

No. 69892-3-I

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WASHINGTON COURT OF APPEALS  
 DIVISION ONE

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STATE OF WASHINGTON,

RESPONDENT

VS.

ANTHONY LEE,

APPELLANT

*Filed  
COA  
10-30-13  
KJ*

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STATEMENT OF ADDITIONAL GROUNDS

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ANTHONY LEE  
 633527 : TRU : D-\_\_\_\_\_  
 PO Box 888  
 Monroe WA 98272

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Standard Review De Novo

Review of this issue by this court is DE NOVO. And pursuant to The fourth admendment right to privacy of a warrantless search. Called incident to arrest.

On march 21st 2012 Officer Fox approached a parked vehicle. He spoke with Mr. Lee and Ms. Sample and ordered them to Freeze. At that time he asked for Identification from both persons. He took the in formation and ran the identification through his data-base. Mr. Lee had no outstanding Warrants at that time. which Officer Fox stated that he had no reason to arrest Mr. Lee.

See exhibit 1 Of page (42) lines 22-25.

"Standing and the personal nature of the rights enforced by exclutionary sanctions."

A seperate and distinctive act that requires a warrant. This is an intrusion into the privacy act of the fourth amerident. rule violation, Wong sun V. United States, 371US. Exclusionary rule.

1           I - Identity of Party

2           Anthony Lee, Appellant, Pro se, hereby submits this State-  
3           ment of Additional Grounds.

4           II - ASSIGNMENTS OF ERROR

- 5   2.1   (1)       The seizure of Lee by CCO Tavaréz was without  
6           Constitutionally Sufficient Authority of Law.
- 7   2.2   (2)       The State Vindictively Retaliated Against Lee  
8           for His Lawful Exercise of a Legal Right.
- 9   2.3   (3)       Lee was Sent~~enced~~enced on a Miscalculated Offender  
10          Score.

11          III - ISSUES RELATING TO ASSIGNMENTS OF ERROR

- 12 3.1   (A)       CAN CCO TAVAREZ SEIZE LEE WHEN HE IS NOT BEING  
13          SUPERVISED BY THE DEPARTMENT OF CORRECTIONS?
- 14 3.2   (B)       CAN THE STATE CONSTITUTIONALLY PUNISH LEE IN  
15          ITS CHARGING OR PLEA NEGOTIATION BECAUSE LEE  
16          EXERCISED HIS RIGHT TO ASK THE COURT TO SUPPRESS  
17          THE EVIDENCE AGAINST HIM?
- 17 3.3   (C)       WAS LEE'S OFFENDER SCORE MISCALCULATED?

18          IV - FACTS RELEVANT TO REVIEW

19          \*\*\* (The facts contained in paragraphs 4.1 through and in-  
20          cluding 4.11 derive from the Arrest Report written by  
21          CCO Tavaréz).

- 22 4.1   On 21 March 2012, Officer Fox of the Seattle Police Depart-  
23          ment [SPD] and Department of Corrections [DOC] Community  
24          Corrections Officer [CCO] Tavaréz, contacted the occupants  
25          of a vehicle parked at the 1500 Block of 2nd Avenue, in  
26          the City of Seattle, Wa.

1 4.2 The vehicle was occupied by a female driver, and a single  
2 passenger (Appellant, Anthony Lee) who sat in the back  
3 seat.

4 4.3 During the stop, Officer Fox directed both of the occupants  
5 to keeps their hands visible. He directed the driver to  
6 place her hands on the steering wheel, and for Lee to keep  
7 his hands on the back of the frontseat headrest.

8 4.4 CCO Tavaréz then stood by and watched while Officer Fox ran  
9 the identity of the driver.

10 4.5 During this time period Tavaréz claims that "Lee kept moving  
11 his hands off of the headrest and I had to direct him to  
12 replace them. At one point, I observed Lee's right hand  
13 move to his legs and I again stated to him to 'Keep your  
14 hands on the head rest [sic] and stop moving around.' "

15 4.6 Lee was not under the jurisdiction of DOC at the time of the  
16 stop, neither was he being supervised by Tavaréz or on her  
17 case-load from any other jurisdiction, oR reason.

18 4.7 CCO Tavaréz next directs Lee to exit the vehicle. While  
19 Lee is attempting to comply with the directive, Tavaréz  
20 claims to observe Lee place a white tissue in his right  
21 sock.

22 4.8 In response, Tavaréz grabs Lee by his jacket and pulls him  
23 out of the vehicle and forces him to the ground.

24 4.9 Tavaréz then asks Officer Fox to conduct a pat-down search  
25 of Lee while Tavaréz conducts a search of the backseat of  
26 the vehicle.

1 4.10 During the search of Lee's person, it is alleged that Off-  
2 icer Fox located 0.1 grams of a substance that field tested  
3 positive for Cocaine.

4 4.11 Lee is arrested and charged with "Possession with Intent to  
5 Deliver: Cocaine"

6 4.12 Lee was initially afforded a sentence of sixty-days if he  
7 pled guilty to "Solicitation to Possess a Controlled Sub-  
8 stance". (VRP at 205, 1b 11-14)

9 4.13 Lee instead sought to have the evidence suppressed pursuant  
10 to CrR 3.6.

11 4.14 The State next offered Lee a low-end sentence to a simple  
12 possession charge (a year-and-a-day) if Lee entered a plea  
13 of guilty by omnibus. (VRP 202, ~~1a~~ 3-4).

14 4.15 The State next alleges that because ". . . we had to pur-  
15 chase a plane ticket" to fly an officer into town to tes-  
16 tify at the CrR 3.6 hearing, that this justified the pro-  
17 secution on a charge of "Possession with Intent to Deliver"  
18 without any need for further negotiation.

19 4.16 After the Court inquired into this charging practice (VRP  
20 201 - 205) the State took a short recess, at the conclusion  
21 of which Lee was offered the current offense of "Solici-  
22 tation to Deliver" and a 45-month sentence based upon an  
23 offender score of nine (9).

24 4.17 Lee accepted the offer on advice of Defense Counsel, with a  
25 recommendation of DOSA, and no community custody. (VRP  
26 59, 1n 16-18).

1 4.18 The Court imposed the current DOSA sentence based upon an  
2 offender score of nine (9), and providing for a sentence of  
3 52.5-months (26.25-months in custody, and 26.25-months out-  
4 side custody).

5 4.19 This offender score calculation included two class-C felony  
6 convictions from 1998 that should have been excluded from  
7 the offender score pursuant to RCW 9.94A.525(c) (KING  
8 County No. 98-1-01733-0 VUCSA BURN; and VUCSA Possession  
9 of Cocaine).

10 4.20 In addition, this offender score included a possession of-  
11 fense which has subsequently been dismissed by an agreed  
12 order in this Court's No. 65967-7-I (KING County No. 09-1-  
13 04512-3).

14 V - ARGUMENT

15 (A) CAN CCO TAVAREZ SEIZE LEE WHEN HE IS NOT BEING  
16 SUPERVISED BY THE DEPARTMENT OF CORRECTIONS?

17 5.1 RCW 9.94A.501(5) provides as follows:

18 "The department is not authorized to, and may not super-  
19 vise any offender sentenced to a term of community custody  
20 or any probationer unless the offender or probationer is  
21 one for whom supervision is required under this section or  
22 RCW 9.94A.5011." (My emphasis).

23 5.2 The interpretation of a statute is a question of law that  
24 is reviewed De Novo. State v. Denny, 173 Wn App 805, ¶ 6  
25 (2013, Div 2).  
26

1 5.3 In any question of statutory construction the court looks  
2 to ascertain the legislature's intent by first examining  
3 the statute's plain meaning. In re Pierce, 173 Wn 2d 372,  
4 377-78, ¶ 18 (2011). We discern a statute's plain meaning  
5 from the ordinary meaning of the language at issue, the  
6 context of the statute in which that provision is found,  
7 related provisions, and the statutory scheme as a whole.  
8 Id. Statutes must be interpreted and construed so that all  
9 of the language used is given effect, with no portion ren-  
10 dered meaningless or superfluous. Id. (Internal citations  
11 omitted).

12 5.4 In the matter now presented - and under the plain and ex-  
13 plicit terms of the statute - as Lee was not subject to the  
14 supervisory jurisdiction of the Department of Corrections,  
15 Tavarez lacked both the legal and constitutional authority  
16 necessary to seize Lee.

17 5.5 Absent the unconstitutional seizure of Lee by Tavarez, it  
18 is clear that Officer Fox would not have - could not have -  
19 located the alleged contraband.

20 5.6 Article 1, section 7 of the State Constitution provides:  
21 "No person shall be disturbed in his private affairs or his  
22 home invaded, without authority of law". Thus, where the  
23 Fourth Amendment precludes only "unreasonable" searches  
24 and seizures without a warrant, Article 1, Section 7 pro-  
25 hibits any disturbance of an individual's private affairs  
26 "without authority of law." State v. Buelna-Valdez, 167 Wn

1 2d 761, 771-72, ¶ 21 (2009) citing York v. Wahkiakum Sch.  
2 Dist. No. 200, 163 Wn 2d 297, 305-06 (2008).

3 5.7 This creates "an almost absolute bar to warrantless arrests,  
4 searches, and seizures, with only limited exceptions. . . ."  
5 The privacy protections of article 1, section 7, are more  
6 extensive than those provided under the fourth amendment.  
7 Id. (My emphasis).

8 5.8 The inquiry under article 1, section 7, requires a two-  
9 part analysis: (1) Does the State Action Constitute a  
10 disturbance of one's private affairs? Ibid, at ¶ 22.  
11  
12  
13  
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25  
26

5.9 In the matter presently being reviewed this court must focus its attention not on the actions of officer Fox - but on CCO TAVAREZ. Whatever authority of law officer Fox may have had in contacting the suspects in the vehicle does not transmute to CCO TAVAREZ.

5.10 TAVAREZ is not a law enforcement officer - and her purpose for the ride-along was for the purpose of identifying persons under the jurisdiction of the Department.

5.11 It is incontrovertible that Lee was not under the jurisdiction - nor subject to the supervision or authority - of the Department. TAVAREZ then lacked either direct or transitory authority to issue orders to Lee or seize his person in any form or fashion.

5.12 In the event, not only did TAVAREZ seize Lee through the means of verbal commands which he refused, Lee did not have a choice but to follow, TAVAREZ physically grabbed Lee by the collar of his jacket, pulled him out of

the article, I don't know how far-off it  
is to the person T.

2.13 The action of Tom is a disturbance of  
L's privacy, disturbance of L's private  
affairs. Therefore, the first question in  
our article is, section 7 analysis has  
been answered in the affirmative.

2.14 If a privacy interest has been identified,  
the second step in our analysis is to  
whether the defendant's law justified  
the intrusion. Reid v. Valdez, 137 Wn.2d  
at 772, 22. The burden of proof is required  
by article 1, section 7 is satisfied by a  
valid defense, such as a lawfully  
permitted exception to the rule.

2.15 At this point, the court has found all  
of the facts and circumstances to be in favor  
of the defendant. The court may also find  
an intrusion from the perspective of the  
plaintiff, but not the defendant's  
perspective has effect for purposes of  
the article. The court's opinion by Tamm, J.

of accompanying by written orders.  
These actions can only be taken if the will  
be to do so locally or centrally. Some  
provisions are being performed by a  
Department CCO.

5.16 Darlington SU recognizes that prisoners  
are protected by a minimum level of  
privacy which permits a minimum series  
State v. Harris, 163 N. W. 2d 117-14  
(2011, O.D. 2).

5.17 RCW 9.94A.051 authorizes a correctional officer  
for a CCO to search a prisoner's residence  
and other personal property when the  
CCO has reasonable cause to believe  
the prisoner has violated a condition.  
State v. ..., 81 W. 2d 198, 100 (1965).

5.18 A ...  
is ...  
...  
State v. ..., 119, 416

5.18

Verdict is made for the honor which is  
to justify the action of Lee, there  
must be no primordial principles;  
Lee must first be removed to the ground  
and judicial power of the Department is  
such order of production of people.

5.20

is an intermediate level not to be in  
power that Lee is not subject to  
the same authority or jurisdiction of the  
ordinance.

5.21

is a very important part of the  
no amount of physical power is not  
to be used to justify the action of  
Lee by his own power to be in  
the power of the Department is  
such order of production of people.

5.22

could not be in power of Lee to  
Lee's actions - but the power of Lee is  
not a question of power to make  
determinations on the part of Lee.



It may be argued that the Board is  
not a "body" and hence the  
of the person either directly or  
by all of fact.

into

Because the Service is not  
exercising its authority  
of Law. The exclusion of the  
members the Board of Directors  
interest through the  
Board. State v. Green, 166 Ark.  
242, 243, 244, 245 (1900).  
Boyd v. United States, 111 U.S.  
471, 485 (1883). The exclusion of  
rule has traditionally been based upon  
and physical disability in an  
office. During the  
direct result of an individual  
inclusion.

5.27

(B) In the state constitution, namely  
Branch Lee prints charging  
or Plea Negotiation, be  
Lee was and his right to  
as for the evidence against  
him to be suppressed.

5.28

A public prosecutor is a  
judicial officer, representing the  
People of the State, and presumed  
to act impartially in the interest  
of only justice. In re Norton, 152  
Wis. 2d 833, 556 (2004).

5.29

A prosecutor's duty to do justice  
on behalf of the public transcends  
mere advocacy of the state's case.  
see in Russia v. Ullrich, "The Neutral  
Prosecutor: The Obligation of  
Dispassion in a Prosecutorial  
Pursuit," 65 Tulane L. Rev. 1715  
(April 2000). Consequently,  
it is the ethical duty of the  
prosecutor to seek the law,  
rather than the most severe  
outcome. State v. Kowalski,  
120 Wis. 2d 556, 152 Wis. 2d 152  
152 Wis. 2d 123 (2004).

5.30

The doctrine of prosecutive and vindictiveness has its roots in North Carolina v. Pearce, 395 U.S. 711 (1964), which held that an increased sentence by the judge after a defendant exercised his right to appeal constituted a due process violation. This doctrine was extended to actions of the prosecution in Blackledge v. Perry, 417 U.S. 21 (1974), and Bordenkircher v. Hayes, 434 U.S. 357 (1978).

5.31

"Prosecutorial Vindictiveness" can also be shown by the retaliation for a defendant's lawful exercise of a procedural right. State v. Bonvino, 92 Wn. App. 783 (1998); State v. Lee, 69 Wn. App. 31 (1992). A prosecutor may offer a defendant a choice to a defendant's decision making. It is not considered unfair "so long as the choices are neutrally based upon the evidence and options available to both sides." Lee v. Wa. App. at 30.

5.32 ... Manipulation, a defendant in an appropriate case might prove objectively that the prosecutor's charging decision was motivated by a desire to punish him for something the law plainly allowed him to do. U.S. v. Goodwin, 457 U.S. 308, 384 (1982).

5.33 ... In the facts now before this court, there exists one clear and incontrovertible truth: Lee is serving a 52.5 month DOSA sentence because he asked the court to suppress evidence used against him.

5.34 ... Before Lee accepted ANY plea offer, he sought to know whether the State would have any evidence to submit against him. This is a fundamental requirement in order for his plea to be knowingly, voluntarily, and intelligently given. See Boykin v. Alabama, 375 U.S. 235 (1964). In re Stodolnik, 145 Wn 2d 258 (2001).

5.35 The actions of the prosecution in this case gave Lee an unconstitutional Hobson's Choice: (1) enter a plea to a 60-day sentence without knowing whether the evidence would withstand the crucible of a CrR 3.0 hearing; or (2) be subjected to more than four-years imprisonment if he chose to exercise a basic and fundamental right to challenge the states case.

5.36 "To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort. And for an agent of the state to pursue a course of action whose objective is to penalize a person's reliance on his legal rights is patently unconstitutional." Burdick v. United States, 404 U.S. at 303.

5.37 The uncontroversial truth is that the State unconstitutionally put a price on the exercise of a legal right: because the State had to purchase a plane ticket to fly a witness back to attend the 3.0 Hearing (to which Lee has a clear and indisputable right) the State vindictively - and undeniably - retaliated by subjecting Lee to a sentence calculated in years rather than days.

5.38 Implementation of a strategy calculated solely to deter the exercise of legal rights is not a constitutionally permissible exercise of discretion. Thus, this Court should allow Lee to withdraw his plea. (See *Rowe*, 997 F.2d 1111, 1114 n.1.)

Page

5.39

(2) was led to ...  
... ..

5.40

The crime ... ..  
... .. to complete ...  
... .. included ...  
... ..

Offense	Sentence date	Case no.
murder 2 <sup>nd</sup>	9-27-1977	87-0-00097-2
MURDER 1 <sup>st</sup>	1-1-1978	78-1-00001
* MURDER BURN	06-20-1978	77-1-01130-0
* MURDER 1 <sup>st</sup>	06-25-1978	78-1-00001
MURDER 1 <sup>st</sup>	02-16-1979	78-1-00001
MURDER 1 <sup>st</sup>	02-16-1979	78-1-00001
MURDER 1 <sup>st</sup>	02-16-1979	78-1-00001
* MURDER 1 <sup>st</sup>	02-16-1979	78-1-00001
* MURDER 1 <sup>st</sup>	02-16-1979	78-1-00001

5.41

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5.45

Constitutional due process requires the state to prove the existence of prior conviction by a preponderance of the evidence. State v. Ammons, 105 Wn 2d 175, 186 (1986), as well as any facts necessary to determine whether the prior conviction should be included in the offender score. In re Cadwallader, 155 Wn 2d 867, 876 (2005); Ind., 137 Wn 2d at 450.

5.46

Generally apart from certain exceptions not relevant here, class-C prior felony convictions

shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) previous

is a felony conviction...  
and... the offender  
had... five consecutive  
years in the community  
without committing any  
crime that subsequently  
results in a conviction.

RCW 9A.02.025 (2)(c)

5.72

A class 1 felony conviction is  
not to be included in the  
defendant's offender score  
if the defendant had five  
consecutive crime-free years  
at any time following release  
from confinement prior  
to the later conviction. State  
v. Hill, 95 Wn. App. 100, 109, 110

8.45

... possession of...  
Possession of...  
...

Page 2











## VII - 2000

Let us take the parameters of the  
and calculate the value of  $\Delta G$   
for the reaction  $2H_2 + O_2 \rightarrow 2H_2O$   
at 298 K.

1) The standard free energy of formation  
of  $H_2O(l)$  is  $-237.1 \text{ kJ/mol}$ .  
Therefore,  $\Delta G_f^\circ(H_2O) = -237.1 \text{ kJ/mol}$ .

2) The standard free energy of formation  
of  $H_2(g)$  is  $0 \text{ kJ/mol}$ .  
Therefore,  $\Delta G_f^\circ(H_2) = 0 \text{ kJ/mol}$ .

3) The standard free energy of formation  
of  $O_2(g)$  is  $0 \text{ kJ/mol}$ .  
Therefore,  $\Delta G_f^\circ(O_2) = 0 \text{ kJ/mol}$ .

4) The standard free energy of formation  
of  $H_2O(g)$  is  $-228.6 \text{ kJ/mol}$ .

The date of the sale  
shall be the date with the  
closing and exchange.  
The date of possession shall be

Date: 10/28/13

Anthony Cole

11111  
123456789  
1011121314  
1516171819  
2021222324

The court Of appeals  
of the  
State Of Washington

OCTOBER, 28 2013

These Are pre-trial exhibits On October 15, 2012

#1 - Exhibit TAVERAEZ\_ Cross examination Page (83) Line 24.

"(PAGE 84)" LINE 19, and 20.

#2- EXHIBIT Fox -Cross examination Page(40) Line 1 to 3, 4 to 25) page 37 Line 20 through 25 and page 38 Lines 1 through 3.

These actions need to be reviewed DE Novo. Also the probable cause where it states that due to mr. Lee statement officer Fox stated that I should be charged for a delivery because I Did not have a pipe in my possession. Which shows in Officer Fox's Testomony on page 38 Line 1-3 states there where **NO DRUG TRANSACTIONS!!**

All This iformation was addressèd in Mr Lee discreative review case #69817-6-I As Mr. Lee could not get copys to serve the Superioror Corut Judge and the prosecutor for the Emergency Stay. Which The Honorable Judge Hayden denied the motion in open court on February 6 2013 and mr. Lee sentencing hearing. Thankyou again as I am not and attorney.

*Anthony C Lee*

Sincerely, Anthony C. Lee

The court of Appeal  
Of the  
State of washinton

Division 1  
One union Square  
600 University street  
Seattle, WA 98101-4170

Anthony C. Lee#633527

MCC-TRU- D205  
P.O. Box 888  
MONROE, WA 98272

Court Clerk Administration

Dear, Richard D. Johnson

RE: To discrétionary review case # 69817-6-I  
Exhibit #1

This motion was a referance to an emergency discretionary review. At the time I filed it on January, 29 2013 Stating that the Judge denied my withdrawl motion. The Judge denied my sixth amend- ment right to dismiss counsel due to conflict of interest and appoint me new counsel on January 17th 2013. This is why the emergency discretionay review was filed. Due to the courts Malfeasance. Also at the sentance hearing date February 6th 2013, I brought to the attention of the courts to the Honorable Judge Hayden, That I submitted this motion For this emergency discretionary review. Which he denied, and stated that he never recieved anything from the court of appeals stating that the court of appeals ordered him to stay. So that motion that was brought into open court was denied also. This is why I am sending you a copy of the motion of the above referance. Also this is why I was dismissed my motion for the discretionary review on July 10 2013 I was in Shelton R- units and unable to recieve all leagle metir- ials to respond to the current proceedings.

Sincerely, Anthony C. Lee

CAUSE NO. 72-03042-8 SFA

SEATTLE  
POLICE  
DEPARTMENT

**CERTIFICATION FOR DETERMINATION  
OF PROBABLE CAUSE - NARCOTICS**

INCIDENT NUMBER	2012-86349
UNIT FILE NUMBER	

That Police Officer PJ Fox #6153 of the Seattle Police Department believes that there is probable cause that Anthony C. LEE committed the crime(s) of Violation of the Uniformed Controlled Substances Act on 3/21/2012 at 2023 hrs within the City of Seattle, County of King, State of Washington by possessing with intent to deliver .8 grams of crack cocaine, a controlled substance.

This belief is predicated on the following facts and circumstances:

On 03/21/2012 at 2023 hrs Officer Fox and DOC Officer Tavarez were SB on 2 Av, Officers observed WA Lic ADT7480 parked occupied on the SE corner of 2/Pine St (1500 blk 2 Av, East side).

The driver was later identified as Heather A. SAMPLE; seated directly behind the driver was Anthony C. LEE. There were no other occupants in the vehicle. Directly outside of WA Lic ADT7480 were approximately 12 suspected narcotics users-who appeared to be lining up at the window of this vehicle. Officer Fox stopped his vehicle and explained to the occupants why they were being stopped (suspicious activity/high narcotics area). The approximate 12 narcotics users scurried off to the North and South.

Officer Fox ran a DOL check on SAMPLE and LEE. SAMPLE had a verified SMC warrant for Theft. LEE refused to stop making furtive movements in the back seat of the vehicle. LEE was specifically told to remain absolutely still with his hands on the headrest.

While SAMPLE was being arrested for her warrant LEE was observed attempting to stuff a white tissue into the seat area.

SAMPLE was removed and arrested for her warrant. SAMPLE was seated on narcotics paraphernalia (pipe/pusher) and .1 grams of crack cocaine.

Officers were forced to remove LEE from the vehicle after he refused to stop making furtive movements. Officer Fox patted down LEE for weapons. As soon as Officer Fox patted down LEE's right ankle for weapons he immediately recognized a large rock of suspected crack cocaine in LEE's right sock.

Officer Fox immediately ceased the pat down for weapons and arrested LEE for VUCSA-possession. Officer Fox recovered the .8 gram rock of crack cocaine from LEE's sock. All cocaine field tested positive.

Both were Mirandized and understood their rights. LEE stated that the crack was fake. LEE also stated that he did not have a chance to sell any because Officers interrupted the sale. LEE admitted to placing the crack cocaine into his sock while making the furtive movements.

Due to LEE's statement of 'I did not have a chance to sell any (crack) and LEE did not possess any narcotics paraphernalia; Officer's specifically request that LEE be charged with VUCSA-PWI.

1 (g) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_

2 45 months, carter's attorney's fees, \$1000 VMA fee, \$500 VPA,  
3 Dukes agree no community custody, defense may request  
4 DOSA, may request to waive non-mandatory LFOs

5  The prosecutor will make the recommendation stated in the plea Agreement and State's  
6 Sentence Recommendation, which are incorporated by reference.

7 (h) The judge does not have to follow anyone's recommendation as to sentence. The judge  
8 must impose a sentence within the standard range unless there is a finding of substantial and  
9 compelling reasons not to do so or both parties stipulate to a sentence outside the standard range. If  
10 the judge goes outside the standard range, either I or the State can appeal that sentence to the extent  
11 to which it was not stipulated. If the sentence is within the standard range, no one can appeal the  
12 sentence.

13 (i) The crime of \_\_\_\_\_ has a mandatory minimum sentence of  
14 at least \_\_\_\_\_ years of total confinement. The law does not allow any reduction of this  
15 sentence. For crimes committed on or after July 24, 2005, this does not apply to juveniles tried as  
16 adults pursuant to a transfer of jurisdiction under RCW 13.40.110 (see RCW 9.94A.540(3)). [If not  
17 applicable, this paragraph should be stricken and initialed by the defendant and judge AC.]

18 (j) The crime charged in Count \_\_\_\_\_ includes a firearm / deadly weapon  
19 sentence enhancement of \_\_\_\_\_ months. This  
20 additional confinement time is mandatory and must be served consecutively to any other  
21 sentence and any other enhancement I have already received or will receive in this or any  
22 other cause. [If not applicable, this paragraph should be stricken and initialed by the defendant  
and the judge AC]

1 that I pay a fine, court costs, attorney fees, and other costs and fees, and place other restrictions and  
2 requirements upon me. Furthermore, the judge may place me on community custody.

3 (f) In addition to confinement, if the total period of confinement ordered is more than 12  
4 months, the judge will sentence me to the following period of community custody, unless the judge  
5 finds substantial and compelling reasons to do otherwise:

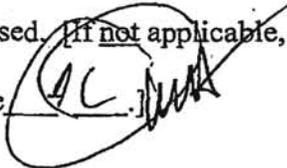
6 For crimes committed prior to July 1, 2000: for a drug offense, assault 2, assault of a child  
7 2, or any crime against a person where there is a finding that I or an accomplice was armed with a  
8 deadly weapon, one year; for any vehicular homicide or for a vehicular assault by being under the  
9 influence or by operation of a vehicle in a reckless manner, 18 months; for a serious violent offense,  
10 two years.

11 For crimes committed on or after July 1, 2000, and prior to August 1, 2009, as follows:

- 12  Serious violent offense: a range of 24 to 36 months.  
13  Violent offense: 18 months.  
14  Crimes against persons or violation of RCW 69.50 or 69.52 : a range of 9 to 12  
15 months.

16 For crimes committed on or after August 1, 2009, as follows:

- 17  Serious violent offense: 36 months.  
18  Violent offense: 18 months.  
19  Crimes against persons or violation of RCW 69.50 or 69.52 : 12 months.

20 The longest applicable period of community custody will be imposed. During the period of  
21 community custody I may be under the supervision of the Department of Corrections, and I will  
22 have restrictions and requirements placed upon me. My failure to comply with these conditions will  
result in the Department of Corrections transferring me to a more restrictive confinement status or  
other sanctions being imposed. ~~If not applicable, this section should be stricken and initialed by  
the defendant and the judge.~~ 

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THE COURT OF APPEAL  
of the  
STATE OF WASHINGTON

STATE OF WASHINGTON  
Plaintiff,

ANTHONY CRAIG LEE  
Defendant

CAUSE NO. 12-C-03042-8 SEA

Discretionary Review of Lower  
Court's Refusal to  
Withdraw Defendant's  
Guilty Plea and to  
Replace Counsel.

Sentencing Judge: Honorable Judge Hayden

Sentencing Date: January 17<sup>th</sup> 2013

Conviction. SOLICITATION TO REVOKE SENTENCE

The defendant, Anthony C. Lee,  
moves this court to permit the withdrawal  
of his guilty plea which is the result of an  
adverse ruling on the admissibility of  
evidence seized after his arrest and  
detention in a warrantless search by a  
Department of Correction officer with no  
jurisdiction over Mr. Lee and a Seattle

1 Police Officer. Furthermore, Mr. Lee  
2 also asserts that ineffective counsel also  
3 contributed to the failure of the court  
4 to move to permit the withdrawal of  
5 his guilty plea.

### 6 7 BASIS FOR APPEAL

8  
9 A. Warrantless Search: A warrantless  
10 search of Mr. Lee's vehicle occurred after  
11 the Department of Corrections Officers, acting  
12 with no jurisdictional authority over  
13 Mr. Lee, claimed Mr. Lee "appeared  
14 to [me] that he [Mr. Lee] was reaching  
15 between the cushions of the vehicle."  
16 What the defendant, Mr. Lee,  
17 eventually was discovered to be  
18 reaching for was a tissue [Except  
19 of Trial Proceedings, page 78, 79, 73 questions  
20 12, 14, 15, 21, 22, and 24-25].

CROSS EXAMINATIO  
TAVAREZ-DIVEC

21 Nonetheless, Mr. Lee's reaching  
22 for a tissue became the basis for  
23 the search of his vehicle with no  
24 warrant. This fact can be confirmed  
25 by again reviewing court transcripts

1 [Excerpt of Trial Proceedings Page 77, Questions  
2 18-25] in which the DOC officer  
3 was asked, under oath, if Mr. Lee,  
4 the defendant, did have a  
5 warrant and the officer admits  
6 that, on the night of his arrest,  
7 Mr. Lee had no warrant.

8 Thus, overt, observable facts exist  
9 in the testimony of the DOC  
10 officer that there was no warrant  
11 for Mr. Lee in effect to allow  
12 for a search of Mr. Lee's vehicle  
13 and no probable cause to believe  
14 a weapon or evidence of a crime  
15 was hidden in the car, to attest  
16 to Mr. Lee's claim that his Fourth  
17 Amendment Rights were  
18 violated by an illegal search  
19 U.S.C.A. Const. Amend 4.

20  
21 B. Ineffective Counsel: The defendant  
22 asserts his attorney failed to include the  
23 information fore mentioned and cited  
24 in his move to have the court withdraw  
25 his guilty plea, thus providing ineffective counsel.

26 [Washington v. Harell, 80 Wash. App. 802, 911 P2d 1034]

# 1 Argument

2  
3 THE COURT SHOULD EXERCISE ITS  
4 DISCRETION TO VACATE A VERDICT,  
5 ALLOW DISMISSAL OF COUNCIL, AND  
6 WITHDRAWAL OF GUILTY PLEA.

7  
8 A. The Court must consider the Impact  
9 of Ineffective Counsel on the outcome  
10 of the Case.

11  
12 1. While before the Judge and with  
13 Counsel, the defendant did not receive  
14 the benefit of effective counsel in  
15 that motions were submitted to the  
16 Court and distributed to opposing Council.  
17 Those motions were not ruled on.  
18 The Court did not give utterance to  
19 to a request to not rule on my  
20 submissions. Furthermore, discovery  
21 requested by defendant did not arrive  
22 as promised by January 17th 2013, the  
23 plea did not arrive at the jail until  
24 December 28th 2012.

1 State v. Osborne, 102 Wn 2d 87, 97, 654  
2 P. 2d 683 (1984) (quoting State v. Taylor,  
3 83, Wn. 2d 594, 599, 521 P.2d 699 (1974))  
4 states the defendant bears the burden  
5 of demonstrating a manifest injustice.  
6 The defendant has demonstrated an  
7 obvious, directly, overt and not obscure  
8 example of manifest injustice in  
9 examples provided above (CrR 4.2(1):  
10 State v. Wakefield, 130 Wn. 2d,  
11 464, 473, 035 P. 2d 183 (1996)). This  
12 said, the defendant has fulfilled  
13 two criteria for manifest injustice:  
14 (1) the defendant received ineffective  
15 assistance of counsel and, (2) the  
16 plea of guilty, submitted to the  
17 court was noted, at the time of  
18 submission, by the defendant,  
19 as "Not Voluntary" as evidenced  
20 by a statement referencing this  
21 signed by the defendant on the  
22 plea submitted.

23  
24 B. Withdrawal of Guilty Plea  
25

1 As a result of ineffective counsel, the  
2 defendant did not receive the needed  
3 assistance to bring to the court's  
4 attention the following evidence.

5 1. Under questioning and in  
6 testimony, the arresting officer stated  
7 he saw no evidence of the exchange  
8 of money or drugs by the defendant,  
9 both being inclusion criteria for a  
10 charge of "Criminal Solicitation."  
11 (see: "Excerpt of Trial Proceeding,  
12 Page 31, question 25 and page 32,  
13 questions 1-11).

14 2. Defendant was subjected to  
15 a search without warrant at the  
16 time of arrest as evidenced by  
17 the probable cause statement  
18 provided by the police department  
19 (see exhibits A and D) in which  
20 Officer Tavares says "Officer Fox then  
21 directed me to have Lee exit the  
22 vehicle. However Lee did not  
23 immediately exit... I grabbed Lee  
24 by his jacket out of the car... I did  
25 a cursory search of the back seat."

1 Please note, at time of the warrantless  
2 search by the Department of Corrections  
3 officer, the defendant was not under the  
4 jurisdiction of the Department of  
5 Corrections. This said, a warrantless  
6 search was conducted by an "officer"  
7 with no authority as the Seattle Police  
8 officer stood by and directed the  
9 DOC officer resulting in a violation  
10 of the defendant's Fourth Amendment  
11 Rights as there was no probable cause.  
12 U.S.C.A. Const. Amend 4.

13 3. A "Terry Stop" is a police  
14 action in which an individual  
15 or group is stopped under reasonable  
16 suspicion that the person or group  
17 is engaged in criminal activity.  
18 In fact, the test for a "Terry Stop"  
19 is whether suspicion, probable  
20 cause, that an individual is  
21 engaged in criminal activity. Terry v.  
22 Ohio 392 U.S.1, 20 LEd.2d 889, 889.Ct  
23 1868. As has been previously stated,  
24 the arresting officer saw no evidence  
25 of criminal activity; hence no probable cause.  
26 (See: Excerpt of Trial Proceeding, Page 31  
27 question 25 and page 32 questions 1-11).

It was determined that the defendant had no outstanding warrants and the "cocaine," which was seized during an illegal search and was field tested, not tested at the Washington State Patrol Crime Laboratory as required (Exhibit C), the actual compound allegedly found on the defendant is not known to be cocaine at a level of certainty required for use as evidence in court. Thus, no probable cause has been established against the defendant. Case law states that a detainee should be free from detention and is entitled to release under the due process clause once it was or should have been shown no grounds exists for continued detention Lee v. City of Los Angeles, 250, F3d 668 (9th Cir.). Upon determining no probable cause existed for detaining the defendant he should have been released immediately. This has not been the case and the defendant remains incarcerated.

1 c. Dismiss, with Prejudice, the Verdict

2 The unconstitutional search of  
3 the defendant's car; the statements of  
4 the arresting officer that he observed no  
5 evidence of criminal activity, by the  
6 defendant prior to detaining the  
7 defendant; the failure to prove to  
8 acceptable standards that the  
9 substance seized on the defendant  
10 was actually "rock" cocaine; the  
11 unjustified Terry stop; the failure  
12 to release the defendant after  
13 it was determined no probable  
14 cause for detention had been  
15 established; and, finally, the  
16 failure of current counsel to  
17 investigate these factors begs  
18 the court to dismiss, with  
19 prejudice, the verdict of "guilty"  
20 entered and accepted by plea.

## 21 22 23 Remedy

24 The Remedy Sought is Tailored to  
25

1 Protect Mr. Lee's Constitutional Rights

2

3 Mr. Lee asks the court overturn  
4 and dismiss, with prejudice, the plea  
5 of "Guilty" in King County Superior  
6 Court for the crime of solicitation  
7 to Deliver Cocaine.

8

9 Conclusion

10

11 For the reasons set forth  
12 above, the defendant asks the  
13 court to dismiss the verdict of  
14 guilty to criminal solicitation,  
15 withdraw the previously submitted  
16 plea of guilty and substitute counsel  
17 to assist the defendant in any  
18 new matters resulting from this  
19 case.

20

21 Respectfully submitted this \_\_\_\_\_ day  
22 of February 2013.

23

24 Anthony Coloe

25

Anthony C. Lee

212032884

BK94

1 Mr. Lee was misinformed of his guilty plea, and under State V. Mendoza  
2 demonstrates that we have repeatedly held that a defendant may challenge  
3 the voluntariness of a guilty plea when the defendant was misinformed about sentencing  
4 consequences resulting in a more onerous sentence than anticipated. Because at the time  
5 Mr. Lee took his guilty plea on October on or about the 15th or 16th 2012, his plea agreement  
6 was for forty five months which is the low end of the range. At that time all parties state  
7 and the defence agree to the low end and agree to not to have community custody.  
8 At that point Mr Lee withdrew his plea January 17th 2013. The courts denied the withdrawal  
9 hearing and denied him a attorney for his withdrawal hearing which forced Mr. Lee to go prose.  
10 Mr. Lee's Trial attorney Mr. Wolfe was present but was not in offense of Mr. Lee's behalf.  
11 Mr. Lee did an emergency Stay for discretionary review to the court of appeals. They  
12 granted the motion. At that time Mr. Lee was not sentenced and his plea bargain agreement  
13 had still stand as was still written and agreed As agreed. On the day of sentence  
14 Mr. Lee was offered a DoSA. Which carried community custody. Mr. Lee Was not aware  
15 that it carried DoSA or I would of never excepted that judgement. As Mr. Lee Took a  
16 plea without community custody this is where Mr. Lee feels he was misinformed of the mandator  
17 community custody for the DoSA. State V. Miller, 110 Wn. 2d 528, 756 P.2d 122 (1988)  
18 We held the defendant was entitled to withdraw his guilty plea because both parties  
19 were unaware of a mandatory minimum sentence requirement. As The DE NOVA Review  
20 See plea agreement on or about October fifteenth or sixteenth on the community custody  
21 agreement. As The agreed contract has been broken.

## EXHIBIT #

TAVAREZ - Cross

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1           heard, hey, Mr. Lee has a warrant, though, not like Ms.  
2           Sample. But in conversations, you know, Mr. Lee has  
3           come up.

4           Q. In fact, Mr. Lee didn't have a warrant on March 21st,  
5           correct?

6           A. Correct.

7           Q. You testified in detail about Officer Fox's stop and  
8           subsequent detention and arrest of Ms. Sample, and you  
9           described Mr. Lee's actions during those times. Do you  
10          recall that testimony?

11          A. Yes.

12          Q. Now, you testified that you had to tell Mr. Lee to put  
13          his hands back up on the headrest about two times?

14          A. Correct.

15          Q. And after that second time, he pretty much kept his  
16          hands there the entire time, correct?

17          A. Correct.

18          Q. You described in some detail a movement by Mr. Lee when  
19          it appeared that he was reaching between the cushions  
20          of the vehicle; is that correct?

21          A. Correct.

22          Q. And you saw a tissue?

23          A. Correct.

24          Q. You didn't believe that tissue was a weapon, correct?

25          A. The tissue was initially in his hand, then it was gone,

EXHIBIT #

*he said it was a weapon  
and it was a weapon*

TAVAREZ - Cross

84

1 but I didn't actually see his hand after that.

2 Q. But you didn't believe the tissue was a weapon?

3 A. No.

4 Q. And you testified that as he was being -- as Mr. Lee  
5 was being directed to exit the vehicle, you saw his  
6 hand go down to his sock, correct?

7 A. Not as he was exiting. During the time he was -- in  
8 between that seat there.

9 Q. Well, that was after the door was open to the vehicle,  
10 correct?

11 A. Correct, the door opened.

12 Q. And that was after Officer Fox had directed you to  
13 remove Mr. Lee from the vehicle, correct?

14 A. Correct.

15 Q. You didn't observe any weapons on Mr. Lee, correct?

16 A. Not on him. There was a lot of debris in the back seat  
17 there, and when his hand went out of view I couldn't  
18 see what he was -- if there was or anything, a weapon  
19 or anything. But to be safe, I wanted him out of the  
20 vehicle.

21 Q. You didn't observe any weapons in the vehicle either,  
22 correct?

23 A. No.

24 THE COURT: That's one where you say correct.

25 THE WITNESS: Correct.

1 A. I don't think I did. I think I pulled up next to the  
2 vehicle, stopped very quickly, put it in Park and  
3 jumped out. So I was attempting to surprise.

4 Q. Are you certain you didn't?

5 A. I don't know. I'm hoping that it recorded and I will  
6 check on that today.

7 Q. So you believe there is video?

8 A. There might be, yeah. I'm sure that you would have  
9 checked on that, right?

10 Q. You believe that there is video?

11 A. I do. But video that was started at when I Mirandized,  
12 not at the initial stop because my lights weren't on.  
13 I had to put my lights on.

14 Q. After --

15 THE COURT: Can I ask a question here? If the  
16 lights didn't go on --

17 THE WITNESS: Right.

18 THE COURT: -- you still have to somehow activate  
19 the video for there to be video when you're speaking to  
20 someone inside the car?

21 THE WITNESS: Yes.

22 THE COURT: Okay. And that would have been you  
23 activating it rather than the lights activating it?

24 THE WITNESS: Exactly, your Honor.

25 Q. Officer Fox, you testified that one of the roles of

## EXHIBIT #

FOX - Cross

42

1           having DOC Officer Tavarez with you in these situations  
2           is to interact with individuals on active DOC  
3           supervision; is that correct?

4       A.   Correct.

5       Q.   On March 21st, the two individuals that you contacted,  
6           were either of them on active DOC supervision?

7       A.   I have no idea.

8       Q.   Is it fair to say you did the primary investigation?

9       A.   That's correct.

10      Q.   And you testified that you gathered the identification  
11          information from Ms. Sample and Mr. Lee, correct?

12      A.   That's correct.

13      Q.   You didn't touch any Ids?

14      A.   No.

15      Q.   And you took that information back to your cruiser to  
16          run the Ids, correct?

17      A.   Yes, I did.

18      Q.   And there's an arrest warrant on Ms. Sample, correct?

19      A.   Yes.

20      Q.   And then you arrested her?

21      A.   Yes.

22      Q.   No arrest warrant for Mr. Lee, correct?

23      A.   That's correct.

24      Q.   At that point did you believe that you had a basis to  
25          arrest Mr. Lee?

## EXHIBIT #

FOX - Cross

43

1 A. No, but as I'm taking the sample out, he's still moving  
2 around.

3 Q. Describe the detention of Ms. Sample; what did that  
4 look like? You testified that she was compliant?

5 A. Yes.

6 Q. When you say "compliant," how compliant, what was it  
7 like, to the best of your recollection?

8 A. Well, let's say that if she was noncompliant, that  
9 would stand out in my mind greater, so her arrest,  
10 besides her going to her side when I told her to keep  
11 her hands still was okay, she was complaint for the  
12 most part with the exception of her going to her side.  
13 And so then when we took her out, I don't remember her  
14 doing anything unusual. All I remember is Mr. Lee  
15 moving around in the back seat. So when we pulled her  
16 out, she was fine.

17 Q. How long did it take to remove Ms. Sample from the  
18 vehicle, if you recall?

19 A. Real quick, it was quick. So, I mean, this entire stop  
20 was very -- it wasn't that intrusive, it was very short  
21 in duration, very short in duration.

22 Q. Now, you testified that after you arrested Ms. Sample,  
23 -- well, after you detained her, what happens next?

24 A. You mean, after she's taken out of the car and  
25 arrested?

1 Q. And placed in handcuffs, I presume.

2 A. Right, handcuffs, and then she goes in the back of the  
3 patrol car, but he's still moving around at this point.  
4 As we're taking her out, I see him taking his hands off  
5 and going down to his feet and just moving around to  
6 where it's real simple. I mean, the commands I'm  
7 giving are very simple: Don't move. Keep your hands  
8 on the back of the headrest. And he's moving. So, I  
9 mean, this is a dangerous point. We're taking one out  
10 of the vehicle and the other one is moving. Not  
11 obeying our commands.

12 It's a scary point. This is when patrol officers  
13 get killed, right at this moment. Because there's  
14 divided attention. We're taking somebody out of the  
15 front, somebody in the back is taking advantage of that  
16 because they're thinking these officers are watching  
17 them, this is my chance to do whatever. So that's the  
18 only thing that's going through my head right now is  
19 he's not listening to us and this is super dangerous  
20 right now right as we're taking her out.

21 Q. Officer Fox, after you put the handcuffs on Ms. Sample,  
22 what happens next?

23 A. Mr. Lee, I have to pull him out and pat him down  
24 because I'm terrified at this point.

25 Q. So Ms. Sample is on the street?

**EXHIBIT #**

FOX - Cross

39

1 Q. So you believe you had enough for a Terry stop?

2 A. I believe I did, correct.

3 Q. But you didn't initiate a Terry stop of any of those  
4 individuals?

5 A. Well, you have to understand, I'm one person, so I need  
6 to go after -- you need to be careful how much you bite  
7 off.

8 Q. Sure.

9 A. For officer safety. So I can't go running after 12  
10 people or eight people, I can't do it. I have two  
11 people that are stationary, static in a vehicle,  
12 they're not moving, I'm going to talk to these people.  
13 And these people were what interested the eight to  
14 twelve people. Their interest was inside the car, so  
15 it's natural that I -- hey, if they're static, I'm  
16 going to talk to them.

17 Q. And Officer Tavaréz didn't attempt to apprehend any of  
18 those eight to twelve people to your knowledge?

19 A. Yeah, "apprehend" is the wrong word. No, conduct a  
20 Terry stop. No, no. Because once again she's one  
21 person, we've got two people in the car and she's  
22 acting upon my direction and my direction is nonverbal  
23 at this point. She knows I'm going to go after the two  
24 people that are in the car to figure out what's going  
25 on, so she's right there by my side covering my back.

1 Q. All right. Officer Fox, during this entire  
2 interaction, you never observed any weapons, correct?

3 A. No.

4 Q. No knives on Ms. Sample, correct?

5 A. I'll tell you right now, no weapons were seen.

6 Q. Now, you testified that as soon as you got to the  
7 vehicle you said freeze, correct?

8 A. Exactly.

9 Q. So Ms. Sample and Mr. Lee were not free to go at that  
10 point?

11 A. That's correct.

12 Q. You directed them to stay in their location?

13 A. This is a Terry stop, correct.

14 Q. And they did not attempt to flee?

15 A. No.

16 Q. After you said freeze?

17 A. No, but they moved.

18 Q. They moved.

19 The cruiser that you were in, that's capable of  
20 video surveillance, correct?

21 A. Yes, it is.

22 Q. And is this one of those systems where as soon as the  
23 lights go on, the surveillance begins?

24 A. Yes.

25 Q. Do you recall if you turned your lights on?

1           It's your testimony that when you approached the  
2           vehicle in question that you saw eight to ten people;  
3           is that correct?

4           A. Eight to a dozen.

5           Q. Eight to a dozen.

6           A. Yes.

7           Q. And how many of those people do you believe that you  
8           recognized?

9           A. By face, several, four or five.

10          Q. You mentioned Jackie Brown by name.

11          A. Yeah.

12          Q. Any other names that you recall?

13          A. I'm not really good with names, I'm better with faces,  
14          so.

15          Q. And you testified that at least as it relates to Ms.  
16          Brown, these are individuals that you advise to leave  
17          the area regularly; is that correct?

18          A. Regularly, yeah, they're drug-users.

19          Q. Now, even as this line of people at the vehicle caught  
20          your attention, is it fair to say you didn't actually  
21          see any drug transactions take place?

22          A. No, I did not.

23          Q. You didn't see any money exchanging hands?

24          A. Nothing like that.

25          Q. No packages of what you in your training and experience

## EXHIBIT #

FOX - Cross

38

1 recognize as crack cocaine going in or out of the  
2 window?

3 A. No drug transactions.

4 Q. Now, when you approached the vehicle, you went at a  
5 pretty quick pace, correct?

6 A. I did.

7 Q. And you said that everybody just sort of scattered; is  
8 that correct?

9 A. Yes, as I was driving up.

10 Q. All right. Ms. Sample didn't attempt to flee, correct?

11 A. No, I surprised her.

12 Q. Okay. And Mr. Lee didn't attempt to flee?

13 A. No, he was surprised as well.

14 Q. But the eight to twelve people, they did scatter?

15 A. Because they were looking at the patrol car.

16 Q. You didn't attempt to apprehend any of those  
17 individuals based on what you had seen?

18 A. No, I couldn't. There were too many of them.

19 Q. Do you believe you had a basis to apprehend any of  
20 those people based on what you had seen?

21 A. "Apprehend" is the wrong word. I think you want to  
22 change the word -- I think I had enough for a Terry  
23 stop on those folks, enough to detain them for a short  
24 period of time and identify them and ask them some  
25 questions.

1  
2  
3  
4  
5  
6 The Court of Appeals  
7 of the  
8 State of Washington

9 State of Washington )  
10 Respondent, )  
11 )  
12 v. )  
13 Anthony C Lee )  
14 Appellant. )

NO. 69892-3-I

**CERTIFICATE OF SERVICE  
BY MAILING**

15 I, Anthony C Lee, certify that on the below date, I caused to be  
16 placed in the U.S. Mail, first class, postage prepaid, 3 envelope(s) addressed to the below-  
17 listed individual(s):  
18

19 Kathleen A Shea  
20 ~~Washington~~ Washington  
21 Appellate Project  
22 Washington Appellate  
23 Melbourne Tower Suite 701  
24 #51511 3rd Ave  
25 Seattle WA, 98101

The Court of Appeals  
Division-1  
One Union Square  
600 University Street  
Seattle, WA 98101-4110  
King Co Prosecuting Attorney  
Appellate Unit 516 3rd Ave  
King County Courthouse W-554  
Seattle WA, 98104

**CERTIFICATE OF SERVICE  
BY MAILING**

1 I am a prisoner confined at the Washington State Department of Corrections ("DOC"),  
2 housed at the Monroe Correctional Complex ("MCC"), P.O. Box \_\_\_\_\_, Monroe, WA  
3 98272, where I mailed the said envelope(s) in accordance with DOC and MCC Policy 450.100  
4 and 590.500. The said mailing was witnessed by one or more correctional staff. The  
5 envelope(s) contained a true and correct copy of the below-listed documents:

- 6 1. State of Additional ground
- 7 2. \_\_\_\_\_
- 8 3. \_\_\_\_\_
- 9 4. \_\_\_\_\_
- 10 5. \_\_\_\_\_
- 11 6. \_\_\_\_\_

12 I hereby invoke the "Mail Box Rule". See *Houston v. Lack*, 487 U.S. 266, 273-76, 108  
13 S.Ct. 2379 (1988); FRAP 25(a)(2)(C); and Washington Court Rule GR 3.1 (a) — the above  
14 listed documents are considered filed on the date that I deposited them into DOC's legal mail  
15 system.

16 DATED this 10 day of 28, 2013.

17  
18 Anthony C Lee  
19 (Print) Anthony C Lee  
20 \_\_\_\_\_, Pro se.  
21 DOC# 633527, Unit D-H-205  
22 Monroe Correctional Complex  
23 (Street address) \_\_\_\_\_  
24 P.O. Box 888  
25 Monroe, WA 98272  
26