

Det. Baker: Well you can stop at any time if you decide you don't want to talk at any time you're, you're perfectly entitled to do that. So understanding these rights, you are willing to ah make statements freely, voluntarily and without threats or promises of any kind, right?

Teresa Ort: Yeah.

Det. Baker: I haven't, I don't know you or...

Teresa Ort: But you just said to me that I was under arrest though right?

Det. Baker: No I haven't, you're not under arrest.

Teresa Ort: Okay.

Det. Baker: Okay. You're free to leave at any time.

Teresa Ort: Okay.

Det. Baker: Okay? Even though that' door is closed, that just keeps the rain and the weather and the noise out., okay? Ah this is about your Vitara.

Teresa Ort: Okay.

Det. Baker: What year is that Vitara?

Teresa Ort: It's a 2003.

Det. Baker: Okay. Ah when was the last time you drove it?

Teresa Ort: Ah let's see probably when I went and picked my grand- or took my grandson home on Sunday I don't remember what day it was, it was like a Sunday.

Det. Baker: Okay. Um...

Teresa Ort: And it was I noticed it cause ah my boyfriend wrecked it in July or the boyfriend that I had at the time wrecked it in July.

Det. Baker: What was his name?

Teresa Ort: I tried zip tying it up. His name was um ah Daniel ah well they took him to jail the same day he wrecked it they took him to jail ah I got his card in there but now I'm, now that all this is happening I'm wondering what is going on but his name is Dan ah- I don't know but they took him to jail the same day.

Det. Baker: He wrecked it?

Teresa Ort: Yeah.

Det. Baker: Was that when you guys, was that the same time that you got a ticket for...

Teresa Ort: Yeah...

Det. Baker: Allowing a unlicensed driver?

Teresa Ort: Yes, and then I just went to court.

Det. Baker: Okay.

Teresa Ort: But they threw it out because the cop sent me (unintelligible).

Det. Baker: Okay. What about now October the 9<sup>th</sup> which was a Friday night, who was driving it then?

Teresa Ort: Friday night?

Det. Baker: Yeah Friday night it would be 2 weeks ago ah it would be 3 weeks ago tomorrow.

Teresa Ort: I don't know.

Det. Baker: Okay. Did you hear about the lady who got hit on the 311<sup>th</sup> bridge there and killed?

Teresa Ort: Yeah I sure did, and I saw the flyers and everything.

Det. Baker: Okay, your car is the one that hit him.

Teresa Ort: Okay.

Det. Baker: The one that hit her.

Teresa Ort: How do you know that?

Det. Baker: Because I have those zip ties and I have part of the car that matched, that probably matches up to your car that was left at the scene.

Teresa Ort: Okay.

Det. Baker: Who was driving it that night?

Teresa Ort: I don't know, It could have been me

Det. Baker: And we have the witnesses behind you. It could have been you?

Teresa Ort: Been me, yeah.

Det. Baker: Who else drives the car?

Teresa Ort: Just well um Kyle drove, drove it a few times to go to the store, but I don't think he was driving it.

Det. Baker: Okay. Who else drives it besides Kyle?

Teresa Ort: Um that's it.

Det. Baker: Who else had it?

Teresa Ort: Because Nick...

Det. Baker: Anybody else had keys?

Teresa Ort: Yeah, Nick does, but he hasn't driven it.

Det. Baker: Nick?

Teresa Ort: (Unintelligible, last name of boyfriend) my boyfriend, but he hasn't been driving it so it'd been me that was driving it.

Det. Baker: I got- and does Nick live here?

Teresa Ort: Yes.

Det. Baker: Did ah and he goes to work?

Teresa Ort: Yeah but he, he doesn't go to work at night just in the morning and the day.

Det. Baker: What does he drive?

Teresa Ort: He drives a Pathfinder, Nissan Pathfinder.

Det. Baker: So you're not sure where you were? You don't remember driving the car that night that hit the lady on the street?

Teresa Ort: Yeah, I go back and forth to town, but that's about it cause I didn't want to drive my grandson in it you know.

Det. Baker: Okay.

Teresa Ort: Because it had damages underneath and everything.

Det. Baker: Yeah.

Teresa Ort: He told me he was gonna fix it but of course you know when you meet some guy and (unintelligible)...

Det. Baker: Okay but we have the proof that it's your car that hit it.

Teresa Ort: Okay.

Det. Baker: So what I- you if you want to make this easy, just tell us what happened and why you left after you hit her.

Teresa Ort: Well there was a car in front of me and it was going really fast. I thought they just dumped something out of the truck it was a white truck.

Det. Baker: Yeah.

Teresa Ort: I just thought somebody like dumped- there was garbage and it just went plump-plump, that was it.

Det. Baker: Ah hah ( yes).

Teresa Ort: You know. And then it wasn't even 3- I was driving around and 3 days later they said some woman got hit and I was like what? I thought it was somebody dropping something out of the truck. And I was like well I can't say anything now, what am I gonna do now? I didn't you know it was obviously and then um when I zip tied the, the lights were faced way down I couldn't see nothing you know I mean I didn't see nothing in the road. And there was a white truck in front of me going really fast. And you know I always go slow.

Det. Baker: And you'd go over what whatever it was that (unintelligible).

Teresa Ort: Yeah I thought, yeah.

115

Det. Baker: What did you think it was?

Teresa Ort: Garbage.

Det. Baker: What color was it?

Teresa Ort: Black.

Det. Baker: Okay.

Teresa Ort: I thought it was garb age.

Det. Baker: Okay. Where did you hit it with your car?

Teresa Ort: Um it just went underneath , just like plump-plump. I just thought okay, oh okay, was it. When I looked back it was black.

Det. Baker: And you heard about it?

Teresa Ort: I thought it was garbage yeah and then I heard about it later and it scared the crap out of me. And I was like no, I couldn't have done that. Well I always go slow cause you know there's always people cracked in the road or bums or they usually, I mean they're flailing around everywhere usually. So I always go slow you know. Especially and then I start speeding up way after that bridge.

Det. Baker: Well how why is it that the witnesses that were behind you didn't see the white truck?

Teresa Ort: I don't know but there was a white truck in front of me.

Det. Baker: And the husband that was in the road ahead of her didn't see the white truck?

Teresa Ort: I don't know but there was a white truck in front of me. It was way down by the wood bridge even just when I when I was going over the other one I could see the taillights turn right down Ben Howard Road.

Det. Baker: But ah you put zip ties on it from the previous damage?

Teresa Ort: Yeah and (unintelligible).

Det. Baker: And what color were they?

Teresa Ort: White.

Det. Baker: Did you ever use any black ones?

Teresa Ort: Ummm don't think so.

Det. Baker: And were you by yourself?

Teresa Ort: Yup.

Det. Baker: What time of night was that?

Teresa Ort: Um I went and saw my dog at the hospital cause I just got his leg fixed so it must have been about 7 something because they closed at, they closed early.

Teresa Ort: I had to be here, my daughter said she-I was here before 8, so it happened before 8 so I kind of (unintelligible) myself that it was huh not me.

Det. Baker: Had you been drinking that night?

Teresa Ort: Nope.

Det. Baker: Do you drink?

Teresa Ort: Yeah, but I drink at home cause I already had one DUI.

Det. Baker: And there was no one else in the car with you?

Teresa Ort: No.

Det. Baker: And you thought it was just..?

Teresa Ort: Garbage.

Det. Baker: A bag of garbage?

Teresa Ort: Yeah. Didn't feel nothing on the front end just a plump.

Det. Baker: You felt bad after that when you heard that..?

Teresa Ort: Yeah I had I mean I didn't know if somebody got hurt and then it made me but what was I gonna say? I didn't want to go to jail.

Det. Baker: You didn't feel bad enough to...

Teresa Ort: Yeah I did I just didn't know what to say. What am I supposed to say, I don't know.

Det. Baker: Cause you didn't want to go to jail, is that why you didn't want to say anything?

Teresa Ort: Yeah I didn't want to go to jail.

Det. Baker: Cause you realized then that you had hit somebody?

Teresa Ort: I don't think I hit her. I still think it was garbage cause why would it why would it just go ka-thunk, ka-thunk you know I mean?

Det. Baker: Cause you drove over it maybe?

Teresa Ort: Yeah but the person, if it was a person they were already laying there .

Det. Baker: No.

Teresa Ort: You know I didn't I mean but I mean you can't in when you're looking in your rear view mirror and it's dark...

Det. Baker: But Teresa if if I drove over a bag of trash, and I thought it was a bag of trash, and then 2 days later or one day later somebody tells me oh, somebody got run over by the bridge...

Teresa Ort: Well because...

Det. Baker: Don't you think it would be the right thing to go back and say hey, I didn't think it was a hit and run because I didn't see anybody I, I thought I dra- drove over a bag of trash.

Teresa Ort: That was the right thing to do. But I didn't do it because I was scared.

Det. Baker: Scared of what?

Teresa Ort: Scared that you know if I hurt someone, I would never want to hurt anybody. Why would I ever want to...

Det. Baker: But it would already be too late for that right?

Teresa Ort: Right, obviously.

Det. Baker: Who else have you talked to about this?

Teresa Ort: Nobody.

Det. Baker: You haven't told anybody that you think that the trash you thought you drove over was something..?

Teresa Ort: Nobody.

Det. Baker: That turned out to be this lady?

Teresa Ort: Um huh (no).

Det. Baker: Why?

Teresa Ort: Cause why would I?

Det. Baker: Has it bothered you?

Teresa Ort: Yeah.

Det. Baker: That's why you tell them isn't it?

Teresa Ort: Well yeah.

Det. Baker: You would tell the police because..?

Teresa Ort: I want to but I didn't want to go to jail forever. I mean I don't know you know like I mean I said I all's I did was look back it was this black that I thought okay well it's just trash you know and they leave trash all over there all the time so I didn't really think too much of it.

Det. Baker: Now how much of the damage on the car was there before?

Teresa Ort: It was all there before cause he hit, he rear ended somebody.

Det. Baker: Yeah.

Teresa Ort: But thank God they he didn't charge me for it so.

Det. Baker: So is it possible that this lady was laying in the road, had fallen down and you drove over her?

Teresa Ort: I don't know, I was trying to go through it in my mind a million times.

Det. Baker: Did you see this white truck that you were talking about, did you see its (unintelligible)?

Teresa Ort: No I mean all I saw was all those rear lights and then zoom right down Ben Howard Road.

Det. Baker: Is that...

Teresa Ort: But also and yeah I saw rear lights and then I knew it was..

Det. Baker: Did it pass you?

Teresa Ort: No.

Det. Baker: It was ahead of you?

Teresa Ort: Yes.

Det. Baker: What kind of a truck did ah you think that was?

Teresa Ort: I don't know.

Det. Baker: Just white?

119

Teresa Ort: I don't know obviously yeah I just saw it. It was kind of white but slash high up there and then it had high (unintelligible) lights so obviously it was a truck. But no I didn't, I didn't see what kind of truck it was.

Det. Baker: Do you see people walking on 311<sup>th</sup> when you go in and out there? Do you ever see anybody walking on the street or on the bridge?

Teresa Ort: Every day.

Det. Baker: Okay.

Teresa Ort: There's not a day that I don't see them wandering out, drunk all that.

Det. Baker: Well when you hit this trash what you thought was a trash bag Teresa. Teresa just stepped out of the van to have a smoke. We're gonna, we're gonna stop this and then ah we'll resume when she's done with the cigarette. That's up, okay the tape is rolling again, it's done about ah she lit a cigarette, and Teresa, do you wish to talk anymore?

Teresa Ort: No.

Det. Baker: Teresa has declined further interview. The time is now 9:25.

### END OF INTERVIEW

Transcribed 10/30/09 by LES Merrilyn Stich #4077

120