

No. 31390-5-III

COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION III

FILED

STATE OF WASHINGTON
RESPONDENT

JUL 29 2013

V.

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

AHMIN R. SMITH
APPELLANT

APPEAL FROM THE SUPERIOR COURT FOR OKANOGAN COUNTY
THE HONORABLE CHRISTOPHER CULP

APPELLANT'S STATEMENT OF ADDITIONAL GROUNDS

AHMIN R. SMITH
1313 N. 13TH AVENUE
WALLA WALLA, WA. 99362

• TABLE OF CONTENTS •

ISSUES
STATEMENT OF FACTS 1
CONCLUSION
SUPPLEMENTAL 6

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• TABLE OF CONTENTS •

ISSUES	
STATEMENT OF FACTS	1
CONCLUSION	
SUPPLEMENTAL	6

STATE OF WASHINGTON

VS.

AHMIN R. SMITH

OKANOGAN CO. SUPERIOR COURT
No. 12-1-00231-1

COURT OF APPEALS DIVISION III
No. 313905-III

ON JAN. 9 2013... I AHMIN R. SMITH WAS WRONGFULLY SENTENCED TO 42 MONTHS CONFINEMENT TO D.O.C. FOR 4 COUNTS OF FELONY HARRASMENT VIA CELL PHONE TEXT MESSAGING. ON AUG 12TH & 13TH 2012 MY WIFE CRYSTAL A. SMITH RECIEVED THREATENING TEXT MSGS. CONTAINING THREATS TO HARM/KILL HER OR MEMBERS OF HER FAMILY. THE TEXT'S WERE SENT FROM A PHONE BELONGING TO ME.

MR SMITH DID NOT POSSESS HIS PHONE ON THOSE DATES. THE PROSECUTION OBTAINED CONVICTION BY USE OF MISCONDUCT FAILURE TO COMPLY WITH WASH. STATE AND UNITED STATES CONSTITUTION RULES OF EVIDENCE.

PROSECUTORS KARL SLOAN AND JENNIFER RICHARDSON HAVE CONTINUED TO VIOLATE RULE 16 BY HOLDING EXCULPATORY EVIDENCE THAT WILL EXONERATE MR. SMITH. MR. SMITH HAS MADE SEVERAL REQUESTS FOR THE PROSC. PROVIDE FULL AND COMPLETE DISCOVERY FOR HIS APPEAL...AND HAS BEEN DENIBB. (REQUEST FOR DISCOVERY RP 166-169)

ALTHOUGH THE STATE MAY NOT POSSESS (BRADY MATERIAL) IT HAS THE DUTY TO LEARN OF ANY FAVORABLE EVIDENCE KNOWN TO OTHER GOV. AGENTS/POLICE (5.02 A.B.A. STANDARDS OF CRIMINAL JUSTICE, 3RD ED. DISC. AND PROCEDURE. REVEAL ALL PRETRIAL EVIDENCE IN PROSECUTIONS POSSESSION... BRADY RULE) PROSECUTOR HAS CONTINUING DUTY TO DISCLOSE ADDITIONAL MATERIAL OR INFO. THATS DISCOVERED DURING THE TRIAL TO THE DEFENSE ...AS WELL AS THE COURT.

IT HAS BEEN 11 MONTHS SINCE MR SMITHS APPREHENSION AND HE IS STILL WITHOUT COMPLETE RECORDS FOR AUG 12TH & 13TH 2012. THE PHONES AND RECORDS ARE CRITICAL COMPONENTS OF DISCOVERY IN THIS CASE. THE ABSENCE OF THE EVIDENCE IN ITS ENTIRETY HAS PREJUDISED MR SMITH BECUASE THE JURY/TIER OF FACTS WERE DEPRIVED A PERTINENT VIEW OF THE EVIDENCE TO ASSESS AND RECOGNIZE THE SALIENT UNDISPUTABLE FACTS OF THE CASE... BY DENYING THE JURY THE OPPERTUNITY TO VIEW THE EXCULPATORY EVIDENCE.

MR SMITH HAS BEEN DENIBB HIS CONSTITUTIONAL RIGHT TO A FAIR TRIAL, DUE PROCESS RIGHT TO MATERIAL EVIDENCE THAT IS FAVORABLE TO THE DEFENDANT. MATERIAL " EVIDENCE IS RELEVANT IF IT TENDS TO MAKE THE EXISTANCE OF A MATERIAL FACT MORE OR LESS PROBABLE THAN IT WOULD HAVE BEEN WITHOUT THE EVIDENCE " STATE V. RENFRO 96 WASH.2d. 902, 639 P.2d. 737, 739 (1982)

MR SMITHS OWN RECORDS...NOR MRS SMITHS PHONE HAVE BEEN PROVIDED IN COMPLETE FORM. THE APPELLATE RECORDS DIFFER FROM THE RECORDS PROVIDED AT THE TRIAL AND ARE INCONSISTENT WITH WITNESS TESTIMONY

THE PHONE RECORDS PROVIDED TO MR. SMITH FOR TRIAL HAD NO VERIFICATION THAT THE INFO. WAS PROVIDED BY AT&T.

STATES WITNESS AT&T REP. TESTIFIED DOCS. DATED 12/13/2012 "THE DATA WASNT COLLECTED ON 12/13/12... WAS IT?" "NO SIR" DEFENSE COUNSEL "LYNCH" STATES LEADING THE WITNESS STATES "IT WAS COLLECTED REAL TIME"... SUTOR REPLIES "YES SIR MESSAGES WERE CREATED REAL TIME AT THE TIME ON RECORD". MR. SUTOR GIVES A BRIEF EXPLANATION OF THE TECHNICAL PROCESS OF AT&T CELLPHONES WHEN THE PHONES IN USE ACTIVELY. MR SUTOR TESTIFIED ITEMS 3 & 4 TEXT WERE CREATED AT 1:29 A.M. (RP 289) Ms RICHARDSON (LEADING THE WITNESS W/O DEFENSE OBJECTION) DISTINCTIVELY HAS MR SUTOR CONFIRM BOTH MSGS. "OK. BOTH OF THEM?" SUTOR REPLIES "THATS CORRECT" (RP 289). ...I ASKED THE COURT TO RECOGNIZE THAT MRS RICHARDSON (D.P.A.) ONLY ASKED MR SUTOR TO CONFIRM THE TIME OF 3 & 4 (RP 289). THE D.P.A. THEN ASKS MR SUTOR TO VERIFY SEVERAL OTHER TIMES OF THE TEXT MESGS. FROM 575 426 6806 TO THE PHONE NUMBER 509 846 3240 (RP 290-291). THE D.P.A. ONLY ASKS MR SUTOR TO CONFIRM THE CONNECTION OF PHONES INTERACTION "WHERE THE PHONE DIALED THE PHONE # OR TEXTED THE 509 846 3240 NUMBER (RP 290)

AFTER HAVING MR SUTOR GO THROUGH AND CONFIRM A/THE DATE MESGS. 67 70 71....36 117 167 375 413 TO 418... WERE SENT... D.P.A. LEADING THE WITNESS W/O OBJECTION "O.K. THIS IS JUST FOR AUG. 12th CORRECT?" SUTOR "THATS CORRECT"

D.P.A. ASKS "IF MESGS 69-478 WERE CREATED ON AUG. 12/12"... BUT DIDNT DIDNT ASK FOR ITEMS 3 & 4 (RP 289-291)... MR SUTOR TESTIFIED 2 MESGS. HAD BEEN CREATED AND SENT AT 1:29 A.M. /REAL TIME Mrs SMITH TESTIFIED NEWPORT INFORMED HER MR SMITH HAD BEEN ARRESTED (RP 370)... Mrs SMITH TESTIFIED MESGS. "STOPPED WITHIN THE HOUR" (RP 370) OF MR SMITHS ARREST"

OFFICER NEWPORTS ARRESTING STATEMENT SAY MR. SMITH WAS ARRESTED AT 1:30 A.M. AUG. 13 2012. D.P.A. STATES ON RECORD THAT THE MSGS "CEASED SHORTLY AFTER THE ARREST OF MR. SMITH". THUS INDICATING THAT THE MSGS. PERSISTED FOR SOME AMOUNT OF TIME AFTER THE APPREHENSION OF MR SMITH.

THE LONG LIST OF TEXT CONFIRMATION WAS USED AS A STRATEGIC RUSE TO DISTRACT AND MISLEAD THE JURY... WITNESSES AND THE COURT TO INCLUDE ITEMS 3 & 4 SUBJECTIVELY WITH THE LONG LIST OF TEXT 69-418 (RP 289-291)

OFFICER NEWPORTS TESTIFIED THAT MR. SMITH WAS APPREHENDED IN 30 SECONDS OR LESS (RP 253) HE SAID THE APPREHENSION WAS INTENSE VERBALLY AND PHYSICALLY. OFFICER NEWPORTS AND 2 OTHER OFFICERS UNLAWFULLY ENTERED MR. SMITHS HOME UNANNOUNCED THRU A SIDE ENTERANCE THAT IS NOT USED FOR PUBLIC EVERYDAY USE STATE V. HOKEY 72 WN. APP 869 866 P. 2d. 670 (1994) "SIDEYARD IS PRIVATE CURTLAGE". RCWA 10.31.. KNOCK AND ANNOUNCE RULE AND FUNDIMENTAL PROTECTION OF THE 4TH AMEND.

THE STATUTE APPLIES TO SEARCH AS WELL AS ARREST. FOR ENTRY TO BE LAWFULL
THE POLICE PRIOR TO NON-CONSENSUAL ENTRY ANNOUNCE THEIR IDENTITY... DEMAND
ADMITTANCE ... ANNOUNCE THE PURPOSE OF THEIR DEMAND AND BE EXPLICITLY DENIED
ADMITTANCE. "INTRUSION BY POLICE OFFICERS INTO CONSTITUTIONALLY PROTECTED
AREA OF THE CURTILAGE FOR THE PURPOSE OF SEIZURE OF EVIDENCE FROM THE
UNPROTECTED AREA BEYOND REQUIRE SUPPRESSION OF THE EVIDENCE (STATE V.
FERRO 64 WN. APP. 181 829 P. 2d. 500 RD 119 WN. 2d. 1005 832 P. 2d. 488 (1992))

NEWPORT TESTIFIED " I OPENED THE DOOR GRABBED HIS WRIST AND PULLED
HIM OUT " (RP 253) SEE ALSO: RP 105-176 " I OPENED THE DOOR REACHED IN GRABBED
HIM.. I WAS PULLING ON HIM.. HE WAS PULLING AWAY... I EVENTUALLY HAD THE
OTHER TWO COULEE DAM OFFICERS HELP ME PULL HIM FROM THE DOORWAY.. PUT
HIM ON HIS STOMACH ON THE GROUND AND HANDCUFFED HIM BEHIND HIS BACK"--
AT THIS TIME I WAS TO ADVISE HIM SPECIFICALLY THAT HE WAS UNDER ARREST
FOR THE THREE COUNTS OF FELONY HARRASMENT (RP 176)" Mr SMITH WAS
INFORMED HE WAS ARRESTED FOR THREE COUNTS OF FEL. HARSM.
AFTER BEING DRAGGED OUT OF HIS HOME AND HANDCUFFED LAYING ON HIS
STOMACH. MR SMITH WAS READ HIS MIRANDA RIGHTS WHEN HE WAS PLACED IN
IN NEWPORTS PATROL CAR AT THE END OF THE BLOCK SIX HOUSES AWAY FROM
SMITHS RESIDENCE ..WE DIDNT PULL RIGHT UP TO IT.. FOR OFFICER SAFTY."

THE POLICE CANNOT ARREST A SUSPECT WITHOUT A WARRENT ABSENT
EXIGENT CIRCUMSTANCES WHILE THE SUSPECT IS STANDING IN THE DOOR OF
HIS HOME (STATE V. HOLEMAN 103 WN 2d 426 693 P. 2d. 8 (1985) SEE ALSO:
(STATE V. COUNTS 99 WN. 2d. 54 659 P. 2d. 1087 (1983)) "POLICE MAY NOT MAKE
A WARRENTLESS NONCONSENSUAL ENTRY INTO A SUSPECTS HOME TO MAKE A
ROUTINE ARREST". OFFICER NEWPORT AND THE 2 OTHER OFFICERS VIOLATED
VIOLATED DUE PROCESS BY CONFIRMING " (RP 104 "I WANT TO GO MAKE AN
ARREST") Mr NEWPORT QUICKLY EXPLAINED TO OFFICER FLORENZON " WE ARE
THERE TO ARREST MR SMITH (RP 175) " THE OFFICERS WERE NOT THERE TO ASK
QUESTIONS OR TO INVESTIGATE : THEY WERE THERE TO MAKE A WARRENTLESS
ARREST. OBTAINING A SEARCH AND SEIZURE WARRENT IS A FORM OF DUE
PROCESS" (STATE V. DAVIDSON (1980) 26 WN. APP. 613 P. 2d. 564 REV. GRANTED/
DISMISSED 58S 101)

IN THE ABSENCE OF CONSENT OR EXIGENT CIRCUMSTANCES THE POLICE
WERE CONSTITUTIONALLY PROHIBITED FROM MAKING A WARRENTLESS ARREST
ENTRY INTO DEFENDANTS HOME TO MAKE A FELONY ARREST EVEN IF PROBABLE
CAUSE EXISTED TO ARREST HIM AND AN OFFICERS POST ARREST I.D. OF THE
DEFENDANT SHOULD HAVE BEEN SUPPRESSED UNDER EXCLUSIONARY RULE AS
THE FRUIT OF AN ILLEGAL ARREST (STATE V. TANLE 103 WN. APP. 354. 12.
P 3d. 653 (2000)). " BELIEF THAT A DEFENDANT COULD DESTROY CONTRABAND
AND A CONCERN FOR POLICE SAFETY BASED UPON INFO THE DEF. KEPT A

CONT KEPT A WEAPON WAS NOT SUFFICIENT BASIS TO JUSTIFY A SEARCH OF THE DEFENDANTS RESIDENCE IN VIOLATION OF THE "KNOCK AND WAIT RULE (STATE V. JETER 30 WN APP 366 634 P. 2d. 312 (1981) RD 96 WN 20 1027)

MR SMITH WAS DRAGGED OUT OF THE SANCTITY OF HIS HOME AND THROWN FACE FIRST ON CEMENT CARPORT (RP 176-177). MR SMITH WAS SEIZED AND SEARCHED NO DRUGS... WEAPONS... ELECTRONIC DEVICES OR ANY OTHER OBJECT WERE IN MR SMITHS POSSESSION. MR SMITH DID NOT HAVE HIS CELL PHONE IN POSSESSION NOR IN HIS IMMEDIATE CONTROL OR AREA INSIDE THE HOUSE OR ON THE PORCH.

NEWPORT TESTIFIED "MR SMITH APPEARED TO BE TEXTING" (RP 268)... HE DID NOT KNOW IF THE DEVICE HE SAW WAS ACTUALLY THE DEVICE THAT WAS SENDING THE MESSAGES. "THERE IS NO PROOF OF THAT... NO..." (RP 269) THREE OFFICERS SEARCHED MR. SMITH INCIDENT OF ARREST NO ELECTRONIC DEVICE WAS RETRIEVED.

THE PROSECUTION DID NOT INFORM DEFENSE/COURT/JURY THAT THE THREATENING TEXTING CONTINUED TO BE CREATED & SENT SIMULTANEOUSLY THE ENTIRE TIME MR. SMITH AND OFFICERS WERE IN DIRECT CONTACT. THEY CONTINUED FOR SEVERAL MINUTES AFTER MR SMITH WAS IN CUSTODY. IT WOULD BE IMPOSSIBLE FOR MR SMITH TO SEND TEXT'S WHILE IN CUSTODY, NONE THE LESS THE TEXTING CONTINUED AFTER HIS ARREST

AT&T REP MR SUTOR TESTIFIED THE ACTUAL PHONES WILL REVEAL DETAILS ON TEXTING AND COMMUNICATIONS ATTEMPTED. THE FACT PHONE RECORDS DONT CORROBORATE THE TESTIMONY OF WITNESSES SHOWS RECORDS ARE INCOMPLETE.

POLICE OFFICERS TESTIMONY OFFERED 4 MONTHS AFTER EVENT OF TELEPHONIC AFFIDAVIT AND REPORT MADE AFTER SEARCH OCCURED AND AFTER TAPE OF TELE. CONVERSATIONS WAS LOST WAS NOT SUFFICIENT TO ESTABLISH ISSUANCE OF SEARCH WARRENT FAILURE TO RECORD ENTIRE CONVERSATIONS WAS GROSS DEVIATION FROM CRIMINAL RULES (STATE V MYERS (1991) 117 WASH. 2d. 332, 815 P.2d. 761 CL 394.6(4))

THE RECORDS PROVIDED TO MR. SMITH CEASE AT 11:17 PM AUG. 12/12... THUS MISSING OVER 2 HOURS OF INFORMATION.

OFFICER NEWPORT TESTIFIED CHARGES WERE FELONY HARSM. VIA CELL PHONE MS SMITH TESTIFIED "HONESTLY I DONT KNOW WHAT WAS SAID" MR SMITH WAS NOT IN AN ACT OF A CRIME. NEWPORT "IT APPEARED TO ME HE WAS TEXTING BASICALLY SITTING (RP 251)... BUT NOTHING WAS FOUND ON HIS PERSON OR VICINITY.

PROSECUTION FAILED TO INFORM JURY MR SMITHS PHONE WAS RETRIEVED APPROX 10^{DAYS} AFTER FROM MRS SMITH. THERE IS NO PHYSICAL OR TEMPORAL PROXIMITY LINKING MR SMITH TO HIS PHONE. MR. SMITH AND THE JURY WERE DEPRIVED THE ABILITY TO VIEW THE EVIDENCE IN ITS ENTIRETY... A VIOLATION OF RULES OF COMPLETNESS

THE MAJOR CONTRIBUTION OF THE A.B.A. DISCOVERY STANDARDS IS ITS PROVISION THAT PROSECUTION DISCLOSE ALL INFO. AND MATERIAL HELD. 18

CONT. 18 IT IS THE DUTY OF THE OFFICERS OF THE COURT TO RELINQUISH MATERIAL EVIDENCE COMPLETE AND FULL DISCOVERY TO BE USED AT TRIAL SO THAT DEFENDANT MAY PREPARE A PROPER DEFENSE TO ALLOW THE POSSIBILITY TO DISCOVERY EVIDENCE THAT MAY CHANGE THE NATURE OF THE CASE OR TOTALLY EXONERATE THE DEFENDOR OR AN OPPERTUNITY TO RESOLVE CASE BEFORE TRIAL BY MUTUAL AGREEMENT BETWEEN PARTIES. THE LACK OF COMPLETE PHONE RECORDS BEFORE AND AFTER THE TRIAL AS WELL AS THE PHONES THEMSELVES DENIES MR SMITH DUE PROCESS TO PRESENT A FULL COMPLETE DEFENSE/APPEAL AS THEY ARE A CRUCIAL FACTOR OF UNDISPUTABLE EVIDENCE NEEDED FOR A TRUE JUST JUDICIAL DECISION.

MR SMITH DID NOT POSSESS HIS PHONE AUG 12 - AUG 13. THE PROSECUTION GOT A CONVICTION BY USE OF MISCONDUCT FAILURE TO COMPLY WITH WASH. STATE AND U.S. CONSTITUTION RULES OF EVIDENCE... DEFENSE COUNCEL MR. LYNCH AND PRESIDING JUDGE "CULP" VIOLATED SEVERAL CONSTITUTIONAL RIGHTS TO INCLUDE THE 4TH 5TH 6TH 9TH AND 14TH AMENDMENTS AND ARTICLES.

MR. SMITH HAS FILED A MOTION TO HAVE THE COURT ORDER RETRIEVAL OF ALL PHONE RECORDS FOR AUG 12 AND 13 FROM BOTH HIS AND HIS WIFES PHONES DIRECT FROM THE PROVIDERS... AND THAT THE ~~DEFENSE~~^{PROSECUTION} RELEASE ALL TRIAL/CASE RECORD IT HOLDS OR USED FOR THIS UNJUST CONVICTION OF MR SMITH.. TO THE APPELLATE COURT IMMEDIATLY.


THE PHONE RECORDS AND OFFICER NEWPORTS ARREST REPORT STATEMENTS (RP 103-105) AND TESTIMONY...AS WELL AS AT&T'S REP. MR SUTOR'S TESTIMONY PROVE MR. SMITH WAS NOT IN POSSESSION OF HIS PHONE, AS THE TEXT MESSAGES CONTINUED.

FULL DISCLOSURE OF COMPLETE PHONE RECORDS WILL VERIFY THIS TO BE UNDISPUTABLE WHEN COMPARED TO DOCUMENTARY AND TESTIMONIAL EVIDENCE

UPON THE COURTS DISCOVERY OF THIS FACTUAL EVIDENCE MR SMITH RESPECTIVLY REQUESTS/MOVES THE COURT TO VACATE HIS CONVICTION UNDER C.R 7.8 EXCULPATORY EVIDENCE.

RESPECTFULLY SUBMITTED AHMIN R. SMITH

JULY 25, 2013



ALL APPLICABLE INFORMATION NEEDED FOR RETRIEVAL OF INFORMATION IS INCLOSED

CONCLUSION AND ILLEGAL ARREST SUPPLEMENTAL

ONE MUST CONSIDER THE ANSWERS TO THESE SIMPLE QUESTIONS WHEN
EVALUATING MR. SMITHS ARREST

DID THE OFFICERS HAVE A WARRENT	NO
DID THE OFFICERS HAVE TIME TO ACQUIRE A WARRENT	YES
DID THEY EVER ATTEMPT TO GET A WARRENT	NO
WAS THEIR ONLY GOAL TO ARREST MR. SMITH	YES
DID THEY HAVE ANY ACTUAL PROOF IT WAS MR SMITH HIMSELF THAT SENT THE TEXT MESSAGES	NO
DID THEY SEE MR SMITH WITH A PHONE TEXTING	NO
DID THEY FIND A PHONE ON/AROUND MR SMITH ...EVER	NO
CAN ANYBODY USE MR. SMITHS PHONE TO SEND TEXT MSGS.	YES
IS THERE ANY UNDISPUTABLE EVIDENCE WHO SENT THE TEXTS	NO
DID THEY ARREST MR SMITH ANYWAY, DESPITE THE AFOREMENTIONED	YES
DID THEY ENTER/REMOVE HIM FROM HIS HOME	YES

U.S. v. CAMPBELL 945 F.2d 713, 715 4th Cir. (1991) "WARRENTLESS ARREST IN SUSPECTS
HOME NOT JUSTIFIED...EVEN THOUGH ARRESTED CO-CONSPIRATOR TOLD POLICE SUSPECT
MIGHT REACT WHEN CO-CONSPIRATOR FAILED TO APPEAR SOON WITH PAYMENT FOR DRUGS
BECAUSE POLICE WAITED 1 HOUR BEFORE ARREST BUT FAILED TO OBTAIN WARRENT"

- OKANOGAN POLICE HAD 6 HOURS + TO OBTAIN A WARRENT... BUT DIDNT.

See: (RP 180-185)

U.S. v BRADLEY 922 F.2d 1290, 1295 6th Cir. (1991) "WARRENTLESS ARREST IN
PERSONS HOME NOT JUSTIFIED BECAUSE ARREST PURSUANT TO INDICTMENT AND
OFFICERS COULD HAVE EASILY OBTAINED A WARRENT" (OVERRULED ON OTHER GROUNDS)

- OKANOGAN POLICE COULD HAVE EASILY OBTAINED A WARRENT... BUT MADE NO ATTEMPT

KNUTE V. WRIGHT 147 F.3d 747, 750 8th Cir. (1998) "WARRENTLESS ENTRY
OF HOUSE NOT JUSTIFIED BECAUSE SUSPECT NOT LIKELY TO FLEE.... SUSPECT NOT
ARMED... SUFFICIENT OFFICERS ON PREMISES... AND EXCUSE THERE WAS NO TIME
TO GET WARRENT BEFORE CLOSE OF BUSN. WAS VITIATED BY FACT OFFICERS
OBTAINED WARRENT AFTER ARREST WAS MADE"

- SAME SCENARIO AS MR. SMITH... EXCEPT THERE WAS NO NEED TO OBTAIN
ARREST WARRENT AFTER MR SMITH WAS ALREADY ARRESTED AFTER BEING
ILLEGALLY REMOVED FROM HIS HOME... THE DAMAGE WAS DONE.

ACCORDING TO CASE RECORD ... JUDICIAL LAW... CONSTITUTIONAL RIGHTS... AND THE UNDISPUTABLE FACT THE OFFICERS HAD NO EVIDENCE IT WAS ACTUALLY MR. SMITH HIMSELF WHO DID THE TEXTING (ONLY THAT IT CAME FROM A MOBILE PHONE IN HIS NAME.... CAPABLE OF BEING USED BY ANYBODY) THE OFFICERS HAD NO EVIDENCE TO ARREST MR SMITH... LET ALONE ENTER HIS HOME TO DO IT.... WITHOUT A WARRENT... 6 1/2 HOURS AFTER RECEIVING THE COMPLAINT... A COMPLAINT FROM HIS (SEPERATED) WIFE

• THIS WAS AN ILLEGAL ARREST •

FURTHERMORE THERE WAS NO NEW EVIDENCE PRESENTED AFTER MR SMITHS ARREST TO SUBSTANTIATE THAT HE INDEED WAS THE ACTUAL PERSON... THE SOLE AND ONLY PERSON RESPONSABLE FOR SENDING THE TEXT MESSAGES IN QUESTION.... THEY NEVER FOUND THE PHONE ... IT WAS A MOBILE PHONE... ANYBODY WHO KNEW MRS SMITHS CELL # COULD HAVE USED MR. SMITHS PHONE.... FROM ANYWHERE WITHIN MILES..... THERE WAS "FRICTION" IN THE FAMILY..... TO MANY ISSUES TO POINT ONLY TO ONE PARTY (MR. SMITH) WITHOUT UNDISPUTABLE PROOF OF WHO ACTUALLY MADE THE TEXT MESSAGE'S... WAY TO MANY POSSIBILITIES WITHOUT PROPER PROOF.

THIS WAS AN ILLEGAL WARRENTLESS ARREST... HE WAS HELD BY POLICE WHO NEVER RECEIVED THE NEEDED UNDISPUTABLE PROOF..... THERE SHOULD NEVER EVEN BEEN A TRIAL... FOR AN ARREST W/O MERIT THAT LACKED THE EVIDENCE NEEDED.... AND STILL DOES

WITHOUT THE FULL PHONE RECORDS FROM MR SMITHS PHONE... THE OFFICERS AND THEN THE STATE ITSELF LACKED THE EVIDENCE TO ARREST THEN CHARGE MR. SMITH... HAD THE PHONE BEEN USED AFTER SMITHS ARREST? . ALL FURTHER APPELLATE ACTION SHOULD CEASE UNTILL THESE RECORDS... THE FULL RECORDS, CAN BE REVIEWED AND COMPARED WITH EXISTING RECORDS ... IF MR SMITHS PHONE HAD INDEED BEEN USED AFTER HIS ARREST... WHO USED IT? WHEN? ... WHO WAS CALLED? ... AND WHY HASNT THIS INFORMATION BEEN MADE AVAILABLE BEFORE NOW? THIS NEW EVIDENCE COULD AFFECT THE WHOLE OUTCOME... AND MUST BE RECEIVED IMMEDIATLY.

SINCERELY AHMIN R. SMITH



JULY 25, 2013

FILED

AUG 22 2013

Renee S. Townsley
Clerk/Administrator

The Court of Appeals
State of Washington
Division III

Clerk action required:

In re: Ahmin Smith case # 313905
State of Washington v. Ahmin R. Smith
Okanogan County Superior Court No. 121002311

I Ahmin R. Smith humbly request the court to accept this joinder/attachment for Statement of additional grounds. Contents include table of contents, table of authorities, assignments of error and I request leniency due to unfortunate circumstances. I am indigent and have no access to a law library necessary materials such as typing paper, envelopes, pens as well as prudent information is difficult to obtain. Ordering material through commensary requires at least a month waiting period. Getting copies for all party's is also a hassle.

Once again I request the court to please accept this joinder/attachment to Statement of Additional Grounds. There is no new material the information is just to simplify reading of S.A.G.

Respectfully submitted,

(8.20.13)



Table of Contents Statement of the Case

A) On Aug. 13, 12 approximately 1:20 a.m. OFFicer Newport and two other OFFicers unlawfully stepped on the premises and illegally entered Mr. Smiths' residence and searched and seized Mr. Smith with out an arrest warrant or search warrant of any sort.

Mr. Smith was wrongfully charged, tried and convicted of 4 counts of Felony harassment via cell phone; despite Mr. Smith not being in possession of his cell phone at time of arrest. Unlawful arrest was/is baseless in law or Fact. Mr. Smith was not in possession of his cell phone or in the act of a crime. There was no probable cause for the OFFicers to conduct a 'no knock search and seizure apprehension. Mr. Smith request that case be dismissed with prejudice in alternative to be remanded for new trial.

Rules, Statutes and Other Authorities

RCWA 10.31	p.2
CrR 7.8	p.5
CrR 8.3(b)	p.5
ER 401, 402, 403 and WPIC 1.02	p.3

Foot notes

See:

State v. Villarreal, 97 Wn. A pp. 636, 643-44,
984 p.2d 1064 (1999) p.4

Admin Smith #363293

Walla Walla Correctional Facility

Walla Walla, WA 99362

Respect Fully submitted,
RS (8-20-13)

B) Assignment of Error

1) p. 1 The court wrongfully convicted Mr. Smith ~~of~~ OF four counts of Felony harassment.

2) Prosecutorial Misconduct Failure to comply with Washington State and U.S. Constitution Rules of evidence, Failure to provide full and complete discovery. ER 401, 402, 403 and WPIC 1.02

3) p. 2 Prosecutorial misconduct misleading the jury, court, witness testifying Mr. Sutor and Mr. Smiths' defense counsel.

4) p. 2-3 Unlawful entry of Mr. Smiths' residence, Illegal search and seizure violation of 4th Amend.

5) p. 3 Evidence gathered by illegal conduct of Arresting officers should have been suppressed as 'Fruit of an Illegal Arrest. Insufficient nexus of Mr. Smith and his cell phone which was obtained from plaintive 107 days post apprehension of Mr. Smith. ER 401, 402, 403 and WPIC 1.02

6) p. 4 Prosecutor Failed to inform jury, court and defense of exculpatory evidence that messages continued even though Mr. Smith was in police custody with out a cell phone.

7) p. 4 Phone records inconsistent with testimony of states witnesses and do not conform to sequence of events.

8) [p.4] Unlawful Arrest Mr. Smith not engaged in criminal activity nor displaying any intent to commit a crime, also not in possession of his cell phone.

9) [p.4] Evidence improperly gathered and chain of custody of evidence not adhered by officers of the field nor of the court. Phone records also not bound by a seccess. Officers exceeded scope of search incident to Arrest.

10) [p.5] Multiple violations of defendant's constitutional rights to include 4th, 5th, 6th, 9th and 14th Amendments and Articles. Violations committed through prosecutorial misconduct, abuse of judicial discretion and ineffective counsel, thus, denying defendant right to due process resulting in an unfair trial.

Footnote see.
State v. Villarreal,
97 Wn. App. 636,
643-44, 984
p.2d 1064 (1999)

C) Table of Authorities Washington Cases

[p.1] (5.02 A.B.A. Standards of Criminal Justice. 3rd Ed. Discovery and Procedure.).

[p.2] (State v. Ho Key 72 Wn. App. 869 866 P.2d 670 (1994))

[p.1] (State v. Renfro 96 Wash. 2d. 902, 639 p.2d ~~737~~ 737, 739 (1982)).

[p.2] RCWA 10.31 Knock and Announce Rule and Fundamental protection of the 4th Amendment.

[p.3] (State v. Ferro 64 Wn. App. 181 829 P.2d 500 RD 119 Wn. 2d, 1005 832 P.2d. 488 (1992))

p.3 State v. Hdeman 103 Wn. 2d 426 693 P.2d. 8 (1985)

Table of Authorities (Cont'd)

[p. 3] (State v. Counts 99 Wn. 2d. 54 659 P.2d. 1087 (1983)).

[p. 3] (State v. Davidson (1980) 26 Wn. App. 623 p. 2d 564
Rev. Granted/Dismissed 585 101).

[p. 3] (State v. TAN Lee 103 Wn. App. 354. 12. P. 3d. 653 (2000)).

[p. 4] (State v. Jeter 30 Wn. App. 360 634 P.2d. 312 (1981).
RD 96 Wn20 1027).

[p. 4] (State v. Myers (1991) 117 Wash. 2d. 332. 815 P. 2d.
761 CL 394. 6(4)).

Federal Cases

[p. 6] (U.S. v. Campbell 945 F.2d 713. 715 4th CIR. (1991)).

[p. 6] (U.S. v. Bradley 922 F2d 1290 1295 6th CIR. (1991)).

[p. 6] (Kvute v Wright 147 F.3d. 747. 750 8th CIR (1998)).

D) Conclusion

The Judge Christopher Culp abused his discretion by permitting unreliable evidence due to the fact that it was not appropriately obtained or preserved and was not secured by a secures. The court also abused its discretion by allowing the D.P.A. to benefit from the Fruits of an illegal arrest. Mr. Smith request the court to vacate sentence/dismiss with prejudice under CrR 7.8 exculpatory evidence or to vacate under CrR 8.3(b) an illegal arrest. Mr. Smith request the court to consider dismissing case due to cumulative error resulting in an UNFair trial, depriving Mr. Smith his constitutional right to due process in alternative to remand for new trial.

D) Conclusion

The judge abused his discretion by permitting unreliable evidence that was not appropriately obtained or preserved and not secured by a seccress. The court also abused its discretion by allowing the D.P.A. to benefit from the fruits of an illegal arrest. Mr. Smith request the court to vacate sentence under Cr R 8.3 (b) illegal arrest or to vacate sentence under Cr R 7.8 exculpatory evidence. Mr. Smith request that the court consider dismissing case due to cummalative error resulting in an UNFair trial, thus depriving Mr. Smith his constitutional right to due process in alternative to remand case for a new trial.

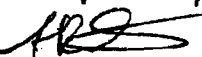
Foot note:

Ahmin Smith #363293

Walla Walla Correctional

Facility Walla Walla, WA

99362

Respectfully submitted,
 (8-20-13)

FILED

AUG 22 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON

^{Appellate}
IN THE SUPERIOR COURT OF WASHINGTON STATE

IN AND FOR Division III COUNTY OF OKanogan

The State of Washington
Plaintiff

v.

Ahmin Smith
Defendant

No. 313905 DIV. III

OKanogan County Superior Court
NO. 12-2-00232-1
DECLARATION OF SERVICE
BY MAIL
Court of Appeals Division III

I, Ahmin Smith, the defendant in the above entitled cause, do hereby declare that I have served the following documents:

Joinder/Attachment of Table of Contents, Table of Authorities Washington Cases, Table of Authorities Federal Cases, Assignments of Error and Rules, Statutes and other Authorities

PARTIES SERVED:

Appellant Court Division III
Defense Counsel
Prosecuting Attorney

Clerk/Administrator Renee S. Townsley
Kristina M. Nichols
Karl E. Sloan of OKanogan County

I deposited the aforementioned documents in the U.S. Postal Service by way of process as Legal Mail through an officer station at WA State Penitentiary P.O. Box 520 1313 N. 13th Walla Walla, WA 99362-0520

Dated this 20 day of August, 2013.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

