

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**SUPREME COURT OF THE STATE OF WASHINGTON**

100014-6

**David M. Vines  
Appellant**

**No. 81748.5**

**vs**

**APPEAL**

**City of Black Diamond,  
Jamey Kiblinger,  
Ryan Keller,  
Michael Henrich,  
Brian Lynch  
Respondents**

7-26-21:  
Treated as a Petition for  
Review, see Deputy Clerk's  
7-26-21 letter.  
*Supreme Court Clerk's Office*

FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2021 JUL 21 AM 10:58

**Come now David M. Vines Appellant and ask this  
Court to review Superior Court Judge Darvas ruling (attached)  
AND Washington State Appellant Court's ruling (attached).**

**DAVID M. VINES  
32600 5<sup>th</sup> Ave  
Black Diamond WA 98010  
253 293 0565**

**Appeal**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**STATEMENT OF THE ISSUES PRESENTED FOR REVIEW**

1. Can police arrest people in their homes on probable cause alone, without a warrant? 2. twelve hours after an alleged domestic violence report?

Fourth Amendment: The right of the people to be secure of their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

**DISCLOSURE STATEMENT**

1. Appellant, a vulnerable adult, used reasonable force to expel a mentally ill person who was trespassing.

RCW 9A.16.020(6) Use of Force----when lawful

RCW 9A.52.070 Trespassing.

State v. Redmond 150 Wn.2d, 497, 78 P3d 1001 (2003) No duty to retreat.

**APPELLANT COURT'S DECISION**

Probable Cause for an arrest exists: ".....reasonably and trustworthy

1 Information, sufficient to cause a reasonable officer to believe a  
2 crime has been committed” (page 7)

3  
4 Exhibits A, B and C to show *how* reasonable and trustworthy  
5 police information was.

6 Exhibit D March 13, 2019 Black Diamond Municipal Court Dismissal  
7 of all charges.

8  
9 It appears China’s economy and wealth is having great  
10 influence on our American justice system and is eroding away  
11 our civil rights.

12  
13 **CONCLUSION**

14 This case should go back to trial court de novo to be heard  
15 by a jury.

16 I swear I sent a copy of the foregoing appeal to:

17  
18 Patrick G. McMohan PLLC  
19 P.O. Box 2965  
Wenatchee, WA 98807

20 Signed *D. David M. Vines* . . . . .

21  
22 Date *July 19, 2021* . . . . .

23 DAVID M. VINES  
32600 5<sup>th</sup> Ave  
Black Diamond WA 98010  
253 293 0565

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**TABLE OF CONTENTS**

**Introduction . . . . . Page 1**

**Statement of the issues . . . . . Page 2**

**Fourth Amendment . . . . . Page 2**

**Disclosure Statement . . . . . Page 2**

**RCW 9A.16.020(6) . . . . . Page 2**

**RCW 9A.52.070 . . . . . Page 2**

**State v. Redmond . . . . . Page 2**

**Appellant Court’s Decision . . . . . Page 2 & 3**

**Conclusion . . . . . Page 3**

**Certificate of compliance . . . . . Page 3**

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DAVID M. VINES,

Appellant,

v.

CITY OF BLACK DIAMOND, JAMEY  
KIBLINGER, RYAN KELLER, MICHAEL  
HENRICH, and BRIAN LYNCH,

Respondents.

No. 81748-5-1

DIVISION ONE

UNPUBLISHED OPINION

CHUN, J. — David Vines brought three lawsuits against the city of Black Diamond and individual police officers. He raised multiple claims arising from circumstances surrounding his arrest for assault in the fourth degree. Vines voluntarily dismissed his first two lawsuits. Vines now appeals the summary judgment dismissal of his third lawsuit. We conclude that res judicata bars Vines's third lawsuit and that the trial court did not deprive Vines of any due process rights. We thus affirm.

BACKGROUND

On December 21, 2018, Clyde Erickson went to the Black Diamond Police Department to report that his sister's husband, David Vines, had assaulted him. Erickson informed Officer Michael Henrich that he went to Vines's house that morning and was let in by family members. Vines came into the room and accused Erickson of damaging and stealing property. Erickson stated that when he denied the accusations, Vines punched him multiple times on the left side of

his head with a closed fist. Officer Henrich observed a red mark on the left side of Erickson's face. Erickson stated that they fell to the ground and wrestled until his sister pulled Vines off.

After obtaining a recorded statement from Erickson, Officer Henrich and two King County Sheriff's Office deputies went to look for Vines at his house. Vines was not there. Erickson's sister stated that an altercation had occurred, but was vague as to exactly what happened. Officer Henrich completed a certification of probable cause.

Later that day, after reviewing the certificate of probable cause, Officer Ryan Keller and Sergeant Brian Lynch contacted Vines at his house. Officer Keller asked Vines to step outside and to place his hands behind his back. Vines complied. Officer Keller handcuffed Vines and placed him under arrest. Vines asked why he was being arrested, and they told him that it was for assaulting Erickson. Sergeant Lynch read Vines his Miranda<sup>1</sup> rights and asked if he wanted to make a statement about the incident. Vines declined. Officer Keller issued Vines a criminal citation for assault in the fourth degree – domestic violence and booked him at the Enumclaw Jail. Vines was released 16 hours later. Vines's son later provided a recorded statement to police that corroborated Erickson's account.

On January 15, 2019, representing himself, Vines brought a lawsuit in King County Superior Court asserting various claims about the circumstances of his arrest. Vines named the city of Black Diamond, City Prosecutor Ivan

---

<sup>1</sup> Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

Gunderson, the Black Diamond Police Department, Police Chief Jamie Kiblinger, and Officer Ryan Keller as defendants. About two months later, the municipal court granted the City's motion to dismiss the criminal charges against Vines without prejudice "because the City is unable to proceed to trial after recent efforts to contact the victim have been unsuccessful." On May 13, 2019, Vines moved to voluntarily dismiss his lawsuit. The superior court dismissed the lawsuit without prejudice under CR 41 on June 18, 2019.

On July 22, 2019, representing himself, Vines brought another lawsuit again asserting various claims based on the circumstances of his arrest, including police misconduct and entrapment, illegal arrest, false imprisonment, and violation of civil rights. The named defendants in the second lawsuit included the city of Black Diamond, Police Chief Jamie Kiblinger, and Officer Ryan Keller. On January 8, 2020, Vines moved to voluntarily dismiss his second complaint. The superior court dismissed the lawsuit with prejudice on February 21, 2020. The order expressly stated that, under CR 41(a)(4), Vines's second voluntary withdrawal "acts [as] an adjudication on the merits of all of the causes of action asserted against the City of Black Diamond Defendants in the above-referenced case."

On January 10, 2020, while Vines's motion to dismiss his second lawsuit was pending, representing himself, he brought a third lawsuit based on the same allegations and circumstances as the first two lawsuits. The third complaint named the city of Black Diamond, Police Chief Jamie Kiblinger, Officer Ryan Keller, Officer Michael Henrich, and Sergeant Brian Lynch as defendants. The

City moved for summary judgment dismissal, arguing that CR 41(a)(4) barred all of Vines's claims and that Vines failed to raise an issue of material fact. Vines opposed the motion. On July 24, 2020, the superior court granted the City's motion based on CR 41(a)(4). Vines appeals.

### ANALYSIS

Vines says that the trial court erred in granting the City's motion for summary judgment dismissal of his third lawsuit.<sup>2</sup> We review an order on summary judgment de novo, performing the same inquiry as the trial court. Folsom v. Burger King, 135 Wn.2d 658, 663, 958 P.2d 301 (1998). Summary judgment is appropriate where "the pleadings, affidavits, and depositions establish that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." Lybbert v. Grant County, 141 Wn.2d 29, 34, 1 P.3d 1124 (2000); CR 56(c). We construe all facts and reasonable inferences in the light most favorable to the nonmoving party to determine whether an issue of material fact exists. Ranger Ins. Co. v. Pierce County, 164 Wn.2d 545, 552, 192 P.3d 886 (2008). "[S]peculation and conclusory statements will not preclude summary judgment." Volk v. DeMeerleer, 187 Wn.2d 241, 277, 386 P.3d 254 (2016). When a reasonable person could reach but one conclusion from all of the evidence, summary judgment will be affirmed. Peterson v. Kitsap Cmty. Fed. Credit Union, 171 Wn. App. 404, 416, 287 P.3d 27 (2012).

---

<sup>2</sup> As a preliminary matter, the City also says that Vines's failure to submit the clerk's papers to this court precludes appellate review. But it appears that Vines did eventually cause the clerk's papers to be transmitted to this court.



CR 41(a) governs voluntary dismissal of actions. Regarding the effect of a voluntary dismissal, CR 41(a)(4) provides:

Unless otherwise stated in the order of dismissal, the dismissal is without prejudice, except that an order of dismissal operates as an adjudication upon the merits when obtained by a plaintiff who has once dismissed an action based on or including the same claim in any court of the United States or of any state.

This “two dismissal” rule operates as a nondiscretionary adjudication upon the merits when, as here, the dismissals at issue are unilaterally obtained by the plaintiff. Spokane County v. Specialty Auto & Truck Painting, Inc., 153 Wn.2d 238, 246, 103 P.3d 792 (2004). The purpose of the two dismissal rule is “to prevent the abuse and harassment of a defendant . . . and . . . the unfair use of dismissal.” Specialty Auto, 153 Wn.2d at 245.

The City contends that the doctrine of res judicata bars Vines’s third lawsuit. We agree. Res judicata applies where a prior final judgment is identical to the challenged action in (1) subject matter, (2) cause of action, (3) persons or parties, and (4) quality of persons for or against whom the claim is made. Loveridge v. Fred Meyer, Inc., 125 Wn.2d 759, 763, 887 P.2d 898 (1995). Vines voluntarily and unilaterally obtained a dismissal of his first two lawsuits. His third lawsuit involved the same subject matter as the prior lawsuits, raised claims that were or could have been brought in his prior lawsuits, and involved the same persons or parties and quality of persons against whom the claims were made. Different defendants in separate suits are the same party for res judicata purposes when, as here, the employer/employee relationship establishes privity.

Kuhlman v. Thomas, 78 Wn. App. 115, 121, 897 P.2d 365 (1995). Because CR 41(a)(4) states that a second dismissal constitutes an adjudication on the merits, res judicata prevents a plaintiff from relitigating the same claims against the same parties in a subsequent action. Feature Realty, Inc. v. Kirkpatrick & Lockhart Preston Gates Ellis, LLP, 161 Wn.2d 214, 224, 164 P.3d 500 (2007). Thus, res judicata bars Vines's third lawsuit.

Vines contends that CR 41(a)(4)'s two dismissal rule should not bar his third lawsuit because it was filed 40 days before the trial court judge dismissed his second lawsuit with prejudice. Vines unilaterally moved for voluntary dismissal of his second lawsuit before filing his third lawsuit. Because the resulting order of dismissal under CR 41(a)(4) operated as a nondiscretionary adjudication on the merits, res judicata bars his third lawsuit.<sup>3</sup>

Vines also asserts that summary judgment dismissal of his third lawsuit deprived him of his constitutional right to access the courts to petition for a redress of grievances. This right, however, is neither unlimited nor absolute. In re Marriage of Giordano, 57 Wn. App. 74, 77, 787 P.2d 51 (1990). Due process requires a reasonable right of access and a meaningful opportunity to be heard, absent an overriding state interest. Yurtis v. Phipps, 143 Wn. App. 680, 694, 181 P.3d 849 (2008) (citing Giordano, 57 Wn. App. at 77). Vines's first and second lawsuits provided him with a right of access and opportunity to be heard. His choice to voluntarily dismiss both lawsuits resulted in an order of dismissal with

---

<sup>3</sup> Vines asserts that the trial court failed to consider his objection to summary judgment. But the order granting summary judgment expressly states that the court considered his objection prior to ruling.

prejudice under CR 41(a)(4). "Pro se litigants are bound by the same rules of procedure and substantive law as attorneys." Westberg v. All-Purpose

Structures Inc., 86 Wn. App. 405, 411, 936 P.2d 1175 (1997). Summary

judgment dismissal of his third lawsuit did not deprive Vines of judicial access.<sup>4</sup>

---

<sup>4</sup> Given our conclusions, we need not address Vines's contention that material issues of fact preclude summary judgment dismissal of his claims. But it appears that contention fails as well. Vines has not established an issue of fact as to whether police arrested him illegally. See RCW 10.31.100 ("[a] police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of an officer, except as provided in subsections (1) through (11) of this section."); RCW 10.31.100(1) ("[a]ny police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor involving physical harm or threats of harm to any person . . . shall have the authority to arrest the person."); State v. Gaddy, 152 Wn.2d 64, 70, 93 P.3d 872 (2004) ("Probable cause exists when the arresting officer is aware of facts or circumstances, based on reasonably trustworthy information, sufficient to cause a reasonable officer to believe a crime has been committed."); Erickson came to the police station to report that Vines had punched him multiple times on the left side of his head with a closed fist. Officer Henrich observed a red mark on the left side of Erickson's face. Erickson specified that Vines is his brother-in-law and that the altercation took place at Vines' residence. Officer Henrich determined that probable cause existed to arrest Erickson for fourth degree domestic violence assault, a gross misdemeanor. Based on Erickson's allegations, a reasonable officer would have probable cause to believe that a gross misdemeanor involving physical harm had been committed.

To the extent that Vines's claims depend on his assertion that police lacked probable cause to arrest him, those claims fail as a matter of law. The existence of probable cause is a complete defense to an action for false arrest, false imprisonment, or malicious prosecution. Hanson v. City of Snohomish, 121 Wn.2d 552, 563-64, 852 P.2d 295 (1993).

Also, Vines lacks the authority to assert criminal statutes against the City and its police officers as civil causes of action. To the extent that Vines sought to prosecute criminal causes of action, such as criminal conspiracy, criminal attempt, intimidating a witness, witness tampering, tampering with physical evidence, coercion, or official misconduct, those actions were properly dismissed as a matter of law. Similarly, entrapment and protective defense are affirmative defenses to a charged crime, not civil causes of action.

Although Vines appears to assert that the court erred in dismissing his constitutional claims, he provides no reasoned argument supported by authority in support of these assertions. RAP 10.3(a)(6); Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992). To the extent that Vines's constitutional claims are based on his assertion that the arrest was illegal, those claims lack merit.

Lastly, summary judgment appears to have been proper regarding Vines's claims for police misconduct, outrage, and intentional infliction of emotional distress. To prevail

We affirm.

Chun, J.

WE CONCUR:

Smith, J.

Mann, C.J.

---

on a negligence claim, "a plaintiff 'must show (1) the existence of a duty to the plaintiff, (2) a breach of that duty, (3) a resulting injury, and (4) the breach as the proximate cause of the injury.'" Ehrhart v. King County, 195 Wn.2d 388, 396, 460 P.3d 612 (2020) (quoting N.L. v. Bethel Sch. Dist., 186 Wn.2d 422, 429, 378 P.3d 162 (2016)). Police owe a duty of reasonable care in the exercise of their official duties. Mancini v. City of Tacoma, 196 Wn.2d 864, 879, 479 P.3d 656 (2021). To prevail on a claim of intentional infliction of emotional distress, the plaintiff must show "(1) extreme and outrageous conduct, (2) intentional or reckless infliction of emotional distress, and (3) actual result to plaintiff of severe emotional distress." Lyons v. U.S. Bank Nat'l Ass'n, 181 Wn.2d 775, 792, 336 P.3d 1142 (2014) (quoting Kloepfel v. Bokor, 149 Wn.2d 192, 195, 66 P.3d 630 (2003)). To constitute outrage, the conduct at issue "must be 'so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.'" Reyes v. Yakima Health Dist., 191 Wn.2d 79, 91, 419 P.3d 819 (2018) (quoting Grimsby v. Samson, 85 Wn.2d 52, 59, 530 P.2d 291 (1975) (plurality opinion) (emphasis omitted)). Vines does not appear to present evidence to establish a material issue of facts as to any of these standards.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

FILED  
2020 JUL 24 09:51 AM  
KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE #: 20-2-00927-0 KNT

FILED  
COURT OF APPEALS DIV 1  
STATE OF WASHINGTON  
2021 JUL 21 AM 11:25

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

DAVID M. VINES,

Plaintiff,

vs.

CITY OF BLACK DIAMOND, JAMEY  
KIBLINGER, RYAN KELLER, MICHAEL  
HENRICH and BRIAN LYNCH,

Defendants.

NO. 20-2-00927-0 KNT

ORDER GRANTING DEFENDANTS'  
MOTION FOR SUMMARY  
JUDGMENT DISMISSAL

*Clerk's Action Required*

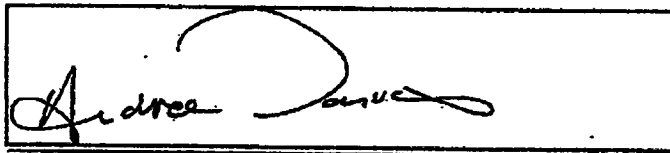
THIS MATTER came before the Court on Defendants' Motion for Summary Judgment Dismissal of the Plaintiff's Amended Complaint, which defendant noted without oral argument. The Court reviewed the following documents:

1. Defendants' Motion and Memorandum of Authorities in Support of Summary Judgment Dismissal;
2. Declaration of David L. Force in Support of Defendants' Motion for Summary Judgment Dismissal with attached Exhibits 1-9;



King County Superior Court  
Judicial Electronic Signature Page

Case Number: 20-2-00927-0  
Case Title: VINES VS CITY OF BLACK DIAMOND ET AL  
Document Title: ORDER RE GRANTING SUMMARY JUDGMENT DISMISSAL  
Signed by: Andrea Darvas  
Date: 7/24/2020 9:51:24 AM



Judge/Commissioner: Andrea Darvas

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: A0508A9EC49C5AD88584C7F2E36F1D39ADCAE781  
Certificate effective date: 7/16/2018 2:36:32 PM  
Certificate expiry date: 7/16/2023 2:36:32 PM  
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,  
O=KCDJA, CN="Andrea Darvas:  
XHze8QrS5hGvaMX2AFk6yQ=="

# EXHIBIT "A"



Erickson, Clyde Victor

Criminal History

Case Number	Court	Date Of Incident	Charge
XY0401256BDP CN	BDM	8/25/2010	Obstruct Law Enforcement Officer
XY0325900BDP CN	BDM	7/6/2010	Harassment
B00235829TAP CN	TMC	4/4/2010	Criminal Trespass 2
502527BDP CN	BDM	9/4/2002	Obstruct Law Enforcement Officer
C00032160BYP CT	BOM	6/30/2000	DWLS 3 <sup>rd</sup> Degree
500394BDP CN	BDM	11/15/1996	Assault in the 4 <sup>th</sup> Degree
9893BDP CN	BDM	11/28/1994	Assault in the 4 <sup>th</sup> Degree
9620BDP CN	BDM	7/30/1994	Assault in the 4 <sup>th</sup> Degree
J00015640 WDW CN	AUK	3/27/1994	Fish with more then one line
7344331 WSP CT	COD	3/18/1993	Racing
J00003989KCP CT	AUK	3/25/1989	Driving in viol of financil respons
05-1-13399-2	S17	9/19/2005	Cont Sub-Possess No Prescript Criminal Attempt
98-1-09151-3	S17	10/20/1999	Telephone calls to harass
98-1-02410-7	S17	4/17/1998	Assault 3 <sup>rd</sup> Degree

# EXHIBIT "B"



**Black Diamond Police Department  
Jamey Kiblinger, Chief**

25510 Lawson Street / PO Box 309  
Black Diamond, WA 98010  
(253) 631-1012 ~ Fax (360) 886-2901

**TRESPASS NOTICE**

LOCATION NAME/ADDRESS: Black Diamond Community Center  
RESPONSIBLE PARTY NAME: Cheryl Hanson

**TRESPASSED PERSONS IDENTIFYING INFORMATION:**

NAME: Clyde V. Erickson DOB: 09-12-61 SEX: M  
HEIGHT: 508 WEIGHT: 155 RACE: W HAIR: BRN EYES: BRN

I acknowledge reading, having read to me, or being advised of the following:

1. A person is guilty of Criminal Trespass in the First Degree if he knowingly enters or remains unlawfully in a building. RCW 9A.52.070
2. A person is guilty of Criminal Trespass in the Second Degree if he knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting Criminal Trespass in the First Degree. RCW 9A.52.080
3. Due to my own actions at 31605 3<sup>rd</sup> AVE on 06-20-17, as set forth in Case # 170000053, I understand that I am no longer invited, privileged or otherwise allowed to enter or remain on the property described in this paragraph.
4. I further understand that I am not allowed to enter or remain on any of the property or areas described in paragraph 3, above, for a period of one year from the date set forth below, and that if I do so, I am subject to an arrest for Criminal Trespass in the first or second degree.

TRESPASSED PERSONS SIGNATURE: Refused To Sign / Told Verbally  
DATE: 06-20-17 TIME: 10:17

RESPONSIBLE PARTY SIGNATURE: [Signature]  
DATE: 06-20-17 TIME: 10:14

WARNING WITNESSED BY POLICE: YES / NO

OFFICER'S SIGNATURE: [Signature] #1504



# Black Diamond Police Department

Officers Report for Incident 190000513

Nature: Trespassing  
Location: BLACK

Address: 31605 3rd AVE  
Black Diamond WA 98010

Offense Codes: TPAS  
 Received By: 1504-Chatterson      How Received: D      Agency: BDPD  
 Responding Officers: 1504-Chatterson  
 Responsible Officer: 1504-Chatterson      Disposition: CLO 06/20/19  
 When Reported: 10:15:00 06/20/19      Occurred Between: 10:10:00 06/20/19 and 10:15:00 06/20/19

Assigned To:      Detail:      Date Assigned: \*\*/\*\*/\*\*  
 Status:      Status Date: \*\*/\*\*/\*\*      Due Date: \*\*/\*\*/\*\*

Complainant: 11236  
 Last: Hanson      First: Cheryl      Mid: G  
 DOB: 10/06/49      Dr Lic: [REDACTED]      Address: 31605 3rd AVE  
 Race: W      Sex: F      Phone: ()-      City: Black Diamond, WA 98010

### Offense Codes

Reported:      Observed: TPAS Trespass of Real Prop  
 Additional Offense: TPAS Trespass of Real Prop

### Circumstances

DAY Day (6 a.m. - 6 p.m.)  
 LT05 Commercial or Office Building

Responding Officers:      Unit :  
 1504-Chatterson      NO

Responsible Officer: 1504-Chatterson      Agency: BDPD  
 Received By: 1504-Chatterson      Last Radio Log: 10:25:46 06/20/19  
 How Received: D Dispatch      Clearance: CRO Cleared by Responding Officer  
 When Reported: 10:15:00 06/20/19      Disposition: CLO Date: 06/20/19  
 Judicial Status:      Occurred between: 10:10:00 06/20/19  
 Misc Entry: NO      and: 10:15:00 06/20/19

Modus Operandi:      Description :      Method :

**Narrative/Supplemental**Black Diamond Police Department  
Investigation Narrative

I am commissioned by the City of Black Diamond to enforce the laws of the State of Washington and the City of Black Diamond. This investigation occurred within the City Limits of Black Diamond, Washington on the times and dates listed below.

On 06-20-19, at approximately 09:15 hours, I received a call from Valley Communication Radio regarding an unwanted subject at the Black Diamond Community Center (31605 3rd AVE). Radio advised that the director (Cheryl G. Hanson DOB: 10-06-49) had a verbal confrontation with a subject who wanted a cup of coffee (Clyde V. Erickson DOB: 08-13-61). I arrived at the Black Diamond Community Center at approximately 09:17 hours and located Erickson outside. I asked Erickson to tell me what happened and he told me that he went inside to pick up a cup of coffee. He told me that Hanson provided him with the coffee and then tried to rush him out of the building.

I walked into the building and contacted Hanson. Hanson told me that Erickson came into the building to get a cup of coffee. She told me that he called her a "Bitch." and was being rude to her. She told me that she no longer wants Erickson inside the building because he is rude and makes a scene around the senior citizens who are also in the building every Tuesday and Thursday. Hanson told me that she wanted Erickson trespassed from the building.

I re-contacted Erickson outside and I told him that he was being trespassed from the Black Diamond Community Center. Erickson became upset and told me that Hanson did not have the authority to trespass him. I explained to Erickson that she was the Director of the Black Diamond Community Center and she did have the authority to trespass people from the building. Erickson told me that he would not sign a trespass form. I told Erickson that he did not need to sign the form. I advised him that I would write, "Refused to sign" where his signature should be on the form. I informed him that he had been verbally warned not to return to the Black Diamond Community Center or he would be arrested and charged with criminal trespass in the second degree. Erickson told me that he was going to come back to the Black Diamond Community Center and I could arrest him. Erickson told me that he wanted his day in court to tell the judge that Hanson had no authority to trespass him from the building. I again informed Erickson that I would in fact arrest him if he chose to return to the Black Diamond Community Center. Erickson then walked his bicycle south on 3rd AVE.

I completed the trespass form and I obtained Hanson's signature on the form. I provided Hanson with her copy of the trespass form and I told her to call 911 if Erickson returned. I cleared the scene at approximately 10:39 hours.

I certify under penalty of perjury under the laws of the state of Washington that all statements made herein are true and accurate and that I am entering my authorized user ID and password to authenticate it.

# EXHIBIT "C"



# Black Diamond Police Dept

Case Report: # 180000507

Case #: 180000507

Incident: Domestic Disturbance

Area: Black Diamond City Limits

Location: 32400 1st AVE

When Reported: 10:58:09 05/18/18

Occurred Between: 10:00:00 05/18/18

And: 12:00:00 05/18/18

## COMPLAINANTS:

1) Name: Boxx, Dennis Harold

CONFIDENTIAL

DOB: 09/15/45

Race/Sex: W/M

Address: 32517 2nd Ave SE

Black Diamond, WA 98010

Home Phone: (360)886-2531

Work Phone: (-)

Employer:

## OTHER PERSONS:

Name:	Address:	City:	Involvement:
Erickson, Clyde V	32517 2nd AVE	Black Diamond, WA 98010	Involved
Boxx, Troy Dennis	32522 Railroad AVE	Black Diamond, WA 98010	Contacted
Deady, Tamie Lynn	32424 1st AVE	Black Diamond, WA 98010	Contacted

## SYNOPSIS:

Officer: 1528-Henrich

On 5/18/18, officers responded to the 32400 block of 1st Ave for a verbal dispute. Officers contacted both parties and determined no crime had occurred. Officers recommended the parties get a no-contact order.

## NARRATIVE:

Name: 1528-Henrich

Date: 15:02:32 05/20/18

Black Diamond Police Department

Investigation Narrative

I am commissioned by the City of Black Diamond to enforce the laws of the State of Washington and the City of Black Diamond. This investigation occurred within the City Limits of Black Diamond, Washington on the times and dates listed below.

On 5/20/18 I was working uniformed patrol for the City of Black Diamond. At

---

about 1029 hours I was dispatched to the Eagles at 32618 Railroad Ave for a dispute. The reporting party reported they heard two males yelling from behind the location. Based on my experience in the area I knew Erickson, Clyde V DOB 8/13/1961 lives on the road behind the Eagles and commonly has disputes with his family. I proceeded to the 32400 block of 1st Ave and contacted Erickson at the roadway. I asked Erickson what was going on. Erickson was very agitated and stated he got into an argument with his brother. I asked who his brother is and Erickson replied "you figure it out, he went that way" and pointed north.

While walking north I contacted another family member who stated they received a phone call from Boxx, Dennis H DOB 9/15/1945 who informed them he had been arguing with Erickson. This family member informed me Boxx was in the Ginger Creek Site. I walked into the Ginger Creek Site and contacted Boxx. Boxx stated the argument with Erickson was only verbal but Erickson threatened to "kick his ass". Boxx did not wish to pursue charges against Erickson for harassment. Boxx stated the argument was over Erickson mowing another family member's lawn after being asked not to. Boxx did not request any further assistance.

As I was returning to my vehicle I spoke to several family members who were concerned about Erickson's escalating behavior. I provided information to the family members on how any of them could obtain a protection order.

I certify under penalty of perjury under the laws of the state of Washington that all statements made herein are true and accurate and that I am entering my authorized user ID and password to authenticate it.

---

Printed: 12:02:01 01/04/19



# EXHIBIT "D"

FILED

Black Diamond  
Municipal Court

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

IN THE MUNICIPAL COURT OF THE CITY OF BLACK DIAMOND  
KING COUNTY, STATE OF WASHINGTON

CITY OF BLACK DIAMOND,

Plaintiff,

vs.

DAVID M. VINES,

Defendant.

No. 8z1144055

MOTION AND ORDER TO DISMISS  
WITHOUT PREJUDICE

I. MOTION

The City of Black Diamond, by and through the undersigned, submits this Motion and Order to Dismiss without Prejudice the above-captioned case. Dismissal is appropriate because the City is unable to proceed to trial after recent efforts to contact the victim have been unsuccessful.

DATED this 19<sup>th</sup> day of March 2019.



Ivar Gunderson, WSBA # 49602  
Prosecutor for Black Diamond

II. ORDER

THIS MATTER, having come on the motion of the Plaintiff, is hereby Dismissed without Prejudice.

SO ORDERED this 19<sup>th</sup> day of March 2019.



Judge Krista White Swain

**COPY**