

FILED
September 4, 2015
Court of Appeals
Division I
State of Washington

No. 73446-6-I

**COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON**

In the Matter of Search Warrant for:

13811 Highway 99, Lynnwood, WA

BRIEF OF APPELLANT, CITY OF LAKEWOOD

Matthew S. Kaser, WSBA # 32239
Kimberly J. Cox, WSBA # 19955
CITY OF LAKEWOOD
6000 Main Street
Lakewood, WA 98499-5027
Telephone: (253) 589-2489
Facsimile: (253) 589-3774
*Attorneys for Appellant,
City of Lakewood*

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I. ASSIGNMENT OF ERROR

The City of Lakewood makes the following assignments of error:

1. The Snohomish County Superior Court erred in entering the April 10, 2015 Order Directing Return of Property Illegally Seized (CP 66-67).

2. The Snohomish County Superior Court erred in entering its April 22, 2015 Findings of Fact, Conclusions of Law and Orders []. (CP 13-20 (without exhibits)).

For RAP 10.3(g) purposes, Lakewood further assigns error to all of the findings of fact. (CP 13, FF 1 - CP 17, FF 16).

II. ISSUES RELATING TO ASSIGNMENTS OF ERROR

1. The Snohomish County Superior Court lacked the requisite jurisdiction or authority to enter an order pursuant to CrR 2.3(e) and order the return of property obtained via a search warrant issued by a court of limited jurisdiction. The proper process is governed by CrRLJ 2.3(e), and the application should have been directed to the court of limited jurisdiction in the first instance. (Assignment of Error No. 1).

2. Even assuming that the Snohomish County Superior Court was empowered to act pursuant to CrR 2.3, before issuing its findings of fact and conclusions of law, Lakewood was entitled to an evidentiary hearing as (1) evidence sourced from federal and state agencies supported

the search at issue; (2) there was no showing of recklessness, intentional omission or other misconduct which should have invalidated the warrant; and (3) the claimants failed to submit any evidence either supporting their status as an aggrieved party, any evidence refuting Lakewood's claims or any evidence otherwise substantiating their claims to the seized property. (Assignment of Error No. 2).

III. BACKGROUND

This case arises from the execution of a search warrant obtained by the Lakewood Police Department from the Lakewood Municipal Court in conjunction with a joint investigation with federal and local law enforcement agencies, for criminal activity linked to Pierce County. The warrant at issue was directed to a Snohomish County business.

Detective Ryan Larson of the Lakewood Police Department and other law enforcement officials conducted a series compliance checks at a Fife business named the "Wellness Clinic." (CP 78-82). During each visit, law enforcement would enter the business in an undercover capacity, and receive a "massage." (CP 78-81). This "massage," however, would cover acts which were arguably sexual in nature. (CP 78-81).

Following these investigations, the business was placed under surveillance. In late February 2015, a search warrant was obtained, and executed a few days later, by the Lakewood Police Department assisted by

Homeland Security. (CP 82). During execution of this warrant, two employees were questioned, and acknowledged manually masturbating clients. (CP 83). Another individual, Su Jones was separately identified as the owner of the business. Id. One employee stated that she worked seven days a week and then in a few months, was set to go to California to work at another business. Id. The other employee stated that she lived at the business. Id.

Additionally, documents obtained during the execution of the warrant linked Jones to the King's Sauna Massage in Lynnwood. Det. Larson detailed that that he recovered an "I.R.S. letter for a second massage business called King's Massage." (CP 84). He was also able to confirm through the Department of Revenue State Business Records Database that Ms. Jones was the sole proprietor of King's Massage since May 2012 through the date of the warrant. (CP 87). He also stated that after execution of this warrant, during follow-up investigation, financial information connecting Jones to the King's Massage was conducted during the searches. (CP 84). Separately, both Det. Larson and another investigator twice visited the King's Massage. (CP 84-88). Though investigation, and on-site visits, law enforcement was able to ascertain that the King's Sauna Massage was also owned by Ms. Jones, and like the Fife Wellness Clinic performed activities which were sexual in nature for a fee.

See id. Ms. Jones was subsequently charged in Pierce County Superior Court.¹

On March 25, 2015, Det. Larson obtained an additional warrant. This warrant was directed to the King's Sauna Massage located in Lynnwood, and authorized law enforcement to seize a number of prostitution-related items. (CP 126-127). This second warrant forms the basis of this action.

On April 2, 2015, Kim Im Lee & Yong R. Ludeman² filed a motion in Snohomish County Superior Court seeking the return of property “held pursuant to a search warrant issued by the Lakewood Municipal Court ... purporting to authorize the search of premises and property located in Snohomish County at 13811 Highway 99, Lynnwood, Washington[.]” (CP 125). The motion was served upon Lakewood. (CP 115). Lakewood objected to the Snohomish County Superior Court hearing the matter, noting that the applicants brought their motion in the

¹ At the time of the original motions in this case, Ms. Jones was facing a single count of Promoting Prostitution. (CP 90). The docket in that case now reflects several additional counts of that offense and a new charge of Leading Organized Crime, with a trial date set shortly after the filing of this brief in mid-September 2015. https://linxonline.co.pierce.wa.us/linxweb/Case/CriminalCase.cfm?cause_num=15-1-00881-3 (Last Visited: August 31, 2015). *See, State v. Villanueva*, 177 Wn. App. 251, 256 fn. 2, 311 P.3d 79 (2013)(judicial notice properly taken under ER 201 of Pierce County LINX docket).

² This does not appear to be Ms. Ludeman's first trip to this Court for prostitution/massage related activities. *See, Ludeman v. Department of Health*, 89 Wn. App. 751, 951 P.2d 266 (1997)(appeal of revocation of massage therapists license for acts of moral turpitude and sexual contact with client); *State v. Mason*, 31 Wn. App. 680, 644 P.2d 710 (1982)(reversal of conviction for promoting prostitution and acting as masseuse without license).

incorrect court; and even if the court were correct Lakewood's right of possession was superior to theirs. (CP 68-75).

At a hearing, held on April 10, 2015, the Snohomish County Superior Court granted the applicants the relief sought. (CP 66-67).

IV. ARGUMENT

The Snohomish County Superior Court erred in both entertaining this matter and in granting the relief sought. Because the warrant was issued by a court of limited jurisdiction, the provisions of CrRLJ 2.3(e), and not CrR 2.3(e) controlled. Under the plain language of CrRLJ 2.3(e), the sole forum to have brought the initial motion seeking the return of property was before the issuing court – here, the Lakewood Municipal Court. However, even if the Snohomish County Superior Court had the authority to rule on this matter, it still erred in ordering the return of property in the absence of an evidentiary hearing.

Accordingly, the City of Lakewood requests that this Court vacate the orders at issue for lack of jurisdiction, or alternatively reversing the orders at issue and remanding for an evidentiary hearing.

A. The Snohomish County Superior Court was not the Proper Forum to Bring this Motion.

Relying exclusively upon CrR 2.3(e), the Snohomish County Superior Court exercised jurisdiction over this matter. This was error.

An appellate court reviews de novo a trial court's exercise of jurisdiction. *Bour v. Johnson*, 80 Wn. App. 643, 647, 910 P.2d 548 (1996). Similarly, because this case involves interpretation of a court rule, de novo review is also appropriate. *State v. Osman*, 168 Wn.2d 632, 637, 229 P.3d 729 (2010). Exercising de novo review, the proper forum to have initially brought this motion would have been the Lakewood Municipal Court, the Snohomish County Superior Court lacked jurisdiction to have ruled on this case.

Search warrants are part of the criminal process and, as such, are matters of procedure governed by the applicable court rules. *State v. Thomas*, 121 Wn.2d 504, 511, 851 P.2d 673 (1993). But, the authority to obtain a warrant from a court of limited jurisdiction in the first instance is governed by statute. *City of Seattle v. McCready*, 124 Wn.2d 300, 309, 877 P.2d 686 (1994). Here, acting pursuant to a recently-enacted statute, RCW 2.20.030,³ the warrant at issue was obtained from the Lakewood Municipal Court. The Superior Court recognized that the Lakewood Municipal Court was a proper issuer of the warrant, but instead, appears to

³ This statute was enacted as part of Laws 2014, ch. 93. It provides simply:

Any district or municipal court judge, in the county in which the offense is alleged to have occurred, may issue a search warrant for any person or evidence located anywhere within the state.

(Emphasis Added).

have focused on what criminal conduct may have also occurred in Snohomish County. 4/10/15 VRP 24-25.

The fact that multiple courts may have concurrent authority to entertain an action or issue a warrant does not serve as a bar to the issuance of the warrant. It likewise does not support the selection of Snohomish County Superior Court as a forum for seeking the return of property. Our Supreme Court has recognized that while a matter may be brought before multiple courts, the first court to exercise that authority has exclusive jurisdiction over the matter. *Seattle Seahawks v. King County*, 128 Wn.2d 915, 916, 913 P.2d 375 (1996). Where search warrants are involved, the executing law enforcement agency holds the property seized pursuant to the warrant as an agent of the issuing court. *State ex rel. Schillberg v. Everett Dist. Justice Court*, 90 Wn.2d 794, 800, 585 P.2d 1177 (1978)(“the court, which is legal custodian of the property, since it was presumably seized under its authority and ... has the power to direct its disposition[.]”). Thus, in the search warrant context, the proper forum to have initially sought the return of property is the court issuing the search warrant.

This interpretation is borne out by both case law and the applicable court rules. Although CrR 2.3 and CrRLJ 2.3 are similar, they are not the same. When originally drafted, CrRLJ 2.3 generally paralleled CrR 2.3.

Karl B. Tegland, 4B Wash. Practice: Rules Practice at p. 512-515 (7th Ed. 2008)(reprinting 1987 drafters comments & comments on 1995 and 1997 amendments). Although subsequent amendments have removed a number of the differences between the two rules, subpart (e) of both rules remains different. Where there is a difference in the language of Rule 2.3⁴, the provisions of the version of Rule 2.3 applicable to the court issuing the warrant controls. *State v. Thomas*, 121 Wn.2d 504, 508 fn. 2, 851 P.2d 673 (1993)(noting that although prosecution occurred in superior court, CrRLJ 2.3 procedures controlled because warrant issued by court of limited jurisdiction). In such a circumstance, because the warrant in the case at bar was issued by a court of limited jurisdiction, CrRLJ 2.3(e) and not CrR 2.3(e) therefore applied.

Under CrRLJ 2.3(e), a motion for the return of property is directed to “the issuing court,” with the movant claiming that “the property was illegally seized, or does not appear relevant or reasonably calculated to lead to the discovery of relevant evidence, and that the person is lawfully entitled to possession.” If charges have been filed, “the motion shall be transferred to the other court and subject to its rules of procedure.” CrRLJ 2.3(e)(1). The rule also contains timing considerations; the motion is to be

⁴ Simply as a matter of convenience, where the concepts underlying both CrR 2.3 and CrRLJ 2.3 are the same, we refer to both rules collectively as “Rule 2.3.”

set for hearing not less than 30 days after filing,⁵ and the return is automatically stayed if an appeal is filed within fourteen days. The drafters reasoned that this notice would supply sufficient time to determine whether to charge, and to allow a meaningful opportunity to secure review. Tegland, 4B Wash. Practice: Rules Practice at 514 (citing 1986 Task Force Comments). Under the plain language of the rule, the motion should have been first filed in Lakewood Municipal Court. Upon filing, the municipal court may have retained the motion or, more likely, then referred it to an appropriate Superior Court.⁶

Moreover, the Superior Court's stated basis for exercising its authority over this case was also incorrect. The sole legal authority identified by the Superior Court was that CrR 2.3 gave it the grounds to entertain this matter (or, to use its verbiage, "plenary authority to review the legality of any search warrant issued for persons or property located in [the] County."). (CP 17, Concl. of Law 1). However, court rules are procedural in nature and do not extend the jurisdiction of a court. *Diehl v. W. Wash. Growth Mgmt. Hearings Bd.*, 153 Wn.2d 207, 216, 103 P. 3d

⁵ This motion was heard on six day's notice, and the record is devoid of any advance notice to any agency other than Lakewood or to the already-charged criminal defendant.

⁶ At the time, charges had already been filed in Pierce County Superior Court against Ms. Jones, thus, the Pierce County Superior Court would have been the proper transferee court. Following the hearing, the Snohomish County Prosecutor's Office acknowledged receipt of a referral. (CP 41-42). As this case illustrates, it may be possible that such a motion could be referred to multiple courts with the final property release pending the outcome of all referrals.

193 (2004)(discussing rules of civil procedure). As illustrated above, although multiple courts may have had the authority to have issue the warrant, only one court exercised its authority to do so. Therefore, once issued, as a procedural matter, a motion seeking the return of any property seized under that warrant must have been filed before the issuing court – and only that court – in the first instance.

A contrary ruling has a number of negative side effects. As this Court has already acknowledged, encouraging multiple proceedings to secure the return of property seized under a warrant only serves to add requirements and multiplies proceedings at a time when the courts are already overburdened. *State v. Pelkey*, 58 Wn. App. 610, 613, 794 P.2d 1286 (1990)(rejecting use of replevin procedures to obtain property seized via search warrant). Furthermore, unless waived, a criminal defendant has a constitutional right to be charged in the county where the crime occurred. *State v. Hardamon*, 29 Wn.2d 182, 188, 186 P.2d 634 (1947). Because criminal charges were filed as a result of this investigation in Pierce County Superior Court, the Snohomish County Superior Court should have afforded a degree of deference to that charging decision to determine its own authority. And, as this case illustrates, a superior court challenge to a warrant issued by a court of limited jurisdiction (even where the courts are located in the same county) deprives law enforcement and

prosecutors of the other protections codified within CrRLJ 2.3(e) which are non-existent within CrR 2.3(e). Statute and court rules allow law enforcement to decide which court to obtain the warrant; it does not allow a reputed claimant the opportunity to select the forum to challenge the warrant. This latter point is important, for as this case illustrates, the record is devoid of any notice to any prosecutor's office or any criminal defendant. When the Pierce County Prosecutor's Office sought to reconsider the decision, their applications were denied. (CP 56 (Motion); 39-40 (Order)). A contrary outcome unnecessarily encourages both piecemeal and multiple proceedings and also fails to afford comity to those courts where proceedings may already be pending.

In reaching the conclusion that it had authority under CrR 2.3(e), the Superior Court voiced concern about the fact that law enforcement did not seek a warrant from a local court. 4/10/15 VRP 22. While the Superior Court's core observation is partially correct: that law enforcement *could have* obtained the warrant from a Snohomish County-based court, it does not follow that law enforcement was *required* to do so. Indeed, the legislative purpose behind RCW 2.20.030 specifically refutes any notion that a Snohomish County-based court was solely authorized to issue the warrant. In enacting RCW 2.20.030, the Legislature recognized that recent judicial decisions require an increasing number of search

warrants and this new legislation was aimed at “creating effective and timely access to magistrates for purposes of reviewing search warrant applications across the state of Washington.” Laws 2014, ch. 93 §1. Because the warrant was sought in aid of “offense[s] alleged to have occurred” RCW 2.20.030; in Pierce County and subsequently charged in that county, only reinforces the claim that the warrant was properly issued under the statute.

Under the facts developed in the investigation, and as Det. Larson related in his affidavit in support of the warrant, he had a basis to believe that human trafficking offenses (specifically, promoting prostitution) occurred in Pierce County. (CP 76). He further believed, and the Lakewood Municipal Court judge determined that there was probable cause to believe that evidence of those offenses was located in Snohomish County. (CP 126-127 (Warrant)). Under the plain language of RCW 2.20.030 nothing more was required.

In the absence of any criminal charge then-pending in the Snohomish County Superior Court, that court lacked any basis by which it could have entertained a motion for the return of property seized under the authority of the Lakewood Municipal Court warrant. Under the plain language of the applicable rule, the only courts which could have entertained this matter would have been the Lakewood Municipal Court

(as the issuing court) or the Pierce County Superior Court (as a court to which charges had been filed). Given the Snohomish County Superior Court's lack of authority over this matter, the April 10th & April 22nd orders should be vacated.

B. Even if the Snohomish County Superior Court Could Have Heard This Case, it Still Erred by Failing to Hold an Evidentiary Hearing.

A court acting on an application to return property under Rule 2.3 is required to hold an evidentiary hearing. *State v. Card*, 48 Wn. App. 781, 786, 741 P.2d 65 (1987). The rule contemplates “an evidentiary hearing in which the State and the claimant of the property would introduce evidence on the issue of which party had the better claim to possession of the property.” *Id.* (citing, *Schillberg v. Everett Dist. Justice Court, supra*). The failure to hold an evidentiary hearing on a motion for return of property is reversible error, with the remedy being a remand for an evidentiary hearing. *Card*, 48 Wn.App. at 786.

State v. Marks, 114 Wn.2d 724, 732, 790 P.2d 138 (1990) provides a four-factor guideline governing a motion for the return of property:

1. An evidentiary hearing is required under CrR 2.3(e) where the State and the defendant can offer evidence of their claimed right to possession;
2. The purpose of this hearing is to determine the right to possession as between the State and the defendant;

3. The State has the initial burden of proof to show right to possession;

4. Thereafter, the defendant must come forward with sufficient facts to convince the court of his right to possession. If such a showing is not made, it is the court's duty to deny the motion.

Marks, 114 Wn.2d at 734-735.

The failure to adhere to three of these factors triggers a reversal.

First, the Snohomish County Superior Court did not hold any evidentiary hearing preceding its entry of findings of fact. Ordinarily, an appellate court reviews findings of fact for substantial evidence. *State v. Homan*, 181 Wn.2d 102, 105, 330 P.3d 182 (2014). Here, in the absence of an evidentiary hearing, there is no evidence, much less “substantial evidence,” for this court to uphold any disputed factual determinations made by the Superior Court.

A closer examination of the Findings of Fact illustrates just how unsupported all of these Findings of Fact are lacking in any evidentiary support. On a motion for the return of property, the parties may proceed via affidavits in lieu of live testimony. *Card*, 48 Wn.App. at 786. But, the Findings of Fact lack any evidentiary support for most (if not all) of the findings. We highlight only a few representative examples to illustrate the point. Finding of Fact 7 and 11 (CP 15) recites, without any evidentiary foundation, various “facts,” which purportedly distance Ms. Jones from

the business (i.e. “[a]t no time did Ms. Jones travel to King’s ...” and “[d]efendant [believed to be Ms. Jones] had owned the business a year earlier but in selling had relinquished all interest in it”)(CP 13-14). Additional facts are identified (FF 14) attesting to where public records relative to business licensing may be found. There is no testimony (live, affidavit, declaration or otherwise) to support these and most of the statements in the Findings of Fact. These, like most of the Findings of Fact, lack any support anywhere in the record. In the absence of any evidence, much less “substantial evidence,” only serves to highlight why an evidentiary hearing is necessary.

Second, Lakewood demonstrated a viable claim of the right to possession. As discussed *supra*, Lakewood possessed the property under a search warrant which the Lakewood Municipal Court was statutorily authorized to issue. Possession pursuant to a search warrant gives rise to a prima facie claim of possession. *City of Walla Walla v. \$401,333.44*, 164 Wn. App. 236, 247, 262 P.3d 1239 (2011).

Third, the claimants made no showing of their right to possession. They submitted no testimony that they held interests in the seized property. Rule 2.3(e) has two elements, to challenge illegal searches: “(1) the property was ‘illegally seized’, and (2) the movant is ‘lawfully entitled to possession.’” *Marks*, 114 Wn.2d at 732. The claimant carries the

burden of satisfying both an illegal seizure and a lawful entitlement to the property. *Id.* Even if the bounds of “evidence,” were generously construed, the claimants failed to meet their burden.

The primary factor identified by the Superior Court invalidating the warrant was, what the Snohomish County Superior Court styled as criminal conduct occurring in Snohomish County. 4/10/15 VRP 25. Probable cause to issue a search warrant exists if the affidavit in the support of the warrant sets forth facts and circumstances sufficient to establish a reasonable inference that an individual is probably involved in criminal activity and that evidence of the crime can be found at the place to be searched. *State v. Cole*, 128 Wn.2d 262, 286, 906 P.2d 925 (1995); *State v. Dalton*, 73 Wn.App. 132, 136, 868 P.2d 873 (1994). The affidavit supporting the search warrant does not require evidence to establish a prima facie case of guilt, but only a likelihood that evidence of criminal activity will be found. *State v. Patterson*, 83 Wn.2d 49, 55, 515 P.2d 496, 500 (1973). The existence of a possible defense or explanation to the criminal act will not negate a determination of probable cause to search. *State v. Fry*, 168 Wn.2d 1, 10, 228 P.3d 1 (2010).

Here, Det. Larson specifically detailed in his affidavit that he viewed federal Internal Revenue Service (IRS) materials linking Ms. Jones to this location. (CP 84). He also reviewed Washington Department of

Revenue materials which also linked Ms. Jones to this location which indicated that “Jones has been the [s]ole [p]roprietor of the business since 5-1-12 to the [date of the warrant.]” (CP 87). *See e.g.*, chapter 19.02 RCW (governing master business licenses); RCW 82.32.045 (reporting requirements for state taxes). He also related that he did some follow-up investigation into the King’s Massage and was able to connect Ms. Jones through financial information. (CP 84). He and other officers did undercover work at the Lynnwood King’s Massage and found that it employed similar practices as that used at the Fife Wellness Center. The sole “evidence,” contradicting his statements was an unauthenticated business license (in the name of a non-party) for this location and a reputed bill of sale. But there was no testimony or other evidence which linked these documents to any claim of illegal seizure or claim of possession to any of the items seized.⁷

Courts give “great deference to the magistrate's determination of probable cause and view the supporting affidavit for a search warrant in a commonsensical manner rather than hypertechnically.” *State v. Chenoweth*, 160 Wn.2d 454, 477, 158 P.3d 595 (2007)(citing cases).
Doubts concerning the existence of probable cause are resolved in favor of

⁷ An arguable exception to establish a claim of possession could be made for certain motor vehicles. (CP 109, 111). An insurance card was presented in Ms. Lee’s name and a vehicle was registered in the name of Ms. Ludeman. *Id.* The Findings of Fact describe both as 2008 Lexus SUVs, one white and one gray. (CP 13-14, FF 2, 4).

the validity of the search warrant. *Id.*, 160 Wn.2d at 477. “Shifting focus from the reasonableness of the magistrate's probable cause determination to the reasonableness of the affiant's investigation would permit an end run around the deliberately deferential standard of review that a reviewing court applies to search warrants.” *Id.*, 160 Wn.2d at 477.

Even assuming for the sake of argument that Det. Larson's statements are incomplete or inaccurate (and Lakewood does not concede that they are), a warrant will be invalidated only in limited circumstances. “[U]nder article I, section 7, only material falsehoods or omissions made recklessly or intentionally will invalidate a search warrant.” *Chenoweth*, 160 Wn.2d at 479. Negligent omissions or misstatements will not invalidate a warrant. *Id.*; *see also, State v. Seagull*, 95 Wn.2d 898, 632 P.2d 44 (1981)(officer confused tomato plant with marijuana plant). But, to invalidate the warrant, only once the challenger makes a substantial preliminary showing of reckless or intentional misstatements or omissions, an evidentiary hearing is necessarily required, and suppression may follow after such a hearing. *Franks v. Delaware*, 438 U.S. 154, 155-56, 57 L. Ed. 2d 667, 98 S. Ct. 2674 (1978).

The sole “evidence,” identified by either the respondents or the Snohomish County Superior Court is that Det. Larson overlooked a Lynnwood business license and a reputed purchase and sale agreement.

Yet, there has never been any evidence adduced that Det. Larson should have known to look for these materials, much less that he engaged in the sort of conduct identified by *Franks*. As our Supreme Court recognized, “[t]he *Franks* opinion is clear that there must be allegations of deliberate falsehood or deliberate omission or of a reckless disregard of the truth. Allegations must be accompanied by an offer of proof.” *State v. Garrison*, 118 Wn.2d 870, 872, 827 P.2d 1388 (1992)(brackets omitted). To hold otherwise is to collapse the independent elements of “intentionality” and “materiality” into one. *Garrison*, 118 Wn.2d at 873.

In any event, the applicants failed to meet this high standard. They failed to show how Det. Larson’s omission of a local business license negated the probable cause developed through an examination of federal and state records. Nor, do they demonstrate that his failure to examine local business licensing records was somehow a reckless omission. Relatedly, they fail to demonstrate that he should have known of an alleged offer to sell the business or omitted any reference from his affidavit. In the absence of this showing, the Superior Court erred in invalidating the warrant, and in doing so in the absence of a testimonial hearing required by *Franks*.

In a similar vein, the claimants failed to offer any testimonial evidence triggering their right to possession. All such testimony came via

their attorney and not from the claimants themselves. With the absence of any such evidence, “[s]ilence has consequences’ in proceedings for the return of evidence, ‘because silence is no evidence.’” *City of Walla Walla v. \$401,333.44*, 164 Wn. App. at 259 (quoting, *United States v. Taylor*, 975 F.2d 402, 404 (7th Cir. 1992)).

Given the issues raised, an evidentiary hearing was mandatory to rule on the Rule 2.3 motion. The failure to hold the hearing is reversible error.

CONCLUSION

For the foregoing reasons, the City of Lakewood requests that this Court either vacate or reverse the decisions below.

DATED: September 4, 2015.

CITY OF LAKEWOOD,
Heidi Ann Wichter, City Attorney

By: _____

Matthew S. Kaser, WSBA # 32239
Kimberly J. Cox, WSBA # 19955
Attorneys for Appellant, City of Lakewood

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing on:

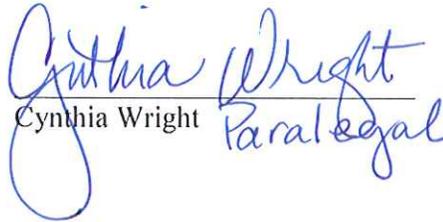
Tom P. Conom
The Conom Law Firm
7500 212th St SW Ste 215
Edmonds, WA 98026-7618

By the following indicated method:

* Via US Mail (postage prepaid)

The undersigned hereby declares, under penalty of perjury, that the foregoing statements are true and correct.

Executed at Lakewood, Washington this 4th day of September, 2015.


Cynthia Wright
Paralegal