

AUG - 7 2015

E CPA  
Ronald R. Carpenter  
Clerk

92037-1

Cause No. 71810-0-1

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WASHINGTON STATE SUPREME COURT

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STATE OF WASHINGTON,

Respondent,

v.

MARVIN GARRY KRONA,

Appellant.

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MOTION FOR DISCRETIONARY REVIEW

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MARVIN KRONA

(Print Your Name)

Petitioner, *Pro se*.

DOC# 908843, Unit D511

Monroe Correctional Complex

(Street Address)

P.O. Box 888

Monroe, WA 98272

WASHINGTON STATE SUPREME COURT

STATE OF WASHINGTON

Respondent,

v.

MARVIN GARRY KRONA,

Appellant.

No. 71810-0-1

MOTION FOR  
DISCRETIONARY REVIEW

**I. IDENTITY OF PETITIONER**

Mr. KRONA asks this Court to accept review of the decision designated in Part II of this motion.

**II. DECISION**

Mr. KRONA asks this Court to accept review of the following decision filed on the 27<sup>th</sup> day of July, 2015. The decision (Did what): Remand and direct the trial court to correct the offender score computation for the DUI count on the judgement and sentence, and otherwise, affirm

A copy of the decision is attached as Attachment 1.

III. ISSUES PRESENTED FOR REVIEW

All issues in Whitney Riveras  
Brief of Appellant.

All issues in Kronas Statement  
of Additional Grounds Pages 1-17  
Pages 1-10 are typed. Pages 11-17  
are hand written.

Felony points score of the  
misdemeanor D.M.I.s and reckless  
that were over ten years old.

#### IV. STATEMENT OF THE CASE

At approx. 5:00-6:00 PM defendant's neighbor James Grouts fence (which is 3 feet 7 inches on Kronas property along side Kronas driveway) was allegedly hit by defendant.

Two 911 calls were made. One at 6:02:43 to officer Koziol. One made at 7:28:26 to officers Navarro and Johnson.

All three officers contacted defendant 200 yards from public road on his own private property approx. 8:00 PM - 8:14 PM (over 2 hours from 911 call) sitting in an automobile texting on his phone. Defendant was arrested for DWLS, DUI, and Felony harrassment.

V. ARGUMENT WHY REVIEW SHOULD BE GRANTED

Insufficient evidence

This Court should grant review because: Page 2 of

the opinion states: Officers could see  
Krona slumped over the steering wheel.  
Nowhere on the record or any statements  
taken from ~~the~~ any witnesses state  
Krona was slumped over steering wheel.  
I'm asking the court to spend more  
time looking at the defendant's  
Statement of additional grounds.

Page 14-15 of opinion states:

Because these claims involve matters  
outside record.

All defendant's arguments were  
on the record. S.A.G. pages 1-10  
are typed. Pages 11-17 are hand written

Defendant is providing incident history  
showing 911 call for officer Koziol and  
incident history showing 911 call to  
officer Johnson and Navarro.

Page 16 of S.A.G. defendant asked

Judge Bowden for a continuance of trial because defendant wanted the 6:02 911 call entered as evidence. Defendants attorney denied a continuance. When defendant asked for a continuance moments later, defendant was told to keep quiet and was refused the continuance. Shown in Volume 1 page 36 lines 3-7, Volume 1 page 37 lines 23-25, Volume 1 page 40 lines 2-5, and volume 1 page 40 lines 6-14.

Volume 1 page 23 lines 17-20 prosecutor Stember said, dad Harvey Krona called 911. Statement made on page 15 of S.A.G.

Volume 2 page 121 lines 21-22 Prosecutor Stember states, "Sometime around 5:00-6:00 PM You didn't leave the house that day. Statement is on page 13 of defendants S.A.G.

Volume 1 page 115 line 18 officer Navarro states defendant is looking towards ground

Volume 1 page 138 line 15 defendant was detained at 8:14 p.m.

opening statement page 4 line 16-19 Prosecutor Stember is falsifying the time of the original 911 call to try and convince jury that if the defendant was guilty of hitting the fence then he did not have time to get drunk before officers arrived. This put the burden of proof on the defendant to prove his innocence. If the defendant is the one who hit the fence he still had over two hours to drink. Page 14 of S.A.G. states this. The defendant's constitutional rights were violated and prosecution could not prove defendant had nothing to drink from the 911 call to the arrest. State v. Creditford (1996).

Page 5 line 11 opening statement Officers Navarro and Johnson recieved a 911 call at 7:28 PM and wait for officer Koziol ~~at~~ near the scene officer Koziol recieved his 911 call at 6:02 PM. why and how did officer Navarro and Johnson arrive near scene before officer Koziol. Officer Koziol was enroute at 6:39 PM. Navarro and Johnson were enroute at 7:29 and near scene at 7:47. what the officers consider on scene, was not the contact of defendant. Time of contact with defendant was shown in

volume 1 page 137 line 6 through page 138 line 18. It is also shown in Trial brief page 3 line 14. Koziol first saw the oldsmobile at 8:12 PM.

Defendant is presenting incident history from officer Koziol as attachment 2. Defendant is also presenting incident history from officers Navarro and Johnson as attachment 3

Adam Kronas testimony to Linda Coburns investigator Carley Stenberg states "Marvin looked alert and awake" This statement is on page 2 of Privileged and confidential memo to attorney. Adam also states he saw Marvin from 50 feet in the same memo. At trial Adam Krona states it was 15 feet. ~~At~~ Adam Krona also states in trial that Marvin looked drunk. Two complete opposite statements made by a brother that was furious at defendant because of an inheritance issue. Volume 2 page 19 line 9 is where Adam Krona states 15 feet opposed to 50 feet.

Adam Krona stated he had personal knowledge that Harvey Krona hit the fence in the same place, This is stated in volume 2 page 21 lines 12-18 of verbatim of proceedings for trial.

All prior statements made in Volumes are the verbatim of proceedings of trial.

Your honor I am asking that you take a close look at my S.A.G. so that you can understand what I'm trying to present. My english skills are not the best in the world. I am working on them!

How can someone get a driving while license suspended and D.U.I. sitting on his own property, never being pulled over by an officer of the law?

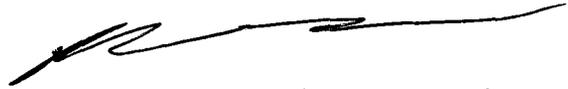
Can a misdemeanor D.U.I. and reckless driving be used for calculation of defendants score if the misdemeanor are over ten years old. Defendant was scored on 1 reckless, 1 D.U.I. from 1999 and 1 misdemeanor D.U.I. from 2002.

I would also like to argue the officer caution and sufficiency of evidence on the felony harassment, clearly stated in Whitney Riveras brief.

**VI. CONCLUSION**

Based on the foregoing facts and arguments, this Court should  
accept review.

Dated this 5<sup>th</sup> day of August, 2015.



MARVIN GARRY KROWA

(Print)

Petitioner, *Pro se.*

DOC# 908843, Unit D 511

Monroe Correctional Complex

(Street address)

P.O. Box 688

Monroe, WA 98272

RICHARD D. JOHNSON,  
Court Administrator/Clerk

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of the  
State of Washington  
Seattle*

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July 27, 2015

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CASE #: 71810-0-1  
State of Washington, Res/Cross-App. v. Marvin Garry Krona, App/Cross-Res.  
Snohomish County, Cause No. 13-1-01765-7

Counsel:

Enclosed is a copy of the opinion filed in the above-referenced appeal which states in part:

"We remand and direct the trial court to correct the offender score computation for the DUI count on the judgment and sentence, and otherwise, affirm."

Counsel may file a motion for reconsideration within 20 days of filing this opinion pursuant to RAP 12.4(b). If counsel does not wish to file a motion for reconsideration but does wish to seek review by the Supreme Court, RAP 13.4(a) provides that if no motion for reconsideration is made, a petition for review must be filed in this court within 30 days.

In accordance with RAP 14.4(a), a claim for costs by the prevailing party must be supported by a cost bill filed and served within ten days after the filing of this opinion, or claim for costs will be deemed waived.

Page 2 of 2  
71810-0-I, State v. Marvin Garry Krona  
July 27, 2015

Should counsel desire the opinion to be published by the Reporter of Decisions, a motion to publish should be served and filed within 20 days of the date of filing the opinion, as provided by RAP 12.3 (e).

Sincerely,

A handwritten signature in black ink, appearing to read 'R.D. Johnson', with a long horizontal flourish extending to the right.

Richard D. Johnson  
Court Administrator/Clerk

khn

Enclosure

c: The Honorable George N. Bowden  
Marvin Garry Krona

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON, )  
 )  
 Respondent, )  
 )  
 v. )  
 )  
 MARVIN GARRY KRONA, )  
 )  
 Appellant. )  
 \_\_\_\_\_ )

No. 71810-0-I  
DIVISION ONE  
UNPUBLISHED OPINION  
FILED: July 27, 2015

2015 JUL 27 AM 11:10  
COURT OF APPEALS  
STATE OF WASHINGTON

TRICKEY, J. — A jury convicted Marvin Krona of harassment, driving while under the influence (DUI), and driving while license revoked. The State presented sufficient evidence to support the jury’s finding that Krona made a true threat and that the law enforcement officer’s fear that Krona would carry out the threat was reasonable. The trial court did not err in admitting testimony about a law enforcement safety alert regarding Krona because the evidence was not hearsay and was logically relevant to an element of the crime. Finally, although the court miscalculated the offender score for the DUI count, the error did not affect Krona’s standard range. We remand for the trial court to correct the offender score as to the DUI count, but otherwise affirm the judgment and sentence.

FACTS

On the evening of July 13, 2013, James Grout observed a gray Oldsmobile slide sideways when turning onto an easement road on the side of his property and hit his fence. The car did not stop, but continued up the easement road adjacent to the fence. Grout had seen the car several times before and believed it to be associated with the

Krona family, neighbors who lived at the end of the easement road. Grout saw that the driver was a man with dark hair but could not identify him.

At around the same time, Grout's neighbor was standing at her window and saw Marvin Krona drive up the easement road in the gray Oldsmobile. Krona was slumped over and leaning toward the passenger side. Grout went to the Krona residence directly after the incident and told Krona's brother what had happened. Krona's brother noticed that Krona was sitting in the parked Oldsmobile and was visibly intoxicated. Grout called the police to report the incident.

Three sheriff's deputies responded to the reported hit and run. They learned through a law enforcement database about an "officer safety caution" regarding Krona, who was associated with the address.<sup>1</sup> They also learned that the safety caution was based on prior "threats to kill law enforcement and prior resisting arrest."<sup>2</sup>

X The deputies found the Oldsmobile in a field by the house. As they approached the vehicle, the officers could see Krona slumped over the steering wheel. The driver's side door was open, the ignition key was turned on, but the engine was not running. There were two empty cans and three full cans of beer in the car and the deputies could hear the radio playing and the door chiming.

The deputies identified themselves and Krona confirmed his identity. Krona appeared to be highly intoxicated. Krona complied when asked to step out of the car, but needed assistance and because he was unsteady, the deputies placed him in handcuffs and had him sit on the ground. The officers arrested Krona and Deputy

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<sup>1</sup> Report of Proceedings (RP) (Mar. 3, 2014) at 112.

<sup>2</sup> RP (Mar. 3, 2014) at 112.

before he was arrested, but only after Grout came to the house to report damage to the fence.<sup>10</sup> He maintained that he was merely sitting in the Oldsmobile when the deputies arrested him and denied having driven the car. He did not dispute that he “said some nasty things” to the deputies during the arrest but insisted that he did not mean the things he said when intoxicated.<sup>11</sup> The jury convicted Krona as charged. Krona appeals.

## ANALYSIS

### I. Sufficiency of the Evidence

Krona’s harassment conviction was based on the specific threat to find and kill Deputy Navarro’s “Indian ass.” Krona contends that the State failed to prove (1) that this was a “true threat” and (2) that Deputy Navarro’s fear that he would carry out the threat was reasonable under the circumstances.

To convict Krona of harassment as charged here, the State was required to prove beyond a reasonable doubt that he (1) without lawful authority (2) knowingly threatened (3) to cause bodily harm immediately or in the future (4) to a criminal justice participant performing official duties at the time the threat was made and (5) the criminal justice participant reasonably feared that the threat would be carried out. RCW 9A.46.020(1)(a)(i), (2)(b)(iii).

Where, as here, a criminal statute implicates speech, the State must prove both the statutory elements of the offense and that the speech was not protected by the First Amendment. State v. Kilburn, 151 Wn.2d 36, 54, 84 P.3d 1215 (2004). Because a threat is pure speech, the harassment statute is limited in its reach to “true threats.”

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<sup>10</sup> RP (Mar. 4, 2014) at 105.

<sup>11</sup> Clerks Papers at 111, 120.

State v. Allen, 176 Wn.2d 611, 626, 294 P.3d 679 (2013) (interpreting RCW 9A.46.020);

Watts v. United States, 394 U.S. 705, 707, 89 S. Ct. 1399, 22 L. Ed. 2d 664 (1969).

A “true threat” is a statement made in a context or under such circumstances wherein a reasonable person would foresee that the statement would be interpreted . . . as a serious expression of intention to inflict bodily harm upon or to take the life of another person. A true threat is a serious threat, not one said in jest, idle talk, or political argument. Under this standard, whether a true threat has been made is determined under an objective standard that focuses on the speaker.

Kilburn, 151 Wn.2d at 43-44 (internal citations and quotation marks omitted); accord

Allen, 176 Wn.2d at 626; State v. Schaler, 169 Wn.2d 274, 287, 236 P.3d 858 (2010).

A statement can constitute a true threat even if the speaker has no actual intent to cause bodily injury. Kilburn, 151 Wn.2d at 46. One reason that a true threat is unprotected speech is because it arouses fear in the person threatened and that fear does not depend on the speaker’s intent. Kilburn, 151 Wn.2d at 46. Therefore, a statement will be considered a true threat if a “reasonable speaker would foresee that the threat would be considered serious.”<sup>12</sup> Schaler, 169 Wn.2d at 283.

Generally, the test for determining sufficiency of the evidence in a criminal case is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found that the elements of the crime were established beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). We assume the truth of the State’s evidence and all reasonable inferences drawn from that evidence. Salinas, 119 Wn.2d at 201. We defer to the trier of fact’s

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<sup>12</sup> In his briefing before this court, Krona noted the United States Supreme Court’s grant of certiorari in Elonis v. United States, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2001 (2015), anticipating that the Court would address the true threat exception to the First Amendment’s protection of free speech. However, the Court resolved the case based on its construction of the federal criminal statute and it was therefore “not necessary to consider any First Amendment issues.” Elonis, 135 S. Ct. at 2012. Accordingly, we rely on the definition of “true threat” established by our jurisprudence.

resolution of conflicting testimony and evaluation of the persuasiveness of the evidence. State v. Thomas, 150 Wn.2d 821, 874-75, 83 P.3d 970 (2004). However, because of the First Amendment implications, we must engage in an independent review of the “crucial” facts that involve the legal determination of whether the speech is unprotected. Kilburn, 151 Wn.2d at 52.

Deputy Navarro testified that Krona was looking directly at him and when he explicitly threatened to find and kill his “Indian ass.” Krona points to evidence of his obvious intoxication, the fact that he was in handcuffs or otherwise restrained during virtually the entire encounter, and to the evidence that he made multiple threats directed at numerous individuals. He claims that under these circumstances, no reasonable person would foresee that his threat to kill Deputy Navarro would be interpreted as a serious expression of intention to harm the officer. And Krona claims that in this context, no reasonable criminal justice participant would fear that Krona would “single him out of all the people threatened and carry out his threat in the future.”<sup>13</sup>

Certainly, there was ample evidence that Krona was extremely intoxicated and that, when he made the threat, he did not have the immediate means to carry it out. But the record also fairly suggests that he was in control of his faculties to the extent that he was initially able to comply with and respond to the deputies’ questions and requests. And his demeanor when he threatened to kill Deputy Navarro was unmistakably angry and aggressive. He made the threat in the context of sustained, escalating, and violent attempts to resist law enforcement and medical staff as they transported and medically assessed him. A reasonable person in Krona’s position, under these circumstances, would have expected Deputy Navarro to take his threat seriously, not as a joke, idle

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<sup>13</sup> Appellant’s Br. at 10.

talk, or exaggeration. There is sufficient evidence in this record for the trier of fact to conclude beyond a reasonable doubt that the threat at issue was a true threat.

Deputy Navarro also testified that he feared that Krona would carry out his threat, and that his concern was sufficient that he notified his spouse. This is ample evidence of his subjective fear. And again, we consider context in evaluating whether the deputy's fear was reasonable. Deputy Navarro explained that he was concerned about the threat because it was not a "common" or blanket threat that could be aimed at any number of people. It was directed at him in particular. And the context of the threat was Krona's increasingly belligerent and unpredictable behavior that began as soon as Deputy Navarro attempted to place him in the patrol vehicle. It is true that he did not have the immediate means to carry out the threat because he was restrained. But the threat he made was to harm or to kill the officer in the future. See RCW 9A.46.020(1)(a)(i). Under the circumstances, the evidence was sufficient for the trier of fact to conclude that Deputy Navarro reasonably feared that Krona would carry out his threat against him sometime in the future after he was released from jail.

## II. Officer Safety Caution

Krona challenges the trial court's admission of the testimony about the officer safety caution database entry based on previous threats against law enforcement and incidents of resisting arrest. He contends that the testimony was inadmissible because it was hearsay, unfairly prejudicial, and improper propensity evidence. He also contends that admission of the evidence violated his right to confront witnesses. We review de novo whether a statement was hearsay, and a trial court's admission of

testimony for an abuse of discretion. State v. Edwards, 131 Wn. App. 611, 614, 128 P.3d 631 (2006); State v. Bourgeois, 133 Wn.2d 389, 399, 945 P.2d 1120 (1997).

Before trial, the State moved to admit the testimony, arguing that it was relevant to an element of the crime: Deputy Navarro's subjective and reasonable belief as a criminal justice participant that the threat would be carried out. The court granted the motion, observing that even if the information in the database was incorrect, it was still relevant to Deputy Navarro's state of mind.

After Deputy Navarro testified about the officer safety caution and the factual basis for it, the court provided a limiting instruction, stating that "Deputy Navarro's testimony about officer safety caution information" was to be considered by the jury "only as to how it may relate to the deputy's state of mind and for no other purpose."<sup>14</sup>

An out-of-court statement introduced to prove the truth of the matter asserted is generally inadmissible under the prohibition against hearsay. ER 801(c), 802. On the other hand, statements are not hearsay if they are not offered to prove the truth of the matter asserted. State v. Chambers, 134 Wn. App. 853, 859, 142 P.3d 668 (2006). "A statement is not hearsay if it is used only to show the effect on the listener, without regard to the truth of the statement." Edwards, 131 Wn. App. at 614.

Krona asserts that the evidence about the officer safety caution was relevant only if true. But as the trial court observed, it made no difference to the State's case whether or not the assessment of danger was accurate. The knowledge of the officer safety caution, even if it was a mistake or based on inaccurate information, contributed to Deputy Navarro's subjective evaluation of the threat and was logically relevant to the issue of whether it was reasonable for the deputy to believe that Krona would harm him.

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<sup>14</sup> RP (Mar. 3, 2014) at 113.

The trial court did not err in concluding that the evidence was not offered as substantive proof and was not hearsay.<sup>15</sup>

The State did not rely on the evidence to show that Krona had previously threatened law enforcement officers or that he was, in fact, a dangerous person. Contrary to Krona's argument, the State's closing argument, read as a whole, demonstrates that State relied on the evidence only for the purpose of arguing that the deputy's subjective fear was reasonable. And the court specifically directed the jury to consider the evidence for only this purpose.

For largely the same reason, the evidence did not violate Krona's confrontation rights. The confrontation clause bars the admission of testimonial hearsay statements when the declarant is unavailable to testify and the defendant has not had an opportunity for cross-examination. Crawford v. Washington, 541 U.S. 36, 53-54, 59, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004). Testimonial statements include those created solely for evidentiary purposes and those created for the purpose of establishing or proving past events potentially relevant to later prosecution. Bullcoming v. New Mexico, \_\_\_ U.S. \_\_\_, 131 S. Ct. 2705, 2717, 180 L. Ed. 2d 610 (2011); Davis v. Washington, 547 U.S. 813, 822, 126 S. Ct. 2266, 165 L. Ed. 2d 224 (2006). And even when statements are testimonial, the confrontation clause "does not bar the use of testimonial statements for purposes other than establishing the truth of the matter asserted." Crawford, 541 U.S. at 60 n.9. The apparent purpose of the database entry here was to protect officers in the field, not to prove the prior acts in a criminal

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<sup>15</sup> Krona contends that even if Deputy Navarro's testimony about the officer safety caution was relevant to his state of mind, it was error to allow the other two deputies to present similar testimony about the database entry. However, that evidence was not only cumulative but because each deputy testified about what they collectively learned from the database entry, the testimony of the other deputies' was also relevant to Deputy Navarro's state of mind.

prosecution. And again, because the statements were not admitted to prove the truth of the matter asserted, admission of the evidence did not violate Krona's right to confront witnesses against him.

Finally, for the first time on appeal, Krona claims the testimony about prior threats against law enforcement was inadmissible propensity evidence under ER 404(b) and unfairly prejudicial under ER 403. However, because Krona did not object on this basis below and because evidentiary errors under ER 404(b) and ER 403 are not of constitutional magnitude, they cannot be raised for the first time on appeal. State v. Jackson, 102 Wn.2d 689, 695, 689 P.2d 76 (1984); RAP 2.5(a)(3). And moreover, to warrant reversal, an evidentiary error must be prejudicial. State v. Benn, 161 Wn.2d 256, 268, 165 P.3d 1232 (2007). Even if the evidence showed his propensity to threaten law enforcement officers, Krona conceded that he made threats and offensive comments during the incident. His defense was that the threats were not serious and that given the circumstances, the deputy in question did not reasonably fear that he would carry out any of the threats.

### III. Offender Score

Krona contends that the trial court miscalculated his offender score for the felony counts of DUI and harassment. He did not challenge the State's calculation of his criminal history at sentencing. Nevertheless, a defendant may challenge an offender score calculation for the first time on appeal. State v. Arndt, 179 Wn. App. 373, 388 n.9, 320 P.3d 104 (2014). We review de novo a trial court's calculation of a defendant's offender score. State v. Wilson, 113 Wn. App. 122, 136, 52 P.3d 545 (2002).

With respect to the DUI conviction, Krona contends that the sentencing court erred by including in the offender score prior felony convictions for taking a motor vehicle without permission and attempting to elude, and his current felony conviction of harassment.

The court calculated Krona's offender score for the DUI as nine. His judgment and sentence lists nine prior convictions, but does not specify which of those convictions were included in the score for the DUI conviction. It is clear from the record, however, that Krona's offender score for the DUI was calculated as follows: two points for prior felony DUI convictions, five points for prior non-felony convictions for DUI and reckless driving, one point for his other current DUI felony conviction, and one point for his community custody status. Therefore, Krona's prior convictions for attempt to elude and taking a motor vehicle were not included in the DUI offender score and he does not challenge the inclusion of the felony DUI convictions or any non-felony DUI and other serious traffic offense as beyond the scope of the governing statute, former RCW 9.94A.525(2)(e) (2011).<sup>16</sup>

The State admits, however, that harassment is not one of the offenses that may be included in the offender score for DUI under former RCW 9.94A.525(2)(e). Therefore, the State concedes that Krona's offender score for DUI should not have

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<sup>16</sup> At the time of Krona's offense, former RCW 9.94A.525(2)(e) provided as follows:

If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

included his current conviction for felony harassment and the score should have been eight, rather than nine. But whether the score was eight or nine, Krona's standard range sentence was 60 months, the statutory maximum sentence for his class C felony. RCW 9.94A.510. Thus, the error did not affect Krona's standard range.

With respect to the harassment conviction, Krona contends that the evidence demonstrates that the same two prior convictions, his 1985 conviction for taking a motor vehicle and 1995 conviction for attempting to elude, "washed out" and should not have been included in the offender score.

Krona's offender score for purposes of the harassment conviction was six, based on the following: four points for prior convictions; one point for his other current felony DUI conviction; and one point for his community custody status. The four prior convictions consisted of the 1985 and 1995 felony convictions and two 2009 felony DUI convictions. Krona does not dispute that the State provided certified copies of the judgments and sentences for each of the prior convictions included in the offender score calculation.

Nonetheless, Krona claims the court improperly included the 1985 and 1995 convictions because the State failed to meet its burden to prove the facts or convictions necessary to establish that these convictions had not washed out under RCW 9.94A.525(2)(c). In other words, Krona maintains that the State was required to prove by means of certified judgments and sentences each intervening conviction necessary to demonstrate that the crimes did not wash out. We disagree.

Krona's reliance on the Supreme Court's decisions in State v. Ford, 137 Wn.2d 472, 479, 973 P.2d 452 (1999) and State v. Hunley, 175 Wn.2d 901, 910, 287 P.3d 584

(2012), is misplaced. These cases establish that the State must prove the existence of prior convictions included in the offender score by a preponderance of the evidence and that the best evidence for discharging this burden is a certified copy of the judgment and sentence. See Ford, 137 Wn.2d at 479-80. The State met its burden of proof as set forth in Ford and Hunley.

Class C prior felony convictions, other than sex offenses, are not included in the offender score if, since the last date of release from confinement pursuant to a felony conviction or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction. RCW 9.94A.525(2)(c). The evidence in the record, including the State's understanding of Krona's criminal history that Krona specifically agreed to when he pleaded guilty to the felony DUI charges in 2009, establishes that subsequent to his 1985 conviction for taking a motor vehicle without permission, Krona was convicted of misdemeanors in 1986, 1987, 1988, 1989, 1991, 1992, and 1994. Similarly, after his 1995 conviction for attempting to elude, Krona was convicted of misdemeanors in 1996, 1999, 2002, 2003, 2006, 2007, and 2008. Then, he was sentenced in January 2009 to 60 months of confinement followed by community custody on the two felony DUI counts. Contrary to Krona's argument, the evidence does not demonstrate that the 1985 and 1995 convictions washed out.

Krona demonstrates no error with respect to his offender score for harassment. Because Krona's offender score for the DUI count should have calculated as eight, we direct the trial court to correct the offender score computation on the judgment and

sentence. But, as explained, because the change does not affect the standard range, there is no need to conduct a new sentencing hearing.

#### IV. Statement of Additional Grounds

In a statement of additional grounds, Krona challenges the sufficiency of the evidence supporting his DUI conviction. While not entirely clear, Krona appears to suggest various reasons why the jury should have discredited the testimony of the State's witnesses and argues that the jury should have drawn certain inferences in his favor. But the jury was not required to accept Krona's testimony or his interpretation of the evidence. The testimony of the State's witnesses was sufficient for a rational trier of fact to conclude beyond a reasonable doubt that he drove the Oldsmobile on July 13, 2013, while under the influence of alcohol.

Krona also argues, based on State v. Crediford, 130 Wn.2d 747, 927 P.2d 1129 (1996), that his conviction is constitutionally infirm because the burden was placed upon him to prove the affirmative defense that his blood alcohol level was above the legal limit because of alcohol consumed after he drove. However, the jury instructions specifically informed the jury that the State bore the burden of proving beyond a reasonable doubt that the defendant did not consume alcohol after driving or that the alcohol he consumed after driving did not cause his blood alcohol level to exceed the legal limit.<sup>17</sup>

Finally, Krona contends that the State knowingly presented false evidence in support of the DUI charge and that his trial counsel was ineffective for failing to investigate and present certain pieces of evidence. Because these claims involve

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<sup>17</sup> Although we grant Krona's motion to supplement with additional authority, because of the jury instructions assigned the burden of proof to the State, State v. W.R., Jr., 181 Wn.2d 757, 765, 336 P.3d 1134 (2014), is inapplicable.

matters outside the record before us on direct review, the appropriate means of raising these claims is through a personal restraint petition. State v. McFarland, 127 Wn.2d 322, 335, 899 P.2d 1251 (1995).

We remand and direct the trial court to correct the offender score computation for the DUI count on the judgment and sentence, and otherwise, affirm.

Trickay, J

WE CONCUR:

Leach, J.

Schmelle, J



01/08/14 17:02:14 PRINT REQUESTED BY TERMINAL SOC109

Incident History for: #SO13118934 Xref: #SO13118902 #AD13001775

Case Numbers: \$SO13011633

Received 07/13/13 19:28:26 BY SPCT08 SP0319  
 Entered 07/13/13 19:28:58 BY SPCT08 SP0319  
 Dispatched 07/13/13 19:29:04 BY SPDP17 SP0367  
 Enroute 07/13/13 19:29:04  
 Onscene 07/13/13 19:47:33  
 Closed 07/14/13 03:11:43

1 hour 26 min. d. Florence  
from Koziols  
incident history

Initial Type: ACCP Initial Alarm Level: Final Alarm Level:  
 Final Type: ACC (ACCIDENT, NON-INJURY OR UNKNOWN) Pri: 2 Dispo: J  
 Police BLK: SO2250 Fire BLK: AC0629A Map Page: 439H-5 Group: SO4 Beat: G3  
 Loc: 26327 FLORENCE ACRES RD , MON btwn 261 DR SE & WOODS CREEK (V)  
 Latitude: (+) 47.875124 Longitude: (-) 121.877882

Loc Info:

Name: GROUT JAMES Addr: Phone: 3607949429

/1928 (SP0319) ENTRY ,CC, 5 AGO, H&R TO FENCE  
 /1929 (SP0367) DISPER 1G9 #C1441 JOHNSON,MPD (DANIEL)  
 #C1545 NAVARRO,DEPUTY (JACOB)  
 /1929 CHANGE TYP: ACCP --> ACC,  
 PRI: 1 --> 2  
 /1929 MISC 1G9 ,PER DEPUTY  
 /1929 (SP0319) SUPP TXT: SUS VEH IS GRY BUIC OR OLDS PC, NL, SUBJ IS  
 NABOR, LS GOING TO THEIR RES NO LOC  
 /1929 SUPP TXT: SUBJ POSS HBD  
 /1931 (SP0367) CROSS #SO13118902  
 /1947 ONSCNE 1G9  
 /1947 ASSTER 1K2 [26327 FLORENCE ACRES RD ,MON]  
 #C1398 KOZIOL,DEPUTY (THOMAS)  
 /1958 (C1398 ) \*ONSCNE 1K2  
 /2006 (SP0367) CONTCT 1K2 Contact in 5 Minutes  
 /2012 (\*\*\*\*\*) REMINQ 1G9 B99196X  
 /2012 (SP0367) REMINQ 1G9 LIC,1G9,B99196X,,,  
 /2012 CONTCT 1K2 Contact in 5 Minutes  
 /2013 MISC 1K2 ,DETN 1  
 /2014 MISC 1G9 ,1 DETN  
 /2016 MISC 1G9 ,1 IN CUST  
 /2016 CONTCT 1K2 Contact in 5 Minutes  
 /2021 CONTCT 1K2 Contact in 5 Minutes  
 ,C4  
 /2027 OK 1K2 , C4 OFC  
 /2029 CHGLOC 1G9 [COLBY]  
 /2030 \$CROSS #PP13003152  
 /2030 DUP #PP13003152  
 /2030 DUP NAM: MAISLAND, MARYANNE  
 PHO: 3607930983  
 /2033 \$CROSS #SO13118902  
 /2033 DUP #SO13118902  
 /2033 DUP NAM: KRONA, HARVEY  
 PHO: 3608632801  
 /2034 ASNCAS 1G9 \$SO13011633  
 /2034 MISC 1G9 ,MAKING THREATS TO KILL  
 /2044 TRANSC 1G9 [88/SR 2]  
 , M FAKING SEIZURES  
 /2045 CROSS #AD13001775  
 /2045 CONTCT 1G9 Contact in 5 Minutes  
 /2049 (SP0348) SUPP TXT: FIRE ASKING WHICH ON RAMP EAST OR WEST?

No. 71810-0-I

COURT OF APPEALS  
STATE OF WASHINGTON  
DIVISION ONE

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
MARVIN KRONA,  
Appellant/Defendant

On Appeal from Snohomish County, Superior  
Court, No. 13-1-01765-7

STATEMENT OF ADDITIONAL GROUNDS

Marvin Krona  
Appellant, Pro se  
PO Box 888  
Monroe WA 98272

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I - IDENTITY OF PARTY

Marvin Krona, Appellant, pro se, submits this Statement of Additional Grounds and Argument on appeal from the judgment and decision identified in Part 2.

II - DECISION BELOW

The judgment of guilty rendered in the matter of State of Washington v. Marvin Krona, Snohomish County Superior Court No. 13-1-01765-7.

III - FACTS RELEVANT ON APPEAL

On the night of 13 July 2013, at approximately 7:00 p.m., James Grout witnessed an Oldsmobile damage his fence at the location of 26327 Florance Acres Rd., Monroe, Washington 98272. [RP, vol-I, pg. 59].

Mr. Grout was unable to identify who the driver of the vehicle was at the time of the accident. (id.) After watching the vehicle drive away into the backyard of the Krona residence, Mr. Grout then went inside his own house, grabbed his hat, coat and car keys "because I couldn't get up there fast enough on foot with my disability. So I went and got my car and drove up there . . . . (id., at 60-61; ln 24-25, and 1-2).

1 After driving to the Krona residence and engaging  
2 in a conversation with one of Marvin Krona's brothers  
3 Mr. Grout then returned home to place a phone call  
4 to the Snohomish County 9-1-1 dispatch office.

5 BY his own admission, 15 - 20 minutes elapsed between  
6 the time Mr. Grout witnessed the Oldsmobile strike  
7 his cyclone fence, and the placing of the 9-1-1  
8 call.

9  
10 Sometime later, Deputies Johnson, Navarro, and Koziol  
11 arrived on the scene. Individual accounts vary  
12 as to the exact time these officers made contact  
13 with Krona; however, the communication and dispatch  
14 log report [CAD, Defendant's exhibit #28] states  
15 that deputies "detained" Krona at precisely 20:14  
16 hours [8:14 p.m.].

17 All three deputies testified that as they approach  
18 the gray Oldsmobile, the door was open and they  
19 "could hear the door chimes." RP, vol-I, pg 115,  
20 ln 12 - Navarro; RP, vol-II, pg 28, ln 20-21 -Koziol.

21 Deputies further testify that each of them indivi-  
22 dually witnessed the keys to the vehicle to be in  
23 the ignition and turned to the "ON" position. Each  
24 Deputy continued to testify that the dash-board's  
25 ignition lights were on, but that the engine was  
26

1 not running. [RP at vol-II, pg 28, ln 20 - 24].

2 Deputy Koziol also testified that the door chimes  
3 continued "from our first point of contact until  
4 we turned off the keys, 15 seconds." [RP at vol-  
5 II, pg 29, ln 4-5].

6  
7 Each deputy provided further testimony that they  
8 observed several beer cans in the vehicle - some  
9 empty, some full. [Id., at pg 30, ln 7-10].

10 After taking Krona into custody, they transport  
11 him to Providence Everett Hospital for a blood draw.

12 During omnibus, Krona informed the State that his  
13 defense was that he had consumed alcohol only at  
14 the residence that resulted in his being intoxicated.

15 During trial, the State presented no evidence with  
16 regard to establishing that Krona did not consume  
17 alcohol at the residence prior to the arrival of  
18 the deputies.

19 Deputy Navarro testified that the reasons they took  
20 photographs was: "Because of the beer cans in the  
21 vehicle, the ignition position on the vehicle, and  
22 the damage from the vehicle that was consistant  
23 with the fence." [RP at vol-I, pg 48, ln 19-21].  
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IV - STATEMENT OF THE CASE

(1) In order to obtain a conviction for DUI under RCW 46.61.502, the deputies and the prosecutor knew that it was essential to establish that the ignition in the vehicle was in the "ON" position at the time of the deputies arrival in order to establish a nexus between physical control and physical operation.

All three deputies then provided "groomed" testimony that each, individually and in conjunction with each other, witnessed the key was in the ignition and in the on position, which further resulted in the dash-lights being illuminated, even though the engine was not running.

Unfortunately, their conjoined fabrications fall under the weight of the truth regarding all automotive ignition systems. That is,

If the door is ajar and the key is in the ignition in the "OFF" position, then the warning chimes will continue until one of three (3) events occur:

(i) The door is closed;

(ii) The key is removed from the ignition;

(iii) The key is turned to the "ON" position.

This fundamental and universal truth of automotive

1 engineering establishes two incontrovertible facts: (1) As  
2 all officers testified they heard the door chimes as they  
3 approached the Oldsmobile, the key had to be in the "off"  
4 position; and (2) the Prosecutor presented testimony that  
5 was known, or should have been known to be fabricated.

6  
7 As the testimony being presented was both material, and  
8 directly relevant to an essential element of the offense being  
9 charged, due process requires that Krona be granted a new trial  
10 without the misleading testimony.

11 Secondly, RCW 46.61.502(3)(a) places the burden on the  
12 defendant to establish the defense that "the driver's blood  
13 alcohol concentration test results were affected by the consump-  
14 tion of alcohol between the time of driving and the time of  
15 the test". State v. Crediford, 130 Wn 2d 747, 759, 927 P2d  
16 1129 (1996). The language is not materially different from  
17 that already found to be unconstitutional in Crediford.

18 V - ASSIGNMENTS OF ERROR

- 19 (a) IS DUE PROCESS VIOLATED WHEN A CONVICTION IS  
20 OBTAINED THROUGH THE KNOWING PRESENTATION OF  
21 FALSE EVIDENCE?
- 22 (b) DOES RCW 46.61.502(3)(a) UNCONSTITUTIONALLY  
23 PLACE THE BURDEN OF PROOF ON THE DEFENDANT?

24 VI - ARGUMENT

- 25 (a) IS DUE PROCESS VIOLATED WHEN A CONVICTION IS  
26 OBTAINED THROUGH THE KNOWING PRESENTATION  
OF FALSE EVIDENCE?

1 Under Brady v. Maryland, 373 U.S. 83, 87, (1963), a  
2 defendant's right to due process is violated when the pro-  
3 secution suppresses material evidence favorable to the defen-  
4 dant. In re Hachney, 169 Wn App 1, ¶ 46, 288 P3d 619 (2012,  
5 Div-2).

6 In essence, due process exists to ensure that one is  
7 fairly treated. Fuentes v. Shevin, 407 U.S. 67, 92 S. ct.  
8 1983 (1972). Substantive due process puts limits on what  
9 government can do regardless of the procedures they employ.  
10 (See Washington v. Harper, 494 U.S. 210, 221-22 (1990).

11 The Supreme Court, in Brady, [373 U.S. at 86] explained  
12 [with regards to the concept of Due Process]: "It is a re-  
13 quirement that cannot be deemed satisfied by mere notice  
14 and hearing if a state has contrived a conviction through  
15 the pretense of a trial which in truth is but used as a means  
16 of depriving a defendant of liberty through a deliberate  
17 deception of court and jury by the presentation of testimony  
18 known to be perjured." [Internal citations and quotation  
19 marks omitted].

20 In the matter presently being presented, the record  
21 clearly and incontrovertibly establishes the prevarication  
22 of facts. More importantly, the conduct is made even more  
23 egregious by the manner in which the testimony was so care-  
24 fully groomed to support the allegations charged. The demon-  
25 stration of the truth of this claim does not require any  
26

1 expert of automotive design and engineering, but can be veri-  
2 fied by a careful review of the testimony presented, and  
3 tested against the functioning of one's own automobile.

4 Our own Supreme Court has extended the duty of the pros-  
5 ecutor's "duty to learn of of any favorable evidence known  
6 to others acting on the government's behalf. . . , including  
7 the police." In re Stenson, 174 Wn 2d 474, ¶ 17, 276 P3d  
8 286 (2012) [Internal citations and quotations omitted].  
9 And specifically rejected the State's invitation to adopt  
10 a rule that the State "should not be held accountable under  
11 Bagley and Brady for evidence known only to police inves-  
12 tigators and not to the prosecutor".

13 The question presented is whether due process can permit  
14 the use of perjured testimony in obtaining a conviction.  
15 The rule is that where a defendant has been deprived "of  
16 liberty through a deliberate deception of court and jury  
17 by the presentation of testimony known to be perjured", due  
18 process requires reversal. See Stensen, supra.

19 Because the record clearly establishes the presentation  
20 of testimony by police that was clearly and incontrovertibly  
21 "groomed" prevarications of fact, due process requires that  
22 the convictions of all charges be reversed.

23 (b) DOES RCW 46.61.502(3)(a) UNCONSTITUTIONALLY  
24 PLACE THE BURDEN OF PROOF ON THE DEFENDANT?

25 RCW 46.61.502(3)(a), provides in relevant part:  
26

"It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving...."

The language contained in section (3)(a) is not materially distinguishable from that already found unconstitutional in State v. Crediford, 130 Wn 2d 747, 927 P2d 1129 (1996). There, the Supreme Court stated that "[a]lthough this portion of the statute indicates that it is a defense to the offense created in RCW 46.61.502 that the driver's blood alcohol concentration test results were affected by the consumption of alcohol between the time of driving and the time of the test, it places the burden on the defendant to establish the defense by a preponderance of the evidence. This requirement flies in the face of the well-established principle that every person accused of a crime is constitutionally endowed with an overriding presumption of innocence, a presumption that extends to every element of the charged offense." [Internal citations and quotation marks omitted].

The Crediford court went on to state that "[i]t also runs counter to the constitutional requirement that the prosecution must prove every element of its case beyond a reason-

reasonable doubt." [citing In re Winship, 397 U.S. 358, 363 (1970)]. "In our view, because RCW 46.61.502(3) requires a defendant to disprove a necessary element of the offense, thus effectively placing the burden on that defendant to prove his or her innocence, it is violative of the Due Process Clause of the United States Constitution." Crediford, supra.

In the facts of the matter presently being reviewed, the State required that Krona affirmatively prove that the measurement of blood alcohol content was the result of alcohol consumed prior to his arrest and testing, because there was no possible way the state could prove that defendant did not consume alcohol between the time that the 9-1-1 call was received [approximately 7:15] and Krona was taken into custody [approximately 8:15 P.M. according to the CAD report].

Assuming, arguendo, that Krona was the person operating the vehicle when it struck Mr. Grouts fence at about 7:00 p.m. All of the Deputies testified that contact with the defendant was not made until about 8:00 p.m. [Times vary by as much as ten minutes in the deputies' reports]. Without regard to whose report of events or testimony we review, the state can present no evidence to oppose defendant's claim that he consumed alcohol during that thirty-minute to sixty-minute window prior to the deputies arriving at the scene.

Nonetheless, because the state affirmatively required Krona to prove that he consumed a sufficient quantity of

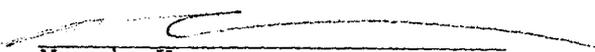
alcohol after 7:00 p.m. but prior to his arrest, to sufficiently affect the test results of his blood alcohol content, the State was relieved of its duty to prove every element of the crime beyond a reasonable doubt.

#### VI - CONCLUSIONS

Based upon the foregoing facts and arguments, Krona asks this court for all of the following relief:

- (1) Reverse and vacated the Driving While license suspended or revoked charge based upon the knowing presentation of perjured testimony;
- (2) Declare that RCW 46.61.502(3)(a) is unconstitutional under the same reasoning as that provided in Crediford; and,
- (3) Reverse and vacate with prejudice Krona's conviction for Driving under the influence because the State cannot establish that Krona did not consume alcohol between the hours of 7:00 p.m. and 9:00 p.m.

Date: 11-29-14

  
Marvin Krona  
Appellant, pro se

list of exhibits - Defendants exhibits. pictures of driveway, boarder trees and kitchen window No. 13, 14, 15, 16

Defendants Exhibit - A D.O.C. Appeals panel decision dated February 13, 2014

### Insufficient Evidence

Rose testified volume 1 page 88, line 17-20 "Krona was slumped over towards passenger side of grey Oldsmobile." Grey Oldsmobile was traveling north away from cyclone fence, which means driver side of the car would be next to the boarder trees. (Exhibit No. 13) Rose states she was looking out the window shown in (Exhibit no. 16). On page 89 volume 1 line 13 Rose Marquiss states she viewed the Oldsmobile for 2 minutes. Page 93 line 4 volume 1 Rose states she seen the ~~vehicle~~ Oldsmobile for 10 feet. Page 102 volume 1 line 1-17 Rose testified she seen the Oldsmobile 2 seconds. Volume 1 page 105 line 25 through page 106 line 9 Rose talks about getting rid of the defendant. Page 107 line 8 Rose states again wanting to get rid of the headache. 1<sup>st</sup> volume page 58 line 16-20 Grant said Oldsmobile was driving fast.

Grout seen speeding Oldsmobile hit the fence but did not ~~see the driver~~ recognize the driver (Volume 1 page 60 lines 2-3). Rose seen the car for 10 feet through boarder trees, but did not see the car hit the fence or come off a public road. Rose claims she identified the driver of the Oldsmobile, ~~standing~~ when she was in her Kitchen looking out a window which has a shelf with plants blocking her view along with boarder trees at least 40 feet away. Rose also states defendont was slumped over looking away from her to the passenger side of the Oldsmobile. (Exhibit no. 16 boarder trees and Kitchen window). Rose is confused wether she seen the Oldsmobile for 2 minutes or 2 seconds. The Oldsmobile would have to be traveling less than 1 mile per her for Rose to witness it for 2 minutes. If Rose did have a clear <sup>view</sup> without boarder trees she might have been able to see the back of the defendonts neck from 40 feet away. Rose also stated she wanted to get rid of the defendont, which shows she is bias. This is clearly insufficient evidence and I am asking the court to dismiss all 3 charges. O.U.I., ~~DWLS 1st~~ DWLS 1st, and felony harassment.

X In (Volume 1 page 137 line 6 through page 138 line 18) officer Naravurro states that defendant was arrested immediately after contact. Naravurro states that the time was 8:14 PM. In (Volume 1 page 85 lines 13-16) Rose states she seen the Oldsmobile between 6-7 pm. In (Volume 2 page 121 lines 21-22) Prosecutor Stemler states, "Sometime around 5:00-6:00" you didn't leave that house that day?" Stemler was trying to get defendant to admit driving the Oldsmobile between 5-6 PM, which shows that the 1st 911 call happened at no later than 6 PM! In (Volume 2 pages 121 lines 21 through page 122 line 16) defendant states his father has hit the fence in the same spot prior to this incident. In (Volume 2 page 20 line 17 through page 21 line 18) Adam Krona testifies to Harvey Krona driving the Oldsmobile and hitting Grout's fence in the same spot. If Rose had any real chance of identifying the defendant from 40 feet away there is still no proven fact beyond a reasonable doubt that the driver of the car was intoxicated, at the time of Grout's fence being hit or at the time the driver was in her view of only 10 feet of travel. ~~Att states witnesses~~ Rose and Grout testify that the car traveled past them between 6-7 PM. Officer Naravurro testified

X

the time of arrest was immediately after contact with defendant. That was 8:14 PM (Volume 1 page 137 line 6 through page 138 line 18) There is a time span of  $1\frac{1}{4}$  hours to  $2\frac{1}{4}$  hours after time of impact to fence. Stemler is trying to show that the Oldsmobile was gone between 5-6 PM (Volume 2 page 121 lines 21-22) which means the time lapse was at minimal  $2\frac{1}{2}$  hours from impact of Grout's fence to the contact of the defendant. In (Volume 2 page 105 line 24 through page 106 line 16) the defendant testifies to drinking a fifth of vodka while looking through the front window of his home at a vehicle in his driveway. Defendant had been put in a position to prove to the state that he had drank alcohol after the alleged charge of Grout's fence being hit in the time span of at least  $2\frac{1}{4}$  hours. The defendant having to prove his innocence in a court of law clearly violates his constitutional rights. State vs. Creditford (1996)

On page 4-5 of defendant's counsel's brief it states that Krona lived at the end of an easement that ran through Grout's property. That is incorrect. Grout has nothing to do with the driveway. The driveway belongs to the Krona's and Grout's fence is 3 feet 7 inches on Krona's property. Rose Marquiss and family are suppose to be driving through Grout's property to enter their property. Rose and her family uses Krona's driveway which is wrong. The Survey which shows proof of this was discussed with defendant's trial attorney Linda Coburn. Coburn would not bring it in as evidence. Rose's property on the north side has a fence 10 feet onto Krona's property which she refused to move when defendant ask her to. Grout and Rose wanted to get rid of defendant because of property line issues. Linda Coburn failed to stick up for defendant by denying him to enter Survey as evidence at trial.

911 call that was not presented in trial officer Koziol

X In volume 1 page 23 lines 17-20 Stemler said the dad Harvey Krona called 911. This is the call Linda Coburn refused to let defendant enter as evidence. Defendant and his mother Deena Krona both listened to this 911 call and let Coburn and her investigator know

that this 911 call did not come from Harvey Krona but was defendant's brother Marty Krona ~~that~~ pretending to be the father Harvey Krona. Defendant ask ~~the~~ Linda Coburn to get a voice recognition and enter the 911 call as evidence. Coburn refused. This is the 911 call that proves ~~the~~ Grout's fence was hit between 5-6 pm at least 2 1/2 hours before contact of the defendant. Coburn failed to stand up for the defendant by not allowing this 911 call.

↘ In (Volume 1 page 36 lines 3-7) Judge Bowden give an option for Coburn to continue the trial. In (Volume 1 page 37 line 23-25) Coburn refused the continuance. In (Volume 1 page 40 lines 2-5 the defendant asked to continue the trial because the defendant wanted the 911 call to be brought up in trial. Defendant was completely confused over all the bifurcate proceedings talk and all all issues being argued on the day of the trial. Defendant was not made aware of any of this stuff from Coburn until trial day. In (Volume 1 page 40 lines 6-14 Judge Bowden would not allow me a continuance after offering a continuance to Coburn moments prior.

In defendant's counsel's brief page 27 said that Krona's threats were used by the state throughout the trial to establish Krona's dangerousness and propensity. ~~This statement~~ This caused Jury to be bias on all charges

April 3 2014 Sentencing page 15 line 6-9 Judge Bowden said If ordered for treatment that entailed loss of liberty, I would give you day for day. Gene Romono and McDonough C.C.O.'s ordered me to the Union Gospel Mission which is live in treatment. Defendant stayed 4.5 months until he was asked to leave because of making a scene about his cell phone being stolen. Defendant is asking for credit of time spent there. Linda Coburn again failed to support defendant when she did not present defendant's treatment at sentencing.

Defendant is claiming insufficient counsel before, during, and after trial.

Signed this 29<sup>th</sup> day of November 2014  
MARVIN KRONA 908843



COURT OF APPEAL, DIVISION I  
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,  
Respondent,

v.

MARVIN KRORA,  
Appellant,

No. 71810-D-1

MOTION TO SUPPLEMENT  
RECORD WITH NEW LAW

COME NOW Appellant, MARVIN KRORA, pro se, hereby  
moves the Court accept supplemental CASELAW recently  
decided by Washington Supreme Court, which is relevant  
to the proceeding and review.

1. State v. W.R., — WN.2d —, — P3d — (October 30, 2014 # 88341-6)

The decision overturns state v. Camera, 113 WN.2d  
651, 781 P.2d 483 (1989); state v. Gregory, 158 WN2d 759, 147

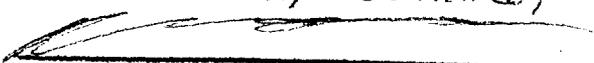
MOTION TO SUPPLEMENT - 1

P.36 1201 (2006) regarding shifting the burden of Proof for a defense, such as presented in the present case. The appellant was arrested several hours after his father hit a fence, merely because he was in the vehicle in his father's yard working on the stereo system, while having a beer. His father admitted hitting the fence, and the vehicle was on the property parked for almost two hours before law enforcement arrived and spoke with appellant, during which time appellant was consuming alcohol and repairing the Oldsmobile radio for his father. The defense was unable to prove that the appellant's affirmative defense theory at trial, and

Now under proper focus of the burden, this affirmative defense must be disproven by the prosecution, not proven by preponderance of the evidence by the defense. *State v. W.R.*, — Wn2d —, — P3d — (Oct. 30, 2014 #88341-6) requires a new trial with prosecution carrying the proper burden of proving intoxication at the time of accident, and actual possession of vehicle, where there exist a confession by someone other than the appellant. The almost two hour period between accident and arrest created the affirmative type defense, the state must carry the burden.

DATE This 12<sup>th</sup> day of February, 2015.

Respectfully Submitted,

  
MARVIN KRONA, Pro se

MARVIN KRONA 908843  
MCC TRU C617-1  
P.O. Box 888  
Monroe WA 98272

2-2-15

Clerk of Court Division I

Re: State v. Krona

71810-0-I

Statement of Additional Authority  
RAP 10.8

Dear Clerk

I am submitting the following case as a statement of additional authority on the issue of the state putting the burden on the defendant to prove his innocence raised in my statement of additional grounds.

State v. W. R., WN 2.8 P3d  
(October 30, 2014 # 89341-6)

CC Prosecutor John J. Juhl

Signed this 12<sup>th</sup> day of Feb. 2015

  
MARVIN KRONA 908843

Google

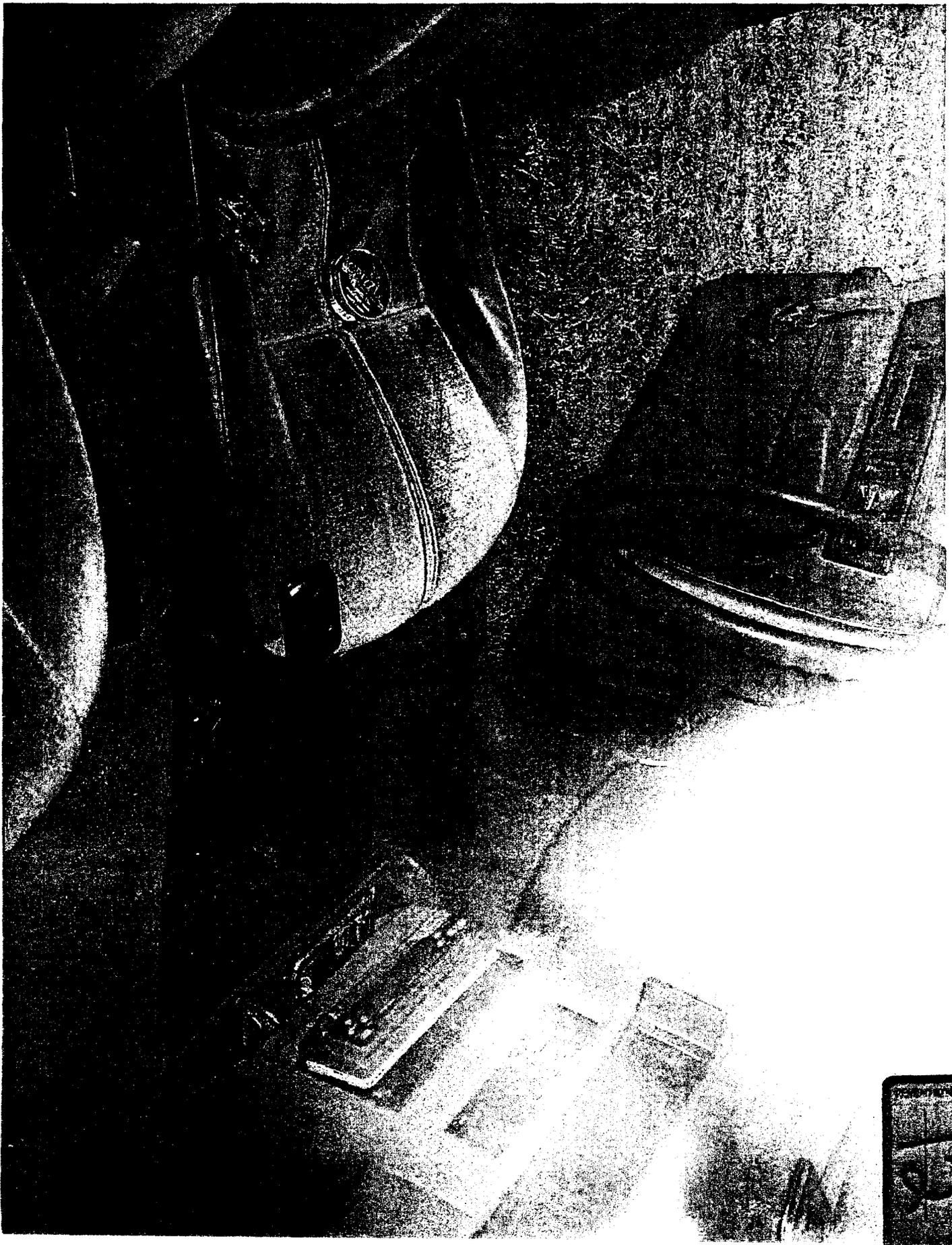
Defendants car was parked  
here when police arrived  
Rose Marquiss fence  
10 feet on Kronus property  
Surveyed

To see all the details that are visible on the screen, use the "Print" link next to the map.



Kronus's driveway  
This is not Lower woods creek, it is  
Florence Acres Rd

Grants fence along trees  
3.7 feet on Kronus property  
Surveyed





*Window Rose was  
looking through*

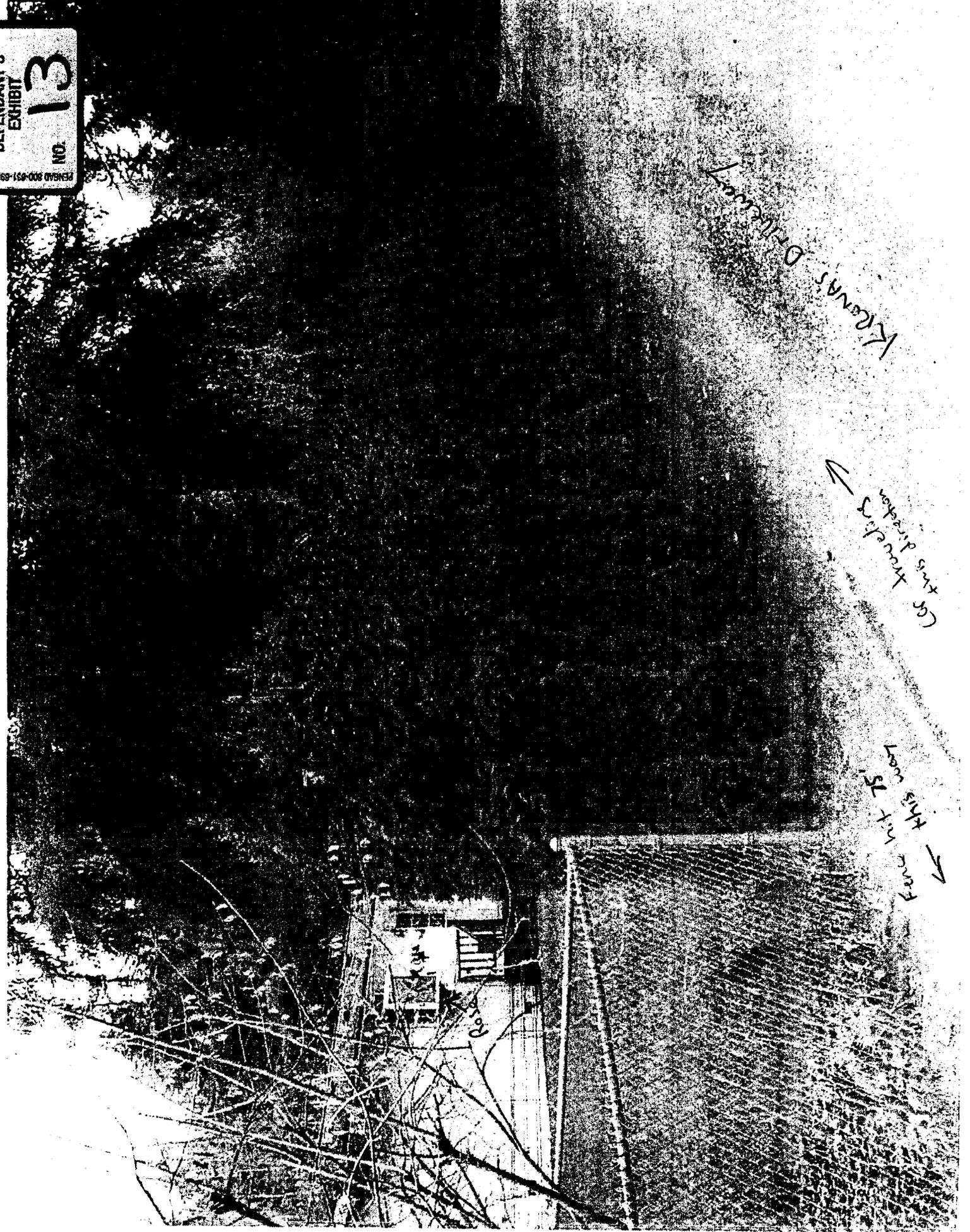
PENSACOLA 800-634-6154  
NO. 16  
DEFENDANT'S  
EXHIBIT

DEFENDANT'S  
EXHIBIT

NO. 13

NO.

PHONE 300-951-8989



KLANAS DRIVEWAY

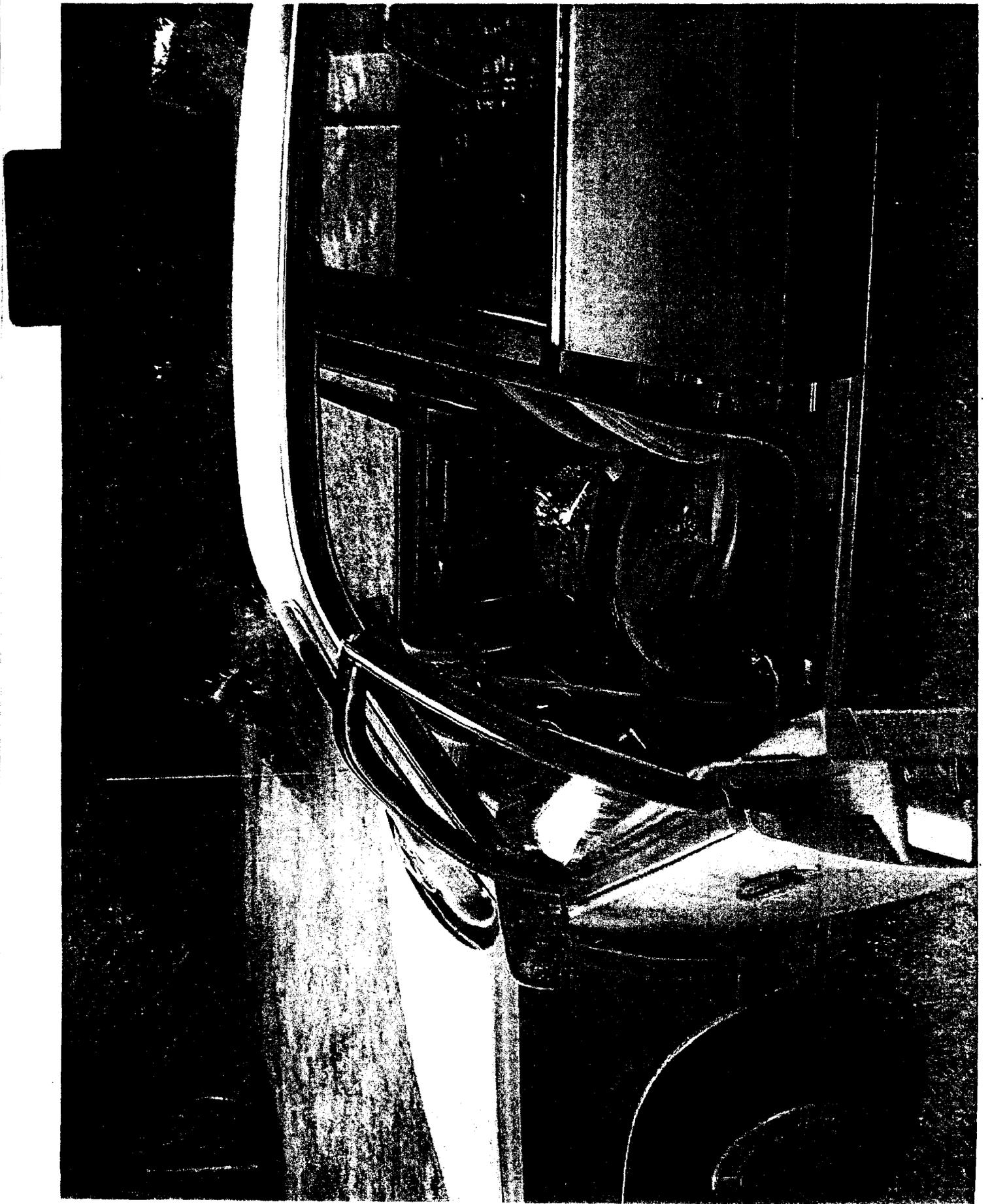
Gas traveling this direction

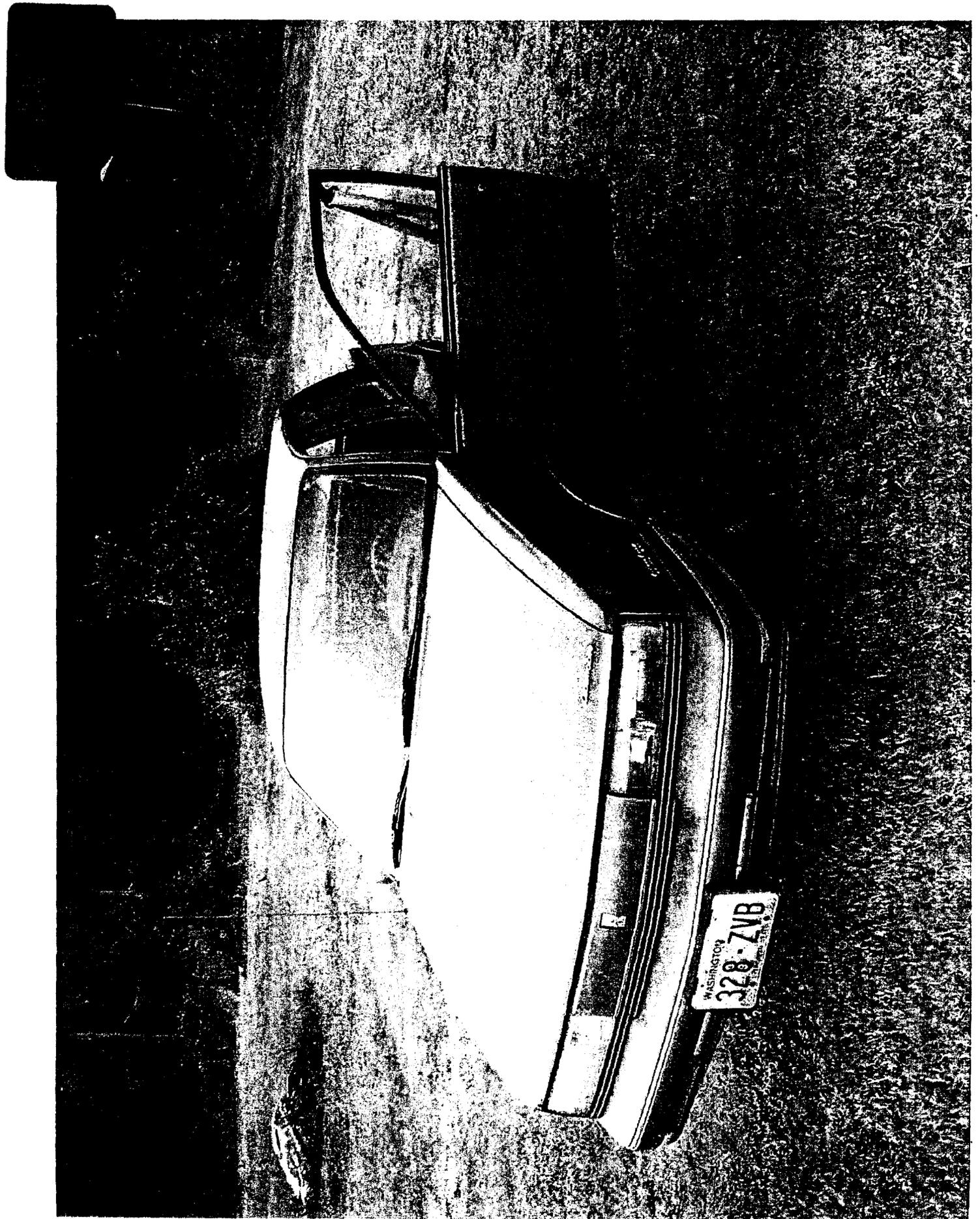
This is the location of ST

2010

DEFENDANT'S  
EXHIBIT  
74  
NO.  
FORD 800-631-088

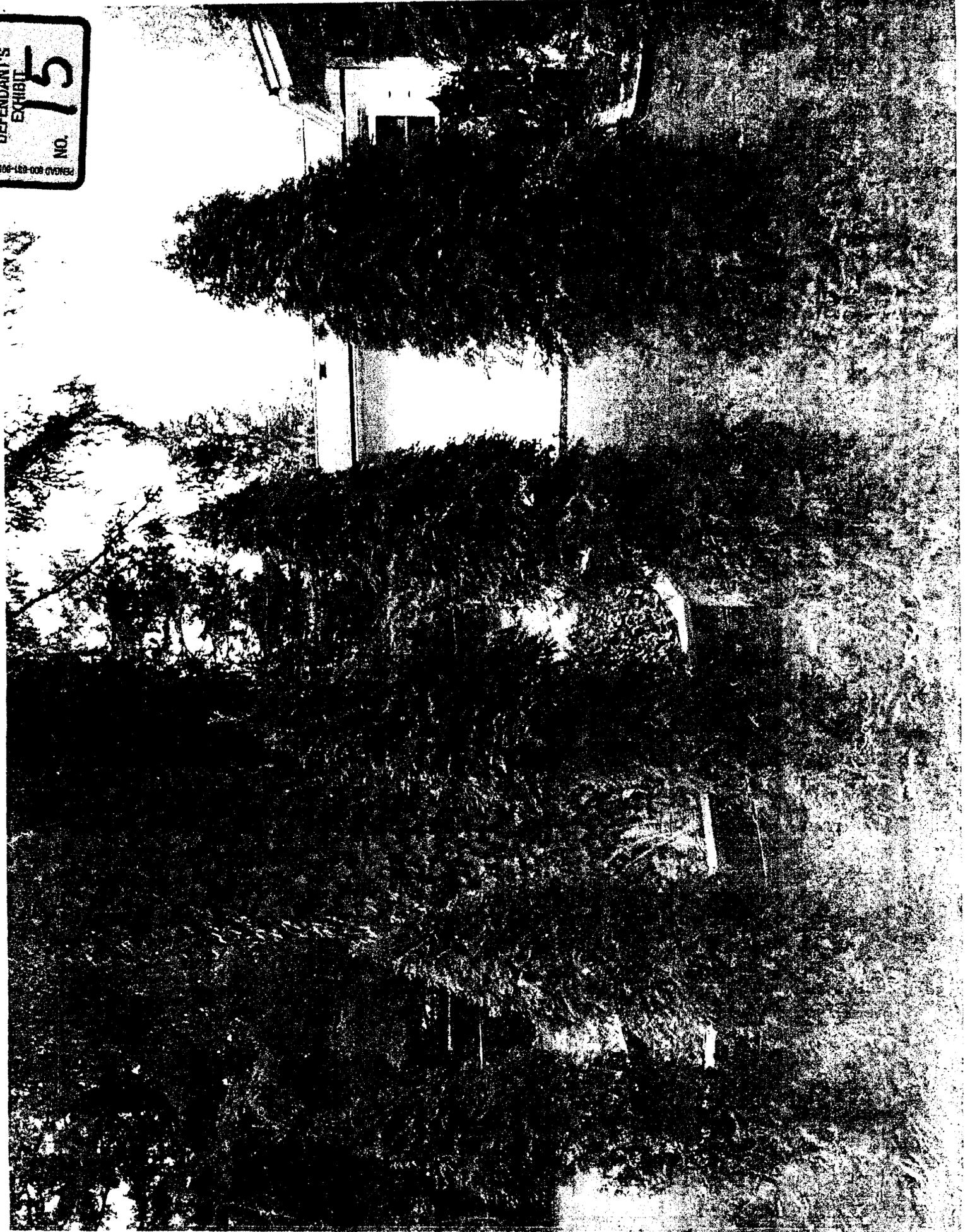






WASHINGTON  
328-ZVB

DEFENDANT'S  
EXHIBIT  
NO. 15  
PENNS. 800-837-9988



DEFENDANT'S  
EXHIBIT  
NO. 27





P.O. Box 202 • Seattle, WA 98111-0202  
206.723.0767 • www.UGM.org

February 17, 2014

Marvin Krona  
26415 Florence Acres Rd  
Monroe, WA 98272



Dear Marvin,

Let me take this opportunity to welcome you as a friend of Seattle's Union Gospel Mission and thank you for your donation of an iMac computer w/ protection plan given on January 3.

Your generosity helps care for Seattle's homeless, hungry, addicted and high risk youth. When you help us provide food, shelter, basic needs, spiritual guidance and rehabilitation for a new beginning, you are changing our community for the better, one life at a time.

We couldn't do this without you! To learn more about our Mission and the difference your contribution is making, visit [www.UGM.org](http://www.UGM.org). Or come down to see it yourself! Call us at 206.723.0767 to set up a tour or explore a volunteer opportunity that's just right for you.

Grateful to serve Seattle together with you,

Jeff Lilley, President

## YOUR RECEIPT

↑ **Keep** this receipt for your records. Your gift is tax-deductible. It is our policy never to sell, rent or lease your information to a third party.

↑ **Return** this portion with your next gift.

Yes, I will help restore hope to hungry and homeless men, women, and children in our community.

Here is my gift of:  \$20  \$30  \$40  \$ \_\_\_\_\_

Please return this portion with your check. See back to give by credit card or online.

Marvin Krona  
26415 Florence Acres Rd  
Monroe, WA 98272

2793957 R140000 010400

### Thank You!

We utilize gifts-in-kind, volunteers and other resources to maximize your gifts and serve even more people.

15:44:34 1 A Yes. We constantly have different types of trainings. I  
15:44:39 2 mean, throughout every month or here and there depends on  
15:44:42 3 what's going on.

15:44:43 4 Q So when you're done with the academy and you get hired on  
15:44:46 5 with the sheriff's office in February, did they just send  
15:44:48 6 you out in a patrol car, or is there some other things  
15:44:53 7 involved?

15:44:53 8 A No we have to complete field training which is when we ride  
15:44:56 9 with a field training officer for four months.

15:44:58 10 Q And tell us about how that works with a field training  
15:45:01 11 officer.

15:45:02 12 A There's different stages. There's four stages. But I had  
15:45:06 13 an MPD which is a master patrol deputy that was assigned to  
15:45:09 14 my vehicle. And during the period I would drive or he  
15:45:14 15 would drive just kind of depends on where you are in your  
15:45:17 16 training. And then he is your guidance, and that's who you  
15:45:21 17 look to towards -- and to make sure you do everything right  
15:45:23 18 and correct.

15:45:24 19 Q So starting in February with a field training officer, were  
15:45:29 20 you out responding to calls and doing all the things that  
15:45:32 21 other deputy sheriffs do?

15:45:33 22 A In February?

15:45:35 23 Q Well, when did you start doing those kind of things?

15:45:38 24 A It was June.

15:45:38 25 Q June. Excuse me. All right.

# Navarro

15:45:40 1 So as of June is when you started doing regular patrol  
15:45:48 2 calls and things?  
15:45:49 3 A Yes.  
15:45:49 4 Q O.K. What phase were you in on July 13th of 2013?  
15:45:52 5 A Be phase one of FTR.  
15:45:55 6 Q And who was your field training officer?  
15:45:59 7 A MPD Daniel Johnson.  
15:46:00 8 Q And I want to direct your attention to specifically July  
15:46:03 9 13th of 2013 and a call that brings you here to court  
15:46:08 10 today.  
15:46:09 11 A Yes.  
15:46:09 12 Q O.K. About what time did you get dispatched?  
15:46:11 13 A About 19:30-ish.  
15:46:13 14 Q About 7:30 at night?  
15:46:14 15 A Yes.  
15:46:15 16 Q And what were you responding to?  
15:46:20 17 A Accident was a hit and run.  
15:46:23 18 Q James Grout had called to report; is that right?  
15:46:26 19 A Yes.  
15:46:26 20 Q And where did you go to?  
15:46:28 21 A His address off of Florence Acres Road was the address in  
15:46:32 22 the call.  
15:46:32 23 Q Now, given the nature of the call that his fence had been  
15:46:40 24 hit, who was driving, and what was going on prior to your  
15:46:44 25 making contact at that address?

Navarro

15:49:07 1 Did you just drive into the driveway?

15:49:09 2 A No. We parked in a driveway west of the residence and  
15:49:15 3 walked down that driveway out of sight from the residence.  
15:49:18 4 We were actually going to, and that's when we located the  
15:49:20 5 car.

15:49:20 6 Q Now, was that your idea to approach that way?

15:49:23 7 Or tell me about the planning that went into that.

15:49:26 8 A It was all of our idea just so we can hopefully see who  
15:49:30 9 we're looking for before they could see us.

15:49:33 10 Q So what do you do then?

15:49:38 11 A We walk down the driveway, like I said, to the west of  
15:49:42 12 Mr. Krona's residence, then we saw his vehicle parked in  
15:49:47 13 the field to the north. At that point, we started walking  
15:49:50 14 east across the field from the other person's driveway and  
15:49:54 15 approached his vehicle.

15:49:55 16 Q We've been using a State's Exhibit Number 1 here. And if I  
15:50:00 17 could get you to stand up and just -- can you -- first of  
15:50:06 18 all, do you recognize what this is showing us?

15:50:08 19 A Yes.

15:50:08 20 Q O.K. And do you recognize this as Mr. Krona's residence at  
15:50:12 21 the top of Exhibit Number 1?

15:50:13 22 A Yes.

15:50:14 23 Q And that's the residence you went to that we're talking  
15:50:16 24 about?

15:50:16 25 A Yes.

# Navarro

15:50:16 1 Q So how did you approach from Florence Acres Road?

15:50:19 2 A Our vehicles were parked up here, all three of the patrol  
15:50:23 3 vehicles. (Indicating.)

15:50:24 4 We then walked down this driveway and through these  
15:50:29 5 trees into the back of the property. (Indicating.)

15:50:31 6 Q O.K. And where was it that you saw the gray Oldsmobile?

15:50:34 7 A Approximately somewhere in this region in the field.

15:50:37 8 Q O.K. Tell me what you saw when you saw the gray  
15:50:44 9 Oldsmobile?

15:50:45 10 A Saw the gray Oldsmobile, a subject inside that I identified  
15:50:50 11 as Marvin Krona from the photo.

15:50:53 12 We could hear the door chimes; we saw the ignition key  
15:50:56 13 was turned to the on; as we got closer, we saw three full  
15:51:00 14 beer cans on the passenger seat and two empties on the  
15:51:03 15 floorboard.

15:51:03 16 Q O.K. What was Mr. Krona's position?

15:51:06 17 A He was in the driver's seat behind the steering wheel kind  
15:51:10 18 of slumped over looking down towards the ground.

15:51:13 19 Q Could you hear anything?

15:51:14 20 A We could hear the door chime, I believe a radio was playing  
15:51:19 21 in the background, and that's about it.

15:51:20 22 Q What did you do then?

15:51:24 23 A We approached the driver's side from the back of the  
15:51:27 24 vehicle. So we walked around the back close to driver side  
15:51:31 25 and contacted Marvin Krona in the driver's seat.

16:16:14 1 A Yes.

16:16:15 2 MS. COBURN: O.K. Defense would like to admit  
16:16:18 3 Defendant's Exhibit 26.

16:16:19 4 MR. STEMLER: No objection.

16:16:20 5 THE COURT: 26 is admitted.

6 (Whereupon, Exhibit(s) 26  
7 was/were admitted into  
8 evidence.)

16:16:28 8 BY MS. COBURN

16:16:28 9 Q And, as we just talked about, this was not a paved area,  
16:16:32 10 this was a grassy field, correct?

16:16:34 11 A Yes, it was a grassy field.

16:16:35 12 Q O.K. And when you first arrived at the scene, the door to  
16:16:40 13 the vehicle was already open --

16:16:41 14 A Yes.

16:16:41 15 Q -- correct?

16:16:42 16 O.K. And Mr. Krona was looking down, correct?

16:16:47 17 A Yes.

16:16:47 18 Q All right. And you don't -- you have no idea whether he  
16:16:53 19 was looking at a phone or what he was looking at?

16:16:56 20 A That's correct.

16:16:57 21 Q You just know that he was looking down?

16:16:59 22 A Yes.

16:16:59 23 Q O.K. And with the door opened, isn't it true that he was  
16:17:02 24 partially like at least one foot was outside of the vehicle  
16:17:06 25 at that time; do you remember?

Officer Navarro

16:17:08 1 A No.

16:17:08 2 Q No you don't remember or --

16:17:09 3 A No. He was not -- he was fully in the vehicle.

16:17:12 4 Q O.K. Sitting there looking down?

16:17:13 5 A Yes.

16:17:14 6 Q O.K. You immediately arrested him soon after you

16:17:22 7 identified who he was?

16:17:23 8 A Yes.

16:17:23 9 Q O.K. And he was barely able to stand?

16:17:25 10 A Yes.

16:17:26 11 Q In fact, you were concerned about him falling over to

16:17:30 12 where, after you handcuffed him, you made sure that he was

16:17:33 13 sitting down on the ground so that he wouldn't fall?

16:17:35 14 A Yes.

16:17:36 15 Q And his speech was highly slurred?

16:17:38 16 A Yes.

16:17:38 17 Q And the time that you arrested him was in military times

16:17:44 18 20:14 hours, correct?

16:17:46 19 A I don't recall the exact time. I could look at my report.

16:17:49 20 Q You know what, I'm going to help you by just having you

16:17:52 21 identify the CAD so you can take a look at it.

16:17:55 22 A O.K.

16:18:15 23 THE CLERK: Defendant's Exhibit 28 is marked for

16:18:17 24 identification.

25

(Whereupon, Exhibit(s) 28  
was/were marked for

137

identification.)

16:18:24  
16:18:24

1  
2 BY MS. COBURN

16:18:24

3 Q Officer, I'm going to hand you what's been marked as  
4 Defendant's Exhibit 28. First let me ask you what is a  
5 CAD?

16:18:26

16:18:29

6 A It's a printout from the call.

16:18:29

16:18:33

7 Q Is it a record of when you arrive and what you did and  
8 things like that?

16:18:35

16:18:36

9 A Yes.

16:18:36

10 Q And by looking at that exhibit, would it help refresh your  
11 memory on when Mr. Krona was detained?

16:18:39

16:18:41

12 A Yes.

16:18:42

13 Q Go ahead and take a look at that.

16:18:49

14 A He was detained at 20:14 hours.

16:18:51

15 Q O.K. Which is 8:14 p.m., right?

16:18:53

16 A Yes.

16:18:54

17 Q In nonmilitary terms?

16:18:56

18 A Yes.

16:18:56

19 Q Thank you. You had testified that you saw some beer cans  
20 on the passenger seat?

16:19:05

16:19:06

21 A Yes.

16:19:06

22 Q And on the floorboard as well?

16:19:08

23 A Yes.

16:19:08

24 Q But you never collected those beer cans into evidence?

16:19:14

25 A No.

16:19:15 1 Q O.K. And you have no idea how long those beer cans had  
16:19:20 2 been in that vehicle, correct?

16:19:21 3 A No.

16:19:22 4 Q And you had never seen Mr. Krona on that day driving the  
16:19:28 5 vehicle?

16:19:29 6 A No.

16:19:29 7 Q And you had never seen Mr. Krona on that day drinking?

16:19:40 8 A No.

16:19:40 9 Q And you have no personal knowledge of what he drank,  
16:19:49 10 correct?

16:19:50 11 A I do not.

16:19:50 12 Q You have no personal knowledge of when he drank, correct?

16:19:53 13 A I do not.

16:19:54 14 Q And you testified earlier that one of the reasons you took  
16:20:00 15 him to the hospital was clear to book because of a concern  
16:20:03 16 of a very high level of intoxication?

16:20:05 17 A Yes.

16:20:05 18 Q O.K. And during this process of transporting him, he was  
16:20:13 19 making threats to yourself?

16:20:17 20 A Yes.

16:20:18 21 Q And the aid crew?

16:20:19 22 A Yes.

16:20:20 23 Q And the hospital staff?

16:20:21 24 A Yes.

16:20:22 25 Q And in the aid crew specifically, you said there was one

10:10:04 1 difficulty locating the residence. Can you explain why  
10:10:07 2 that is?

10:10:08 3 A I'm not sure how the county issues its addresses based on  
10:10:13 4 the dates of the house when they're built or locations of  
10:10:18 5 the driveway, I actually parked west of the driveway,  
10:10:19 6 walked up what turned out to be the incorrect driveway and  
10:10:22 7 located the residence at the back behind other houses.

10:10:25 8 Q I'm going to show you what's been marked as State's Exhibit  
10:10:28 9 1. And if this would be helpful, could you -- could you  
10:10:34 10 explain to the jury if you're able to recognize this  
10:10:40 11 neighborhood sort of the manner in which you responded?

10:10:44 12 A I parked here on Florence Acres Road to the west. The  
10:10:51 13 address that we're referring to is actually accessed off of  
10:10:56 14 this driveway to the east of where I had parked. I  
10:10:58 15 originally walked up this driveway looking for the  
10:11:01 16 incident. (Indicating.)

10:11:03 17 Q And then you responded to a different address.

10:11:10 18 So when you arrived, were there any other law  
10:11:19 19 enforcement officers on scene?

10:11:20 20 A Deputy Dan Johnson and Deputy Jacob Navarro were arriving  
10:11:27 21 about the same time I was.

10:11:28 22 Q And do you know who got there first?

10:11:31 23 A Deputy Navarro and Johnson parked at the driveway towards  
10:11:36 24 the east. I walked up the driveway towards the west and  
10:11:40 25 started walking up, and Deputy Navarro came up behind me.

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We still had actually located the residence so we were together when we actually found the house we were looking for.

Q Now, when you did respond ultimately to the address that you had been dispatched to, what, if anything, did you observe?

A We were standing in the driveway to the west and looked over. We were to be looking for a particular car. We saw the car parked in the field east of where we were standing, so we walked over to it.

Q And can you describe this vehicle to the jury?

A A gray or silver Oldsmobile four door.

Q And where would you describe its location relative to the residence?

A It was parked in a field north of the residence facing south towards the residence.

Q Was there -- was the vehicle empty or not?

A No. The driver's door was open. I could see somebody sitting in the driver's seat.

Q How far away were you when you originally saw the vehicle?

A Actually about 100 yards or 300 feet.

Q Showing you State's Exhibit 10. Already admitted.

Does this appear to be the condition of the vehicle?

A That's exactly how we found it.

Q And is that level of lighting consistent with the level of

09:52:40 1 Frye hearing and the need for the defense expert so . . .

09:52:43 2 MR. STEMLER: O.K.

09:52:44 3 THE COURT: I think we're clear on that. We'll  
09:52:46 4 bring in the jury.

09:53:10 5 (Whereupon, the jury entered the  
09:53:43 6 courtroom.)

09:53:43 7 THE COURT: State may call its next witness.

09:53:45 8 MR. STEMLER: State calls Adam Krona to the stand.

9 ADAM KRONA, having been called by the  
10 State and being first duly  
sworn by the Court, testified  
as follows:

09:54:03 11

12

13

DIRECT EXAMINATION

14 BY MR. STEMLER:

09:54:05 15 Q Good morning. Could you please state your name and spell  
09:54:08 16 your name for the court reporter.

09:54:09 17 A Adam Krona. A-d-a-m, K-r-o-n-a.

09:54:13 18 Q What's your address?

09:54:14 19 A 2645 Florence Acres Road, Monroe, Washington 98272.

09:54:19 20 Q And back in July of 2013, who all lived at that property?

09:54:27 21 A Me, my wife, father, my mother, Marty, and I'm not sure if  
09:54:40 22 Marvin was living there at the time or not. I don't quite  
09:54:43 23 recall.

09:54:43 24 Q O.K. Is this your brother Marvin sitting over here?

09:54:46 25 (Indicating.)

## Adam Krona at trial

- 09:54:46 1 A Yes.
- 09:54:46 2 Q All right. So I want to take you back to July 13th of 2013
- 09:54:54 3 when Jim Grout came over to your house, your neighbor. Do
- 09:54:59 4 you remember that?
- 09:54:59 5 A Yeah.
- 09:55:00 6 Q O.K. Can you tell me what happened when Mr. Grout came
- 09:55:05 7 over?
- 09:55:07 8 A Well, Mr. Grout came up and informed me that his fence has
- 09:55:09 9 been hit. And, at that time, I walked over and talked to
- 09:55:14 10 Marty about it, and then we went and investigated further
- 09:55:18 11 with the neighbors on what happened.
- 09:55:20 12 Q O.K. Where was Marvin at that point?
- 09:55:23 13 A Marvin was in the backyard.
- 09:55:26 14 Q Had you seen Marvin earlier?
- 09:55:32 15 A I don't recall seeing him earlier that day.
- 09:55:35 16 Q When Mr. Grout came over and told you this, did you see
- 09:55:42 17 Marvin in the gray Oldsmobile?
- 09:55:44 18 A I did see Marvin at that time in the gray Oldsmobile, yeah.
- 09:55:47 19 Q And what could you tell about him from what you saw?
- 09:55:50 20 A It just looked as if he was sitting there listening to
- 09:55:53 21 music in the car.
- 09:55:55 22 Q Did you have an opinion about his intoxication based on
- 09:55:58 23 your past dealings with him?
- 09:56:00 24 A He appeared intoxicated.
- 09:56:01 25 Q How long after Mr. Grout came and told you about his fence

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getting hit was it that you saw Marvin in the gray  
Oldsmobile?  
A Within five minutes.  
Q After Mr. Grout came over and you talked to your brother,  
Marty, what did you guys do?  
A We went down and talked to the neighbors about what had  
happened with the fence.  
Q Did you go look at the fence?  
A Yeah, we did.  
Q Did you see some damage to it?  
A There was some damage.  
Q Were you driving the gray Oldsmobile when it hit the fence?  
A No.  
Q And can you tell us your -- your dad's medical condition  
wasn't so good at that time; is that right?  
A Yeah. He was pretty bad.  
Q And I'm sorry to hear him passing shortly after this  
incident, I understand, so . . .  
And your mom doesn't drive that car, does she?  
A Absolutely not.  
Q And Marty doesn't drive that car?  
A No.  
MS. COBURN: Objection. Leading.  
THE COURT: Sustained.  
MS. COBURN: Move to strike.

09:57:12 1 THE COURT: I will ask the jury to disregard the  
09:57:14 2 witness's answer to the last question.

09:57:15 3 BY MR. STEMLER

09:57:16 4 Q Does Marty drive that car, the Oldsmobile?

09:57:18 5 MS. COBURN: Objection. Foundation.

09:57:22 6 THE COURT: Overruled. If the witness knows.

09:57:24 7 BY MR. STEMLER

09:57:24 8 Q You can answer the question.

09:57:25 9 A No, Marty does not drive that car.

09:57:31 10 Q All right. One other thing. Your brother, Marvin, what's  
09:57:35 11 his drink of choice?

09:57:37 12 A Well, in the past --

09:57:38 13 MS. COBURN: Objection. Foundation.

09:57:43 14 THE COURT: If he knows, I'll allow him to answer.  
09:57:45 15 But I don't want -- you can't speculate. You need to know  
09:57:49 16 of your own firsthand knowledge.

09:57:52 17 BY MR. STEMLER

09:57:52 18 Q Do you know what your brother likes to drink?

09:57:53 19 A Yeah. He likes to drink beer.

09:58:08 20 MR. STEMLER: Thank you. Nothing further.

09:58:10 21 THE COURT: Cross-exam.

22

23

**CROSS-EXAMINATION**

24 BY MS. COBURN:

09:58:24 25 Q Hi, Adam.

09:58:24 1 A Hello.

09:58:25 2 Q So I'm going to hand you what's been marked as State's

09:58:28 3 Exhibit 1. Do you recognize this area?

09:58:31 4 A Yes.

09:58:34 5 Q O.K. And can you get up here so everybody can see at the

09:58:39 6 same time.

09:58:40 7 Can you point to where Mr. Grout lives?

09:58:45 8 A Right here. (Indicating.)

09:58:48 9 Q Here's Florence Acres Road.

09:58:49 10 A So this is -- this would be my driveway. This is

09:58:55 11 Mr. Grout's house here. (Indicating.)

09:58:56 12 Q All right. And where do you live?

09:58:59 13 A I would live here. (Indicating.)

09:59:03 14 Q O.K. So there's actually two buildings next -- well, not

09:59:10 15 in the same general vicinity, correct?

09:59:12 16 A About 50 feet.

09:59:13 17 Q And the building that you just pointed to is the building

09:59:15 18 where you reside?

09:59:16 19 A Correct.

09:59:16 20 Q O.K. And this other building here, that's a building where

09:59:20 21 other family members reside, correct? (Indicating.)

09:59:22 22 A Correct.

09:59:22 23 Q Your mom, Deana?

09:59:23 24 A Right.

09:59:24 25 Q Your dad, Harvey, at the time, right?

09:59:26 1 A Uh-huh.

09:59:27 2 Q Your brother Marty?

09:59:29 3 A Yes.

09:59:29 4 Q And then, at times, Marvin --

09:59:31 5 A Correct.

09:59:32 6 Q -- right?

09:59:32 7 They live in a separate building?

09:59:34 8 A Yes.

09:59:35 9 Q O.K. Now, on this day that Mr. Stemler was asking you

09:59:51 10 about, July 13th, 2013, when Mr. Grout came to see you,

09:59:56 11 when he came up, you came out of your house, correct?

09:59:59 12 A Correct.

09:59:59 13 Q All right. And when you saw -- when you talked to him, you

10:00:08 14 never told him that Marvin, saw Marvin driving the car?

10:00:12 15 A No, I did not.

10:00:13 16 Q O.K. In fact, you never saw Marvin driving that car?

10:00:17 17 A I did not.

10:00:18 18 Q O.K. Now, after your conversation with Mr. Grout, you

10:00:27 19 indicated that at that point in time, you saw Marvin

10:00:34 20 sitting in the gray Oldsmobile?

10:00:35 21 A Correct.

10:00:35 22 Q Can you point on this map where that vehicle was when you

10:00:45 23 saw Marvin sitting there?

10:00:46 24 A It will be approximately right here. (Indicating.)

10:00:48 25 Q O.K. So this is behind the other house, the house that you

Adam Krona

10:00:52 1 don't live at --

10:00:52 2 A Right.

10:00:53 3 Q -- right? In a grassy field?

10:00:55 4 A Uh-huh.

10:00:56 5 Q And when you saw Marvin, the car was not running?

10:01:11 6 A I can't recall if it was running or not. I couldn't say

10:01:13 7 for sure.

10:01:14 8 Q So when you saw him, you saw him from a distance?

10:01:27 9 A No. It was -- I saw him from about, I would say, 15 feet.

10:01:32 10 Q O.K.

10:01:32 11 A Because I had walked over.

10:01:34 12 Q All right. But from 15 feet, right?

10:01:36 13 A Right.

10:01:36 14 Q You didn't actually walk up and talk to him?

10:01:38 15 A No.

10:01:38 16 Q You just saw him 15 feet, and then you walked away?

10:01:41 17 A Correct.

10:01:41 18 Q O.K. But the car was not moving?

10:01:44 19 A No.

10:01:45 20 Q You never saw the car moving?

10:01:46 21 A No.

10:01:46 22 Q All right.

10:01:47 23 When you walked down to the fence, you had a

10:02:06 24 conversation with other neighbors?

10:02:07 25 A Correct.

10-02:08 1 Q And that included James Grout?

10-02:10 2 A I didn't really -- only time I talked to James is when he

10-02:13 3 came up, and that was brief. I mostly talked to the

10-02:19 4 neighbors that were close to us.

10-02:20 5 Q Rose Marquiss?

10-02:21 6 A Right.

10-02:22 7 Q So you talked to her?

10-02:22 8 A Yeah. I talked to her son mostly and her a little bit.

10-02:28 9 Q And is it possible that in that conversation with her you

10-02:32 10 may have said, oh, I think that Marvin's drunk?

10-02:37 11 Is that a possibility?

10-02:38 12 A Sure, it's a possibility, but I don't really recall that.

10-02:41 13 Q O.K. But you may or may not have said it?

10-02:45 14 A I don't really remember.

10-02:52 15 Q O.K. Now, the police never interviewed you?

10-02:56 16 A No, they didn't.

10-02:59 17 Q Now, this gray Oldsmobile, this is a vehicle that you've

10-03:05 18 seen your father, Harvey, drive?

10-03:07 19 A Yes.

10-03:08 20 Q O.K. In fact, he drove that vehicle generally -- he drove

10-03:14 21 that vehicle more than Marvin?

10-03:16 22 A Yeah. He drove it once or twice which would have been more

10-03:19 23 than Marvin. *means Marvin never drove it*

10-03:20 24 Q O.K. And around this time, July 13th, 2013, you had

10-03:29 25 personal knowledge of, in fact, there was times where

10:03:32 1 Harvey would drive Marvin around because Marvin couldn't  
10:03:37 2 drive; is that right?

10:03:38 3 A Correct.

10:03:38 4 Q O.K. Now your father, Harvey, died August 13th, 2013 --

10:03:44 5 A Yes.

10:03:45 6 Q -- is that right?

10:03:46 7 O.K. And there was times around this time where you --  
10:03:55 8 basically family felt that Harvey shouldn't drive, but  
10:03:57 9 sometimes he drove even when you felt he shouldn't drive;  
10:04:01 10 isn't that true?

10:04:04 11 A That would be correct.

10:04:05 12 Q O.K. And is it true that you have personal knowledge that  
10:04:10 13 your father, Harvey, actually hit Mr. Grout's fence in that  
10:04:14 14 same area about -- that same spot about a year earlier?

10:04:21 15 A Approximately. Probably further back than that. Yeah.

10:04:25 16 Q But you have personal knowledge that your father had hit  
10:04:27 17 Mr. Grout's fence?

10:04:28 18 A Yeah. Previously.

10:04:31 19 MS. COBURN: O.K. No further questions.

10:04:32 20 THE COURT: Redirect.

10:04:33 21

22 **REDIRECT EXAMINATION**

23 BY MR. STEMLER:

10:04:35 24 Q In terms of physical appearance, did your dad look  
10:04:39 25 different than your brother Marvin?

10:04:41 1 A I would say quite a bit. I mean --

10:04:44 2 Q What about your brother Marty and your brother Marvin? Do  
10:04:49 3 they look different?

10:04:49 4 A Yes.

10:04:50 5 Q Can you give us kind of an idea of what you mean by that?

10:04:53 6 A Well, one's obviously quite a bit bigger than the other.

10:04:58 7 Q Marty is quite a bit bigger than Marvin?

10:05:01 8 A Yeah. Obviously.

10:05:02 9 Q Facial hair, for example?

10:05:03 10 A Yeah. Yeah. Facial hair, gray hair, quite a bit of  
10:05:07 11 difference.

10:05:08 12 Q Marty has gray hair and facial hair where Marvin does not?

10:05:13 13 A Correct.

10:05:13 14 MR. STEMLER: Thank you. Nothing further.

10:05:15 15 THE COURT: You may step down. Make sure you  
10:05:17 16 leave contact information for the prosecutor in case  
10:05:19 17 there's a need for you to return to testify for any reason.  
10:05:22 18 State may call its next witness.

10:05:26 19 (Whereupon, the witness stepped  
10:05:28 20 down.)

10:05:26 21 MR. BOSKA: At this time, the State would call  
10:05:28 22 Deputy Koziol of the sheriff's office.

10:05:56 23 THOMAS KOZIOL, having been called by the  
24 State and being first duly  
25 sworn by the Court, testified  
as follows:

DIRECT EXAMINATION

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BY MR. BOSKA:

10:06:01 Q Good morning, sir. Would you please state and spell your  
10:06:04 name for the record.

10:06:04 A Good morning. Thomas Koziol, K-o-z-i-o-l.

10:06:08 Q And where are you currently employed?

10:06:12 A Snohomish County Sheriff's Office.

10:06:13 Q For how long have you been employed there?

10:06:16 A Almost 11 years.

10:06:17 Q Prior to that, where were you employed prior to that?

10:06:22 A Lake of the Hills, Illinois as a police officer, suburb of  
10:06:26 Chicago.

10:06:26 Q And as a police officer, have you received any training or  
10:06:33 experience specifically as it relates to detecting signs of  
10:06:37 intoxication or signs of impairment by alcohol?

10:06:39 A I have.

10:06:40 Q Can you briefly describe that training for the jury.

10:06:44 A The standard discovering signs of intoxication in Illinois,  
10:06:50 training on the Breathalyzer training equipment both here  
10:06:55 and in Illinois.

10:06:56 Q And could you tell the jury approximately how many DUI  
10:07:03 investigations have you handled over the course of your  
10:07:05 career?

10:07:05 A Approximately one thousand between here and Illinois.

10:07:09 Q Directing your attention to July 13th, 2013, did you have

Rose Marquiss

- 15:09:31 1 Q This one? (Indicating.)
- 15:09:33 2 And do you know an individual by the name of James
- 15:09:38 3 Grout?
- 15:09:38 4 A Yes.
- 15:09:38 5 Q And do you know, from your experience, where he lives?
- 15:09:40 6 A Yes. He lives right here. (Indicating.)
- 15:09:42 7 Q And what road is this road here? (Indicating.)
- 15:09:46 8 A This is Florence Acres Road. It's the named main route
- 15:09:50 9 into Monroe.
- 15:09:51 10 Q And, to your knowledge, are there other roads that an
- 15:09:55 11 individual could use to get to Monroe up on this north
- 15:09:58 12 side?
- 15:09:59 13 A Behind them, no. There is a road -- this road here is also
- 15:10:10 14 an easement, and it can go from there. (Indicating.)
- 15:10:13 15 Q And is this road here, the Florence Acres Road, is that a
- 15:10:15 16 public road?
- 15:10:16 17 A Yes.
- 15:10:17 18 Q And how long have you lived at that address?
- 15:10:26 19 A Since 1999. So whatever that is.
- 15:10:32 20 Q Who do you live with?
- 15:10:34 21 A William Warren, my fiancé.
- 15:10:38 22 Q And do you know how long Mr. Krona has lived in that area?
- 15:10:46 23 A Not -- no.
- 15:10:49 24 Q Well, let me put it this way: How long have you known him?
- 15:10:53 25 A Since right after we moved in, so 1999.

Rose Margurss trial

15:10:59 1 Q Can you please point him out for the jury?

15:11:03 2 A He's over there. (Indicating.)

15:11:05 3 Q And could you describe for the record something he's  
15:11:09 4 wearing?

15:11:09 5 A He's wearing a looks like a green-ish shirt, short hair.

15:11:15 6 Q I would ask the record to reflect that the defendant has  
15:11:17 7 been identified.

15:11:22 8 And have you seen or interacted with Mr. Krona on prior  
15:11:26 9 occasions?

15:11:26 10 A Yes.

15:11:27 11 Q And I guess I'd like to direct your attention to July 13th  
15:11:36 12 of 2013.

15:11:39 13 Do you recall at any time that day seeing Mr. Krona?

15:11:42 14 A Yes.

15:11:43 15 Q And do you recall approximately what time this was?

15:11:48 16 A Anywhere between 6:00 and 7:00.

15:11:52 17 Q And what were you doing at that time?

15:11:55 18 A I was about ready to fix dinner.

15:11:57 19 Q Where were you?

15:12:00 20 A In my kitchen.

15:12:01 21 Q And can you describe for the jury, does your kitchen have  
15:12:07 22 windows or not?

15:12:08 23 A It has a window, we call it a garden window. And I can  
15:12:13 24 look straight out to the driveway.

15:12:14 25 Q How big is that window?

15:14:56 1 she's actually standing in the driveway looking towards the  
15:15:00 2 window.  
15:15:00 3 Q O.K. Do you know who took the pictures?  
15:15:03 4 A It's the district attorney's -- I believe it was her  
15:15:06 5 helper.  
15:15:08 6 Q And when you see these -- these two trees sort of spread  
15:15:16 7 apart there, is there more to the window that we can't see,  
15:15:20 8 or is that the window -- the whole window visible from the  
15:15:22 9 driveway?  
15:15:23 10 A That's probably exactly how you see it from the driveway  
15:15:27 11 because you can't really see the side windows from the  
15:15:29 12 driveway. But you could see through there.  
15:15:34 13 Q Understood.  
15:15:36 14 A They're just --  
15:16:00 15 Q Now, you testified that you were starting to make dinner.  
15:16:05 16 What exactly did you see while you were making dinner?  
15:16:11 17 A When I was looking out the window, which I do often, looked  
15:16:14 18 at my humming birds, I saw a gray car coming up the  
15:16:18 19 driveway, and I saw Mr. Krona kind of slumped over like  
15:16:23 20 this towards the passenger side.  
15:16:26 21 Q And what street was that -- did that occur on?  
15:16:29 22 A That was the driveway. That's out in front of us.  
15:16:35 23 Q To your knowledge, where does that driveway lead to?  
15:16:37 24 A It goes back to their property. Goes back that way and  
15:16:42 25 then going that way goes out to the Florence acres.

15:16:45 1 (Indicating.)

15:16:45 2 Q When you say it goes to their property, whose property is

15:16:48 3 that?

15:16:48 4 A Krona's.

15:16:55 5 Q How can you be sure that it was Marvin?

15:16:58 6 A I seen all the guys back there, and he's -- I just know who

15:17:02 7 it is. They all look different.

15:17:06 8 Q Were there any passengers in that vehicle?

15:17:08 9 A No.

15:17:09 10 Q Were you -- how long would you say you saw this vehicle?

15:17:14 11 A That time at that moment?

15:17:18 12 Q Yes.

15:17:19 13 A Couple minutes, maybe. I mean, he was driving pretty slow

15:17:24 14 so . . .

15:17:24 15 Q And had you ever seen this particular vehicle in the past?

15:17:28 16 A Yes.

15:17:29 17 Q How often would you say you seen this vehicle?

15:17:32 18 A Two, three times, maybe.

15:17:35 19 Q Now, you described it as a gray vehicle. Is there anything

15:17:38 20 else about the vehicle that you'd be able to get in terms

15:17:41 21 of a description?

15:17:42 22 A Just an older Oldsmobile, silver, gray, whatever.

15:17:48 23 Q I'm showing you what's been marked for identification as

15:18:05 24 State's Exhibit 4. Without showing this to the jury quite

15:18:08 25 yet, do you recognize what that is?

Rose Marguiss

15:20:44 1 observe this vehicle you were able to tell approximately  
15:20:52 2 how fast the vehicle was going?

15:20:54 3 A I think so.

15:20:56 4 Q And so what -- what is your opinion with respect to how  
15:21:00 5 fast the vehicle was going?

15:21:01 6 MS. COBURN: Objection. Foundation.

15:21:03 7 THE COURT: Sustained.

15:21:03 8 BY MR. BOSKA

15:21:06 9 Q Well, how long did it take the vehicle, approximately, to  
15:21:12 10 cross the path of when it entered your field of view while  
15:21:17 11 you're standing in your kitchen versus going across to the  
15:21:22 12 other side where it's no longer in your field of view?

15:21:29 13 A A couple minutes.

15:21:29 14 Q And approximately how much -- how much distance is that?

15:21:32 15 A From my window to the driveway?

15:21:37 16 Q No. From the position where the vehicle began to the  
15:21:41 17 position when it then was no longer visible to you?

15:21:44 18 A I don't know. Maybe --

15:21:50 19 MS. COBURN: Objection. Calls for speculation.

15:21:54 20 MR. BOSKA: The question calls for the witness's  
15:21:56 21 observation.

15:21:56 22 THE COURT: Overruled. She may testify.

15:21:58 23 THE WITNESS: Could you repeat the question.

15:22:01 24 BY MR. BOSKA

15:22:01 25 Q What was the approximate distance that you saw the vehicle

Rose Marquiss

15:22:06 1 travel from when you first saw it enter your field of view  
15:22:11 2 to when you saw it leave your field of view through the  
15:22:13 3 window?

15:22:14 4 A Maybe, I don't know, how ever long the vehicle is plus a  
15:22:24 5 few feet, so maybe ten feet.

15:22:27 6 Q And you testified that you recognized that it was -- that  
15:22:36 7 it was Marvin Krona. In addition to recognizing him, could  
15:22:40 8 you tell the jury what color hair did he have?

15:22:43 9 A He has brown.

15:22:46 10 Q And what length of hair did he have?

15:22:48 11 A Short.

15:22:48 12 Q When you say brown hair, do you see Mr. Krona in the  
15:22:53 13 courtroom right now?

15:22:54 14 A Yes.

15:22:55 15 Q And would you describe his hair now. Is that also what you  
15:22:59 16 would describe as brown hair?

15:23:02 17 A I think it was just a little bit longer, not much longer,  
15:23:05 18 but a little longer.

15:23:06 19 Q What about color?

15:23:07 20 A Same.

15:23:08 21 Q Are you familiar with the appearance of a gentleman by the  
15:23:21 22 name of Harvey Krona?

15:23:23 23 A Yes.

15:23:24 24 Q Could you have been mistaken?

15:23:27 25 Could it have been Harvey driving the vehicle?

14:29:29 1 Q How did that happen?

14:29:30 2 A Huh?

14:29:30 3 Q How did it that happen that it went downhill?

14:29:33 4 A Well, I guess my experience being a drinker, I can go into  
14:29:40 5 a bar, and I can drink five double screwdriver vodkas just  
14:29:44 6 right in a row, and it won't affect me for about maybe ten,  
14:29:48 7 fifteen minutes, and then I'm gone.

14:29:55 8 Q Now, you said you don't dispute that you had threatened the  
14:29:58 9 officers; is that right?

14:29:59 10 A No. I don't dispute that I said some nasty things to them.

14:30:03 11 Q And you even threatened to kill Officer Navarro, right?

14:30:07 12 A Yeah. I -- not --

14:30:11 13 Q You didn't really think threatening --

14:30:13 14 MS. COBURN: I would like to have the witness be  
14:30:15 15 allowed to answer that question.

14:30:16 16 THE COURT: Did you complete your answer to that  
14:30:18 17 last question?

14:30:19 18 THE WITNESS: I -- I had spoke some stupid stuff,  
14:30:24 19 but, out of my heart, they weren't really threats. It was  
14:30:28 20 just -- it could have been how I was feeling towards  
14:30:31 21 myself, the hatred for myself that I was speaking out.

14:30:34 22 I don't know. I just -- I wasn't doing good that day.  
14:30:40 23 Like I said, my dad was dying.

14:30:46 24 BY MR. STEMLER

14:30:46 25 Q You couldn't possibly believe it was -- the officers

Prosecutor

Trial  
Stemler

MARVIN KRONA on the stand Volume 2

14:30:49 1 believed it was comical for you to threaten to kill them?

14:30:51 2 A Yes, I do believe they probably thought it was. I was

14:30:54 3 falling down drunk. And there's no reason at all why them

14:31:01 4 cops would be threatened for their lives when I'm in

14:31:03 5 handcuffs and I'm in four-point restraints falling down

14:31:06 6 drunk, can hardly talk. Of course they're laughing.

14:31:08 7 Because if I was a cop, I'd be laughing myself.

14:31:11 8 Q Well, there was reason you were in restraints, though,

14:31:13 9 right?

14:31:13 10 A Because I was falling down drunk.

14:31:15 11 Q Not only that, but you were going to hurt somebody if you

14:31:19 12 had the opportunity, weren't you?

14:31:20 13 A I wasn't going hurt anybody. That's --

14:31:25 14 Q Were you trying to get out of the restraints?

14:31:27 15 A Pardon me?

14:31:28 16 Q Were you trying to get out of the restraints?

14:31:32 17 A You know, I don't know. I just didn't feel as if I was

14:31:37 18 doing anything wrong, and I should have been arrested.

14:31:44 19 Q Where have you gone earlier in that day?

14:31:48 20 A Nowhere.

14:31:49 21 Q Sometime around 5:00, 6:00, you didn't leave that house

14:31:53 22 that day?

14:31:53 23 A No.

14:31:54 24 Q Mr. Krona, you're aware if you admit driving that has

14:32:10 25 consequences for you here, right?

Linda Coburn opening statement

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At the end of the day, it's important for you to understand the timing of what happened, the sequence of what happened. It matters. Earlier the judge indicated to you to take notes, but you don't want that to be distracting. But I encourage you to pay specific attention to those things because its does matter. The last thing you want is to get in deliberations and say, oh, what time was that? What did they say? It's going to matter at the end of the day. You're going to see that after hearing all this evidence that Mr. Krona was not driving that car. And even if he was driving that car, that the State is not going to be able to show that he drove it while he was drunk. That, in fact, the State's not going to be able to show and prove that, in fact, he didn't drink the alcohol after that period of alleged driving and before any type of blood test was taken.

At the end, you're going to find Mr. Krona is not guilty.

(Whereupon, trial testimony was commenced.)

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I, STACEY M. ENRIQUEZ LOMBARDO, do hereby certify:

That the foregoing verbatim report of proceedings were taken by me and completed on December 18, 2014, and thereafter transcribed by me or under my direction by means of computer-aided transcription;

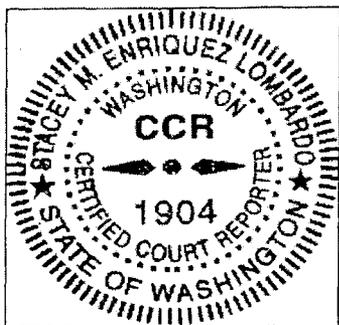
That the foregoing transcript is a full, true, and complete transcript of the proceedings ordered;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith filing the original and delivering one copy to Washington Appellate Project.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of January, 2015.

*Stacey M. E. Lombardo*





**Snohomish County Public Defender Association**

2722 Colby Avenue, Suite 200 • Everett, WA 98201-3527

Phone: 425-339-6300 • Fax: 425-339-6363 • [www.snocopda.org](http://www.snocopda.org)

April 28, 2015

Marvin Krona  
DOC # 908843, Unit A 301 L  
Monroe Correctional Complex  
P.O. Box 7001  
Monroe, WA 98272

Dear Mr. Krona:

Your request to Linda Coburn has been referred to me for a response.

Enclosed is every document from our file in your case that we are permitted to provide. We are not retaining copies of the materials we are sending and cannot be resource for any of this information in the future.

We are not sending you the discovery, the police reports and witness statement provided to Ms. Coburn by the prosecuting attorney. We are prevented from giving you a copy of that material by court rule. If you need that material, you will have to obtain it from the prosecuting attorney who provided it to us or from the investigating police agency.

Ms. Coburn and the Snohomish County Public Defender Association have withdrawn from your case and there is nothing further we can do to assist you.

Very truly yours,<sup>1</sup>

A handwritten signature in black ink that reads "Bill Jaquette". The signature is written in a cursive style.

Bill Jaquette

what happened to Linda Coburn

1 Defense may call investigator Carley Stenberg, who would be called for  
2 rebuttal/impeachment purposes or to lay the foundation for photographs, if  
3 necessary and testify as to what the location of the incident looks like. The defense  
4 reserves the right to call any necessary rebuttal/impeachment witnesses.

5 III. STATEMENT OF FACTS

6 James Grout lives on 26327 Florence Acres Road in Monroe. At the time of the  
7 alleged incident, the defendant, Marvin Krona, lived with his parents, Deena and  
8 Harvey Krona, and brother Marty Krona at 2614 Florence Acres Road in Monroe.  
9 Neighbor Rose Marquiss, lives in a house between Grout and Krona. The Marquiss  
10 home is north of Grout's home. The Krona property is north of the Marquiss  
11 property. An easement that runs adjacent to Grout's property provides access to  
12 Marquiss' home and the Krona property, which also has a separate residence where  
13 Marvin's brother Adam Krona lives.

14 On July 13, 2013, James Grout, who has difficulty standing and walking without  
15 assistance, allegedly saw from his porch a vehicle he recognized as belonging to his  
16 neighbor hit the fence on the edge of his property as the vehicle drove on the  
17 easement toward the Krona property. He got into his own car and drove toward the  
18 Krona property. There he saw Adam Krona, Marvin's brother, and told him that  
19 someone in the gray vehicle hit his fence. Grout did not see or speak with anyone  
20 else from the Krona family. Grout drove back to his house and called police around  
21 7:28 p.m. to report a hit and run. He told police that he believed his neighbor driving  
22 a gray Buick or Oldsmobile had been involved in an accident.  
23  
24

1 On the same day, another call to 911 was made around 6:02 p.m. by someone  
2 who claimed to be Harvey Krona. The caller reported that about an hour earlier, his  
3 son Marvin took his car, an Oldsmobile, without his permission. Harvey Krona died  
4 on Aug. 13, 2013. Police never interviewed Harvey Krona about this alleged call or  
5 Grout's allegations.

6 Before police arrived, Grout, Marquiss, Adam and Marquiss' son and fiancé  
7 gathered at the fence where the alleged damage had occurred and discussed the  
8 Marvin's drinking habits. Years earlier, Marquiss and Marvin had exchanged words  
9 that resulted in Marvin calling Marquiss a bad name.

10 Deputy Koziol was the first officer to arrive and find the gray vehicle, which was  
11 parked on the Krona property in a grassy field. This is a grassy area of the Krona  
12 property where members of the Krona family often park their vehicles. Koziol arrived  
13 in the area around 7:58 pm, but it took time for him to walk down a driveway and  
14 figure out which house was which. He first saw the gray vehicle, around 8:12 p.m.

15 About the same time Koziol saw the vehicle, which was a gray Oldsmobile,  
16 rookie officer in training, Deputy Navarro, and his field training officer Deputy  
17 Johnson, also saw the vehicle. Navarro and Johnson had arrived in the area at 7:47  
18 p.m.

19 Koziol and Navarro approached the vehicle and saw that the driver's door was  
20 open and Marvin was sitting in the driver's seat. A key was in the ignition and turned  
21 in the on position to where the radio was on, but not the ignition. Marvin identified  
22 himself and Navarro began to arrest him. Marvin explained to the officers that he  
23  
24

## James Grant Carley Stenberg

- 1 and have coffee and so forth and that's how I saw the gray Oldsmobile do its  
2 thing. I can set my watch by the time that these people go up and down that road.
- 3 CS: What times do they go by your house?
- 4 JG: Lunchtime and usually they try to get down to Monroe before it's dark. You  
5 know, 5:00, 6:00 in the summer. In the winter months it's about 4:00. And  
6 lunchtime, (unintelligible words)...whatever, and breakfast they usually...they try  
7 to get out of there about 9:00; sometimes they get out as late as 10:00. But the  
8 people that drive those cars are different people. And so one time it might be  
9 Marty, another time it might be the mother, Dee, the next one might be Marvin,  
10 you know. Adam drives the green truck. They go up and down that road. I  
11 mean, I don't know, they must put thousands of miles on it.
- 12 CS: Okay. Is it fair to say that Adam, Marty and Marvin all drive the blazer, the green  
13 truck and the Oldsmobile?
- 14 JG: No. I think Adam drives the green truck. I think that's his. So that's pretty  
15 exclusive there.
- 16 CS: Okay.
- 17 JG: I know that Marty and Dee drive the white blazer. And the gray Oldsmobile, it's  
18 disappeared, I haven't seen that since the wreck.
- 19 CS: But prior to that who was driving that vehicle?
- 20 JG: I think Harvey drove it a little bit; the old man that died. And as far as Marvin  
21 driving it, I couldn't tell.
- 22 CS: Did you ever see Harvey driving it before the incident?
- 23 JG: Yeah. You know, it's hard to...You know, they go up and down pretty quickly. If  
24 I'm looking somewhere else I don't specifically look right in and see who's  
25 driving. I know the vehicles.
- 26 CS: Okay. And prior to this incident have you ever seen Marvin driving that vehicle?
- 27 JG: I could have but there again, it's more the vehicle.
- 28 CS: I'm sorry?
- 29 JG: It's more the vehicle.
- 30 CS: Okay. So it sounds like...and correct me if I'm wrong...It sounds like they're  
31 going...You can't see who's in the driver's seat?
- 32 JG: When they come back I can see who's in the driver's seat.
- 33 CS: Okay.

James Groat Carley Stenbers

1 JG: Well yeah. I'd said that previously. Somebody hit it somewhere in the time  
 2 period of when I moved in her in '91, '92, and didn't do a lot of damage to it but  
 3 it gnarled up the very end of it a little tiny bit.  
 4 CS: Okay. Let's talk about this incident.  
 5 JG: Pardon me?  
 6 CS: Let's talk about this incident.  
 7 JG: Oh, okay.  
 8 CS: This occurred on July 13<sup>th</sup>?  
 9 JG: Correct.  
 10 CS: And what was the lighting like that day?  
 11 JG: The summer. It's light until 9:00. The incident happened around 5:00, I'm not  
 12 sure, you can look at the police records.  
 13 CS: Okay. The time says 20:45.  
 14 JG: What does that mean? I'm not military.  
 15 CS: That would be 8:45.  
 16 JG: It's still light.  
 17 CS: Okay. So talk to me about where your porch is in relation to the fence.  
 18 JG: 70 feet approximately.  
 19 CS: Sorry?  
 20 JG: 70 feet approximately.  
 21 CS: Okay. And which way is it facing?  
 22 JG: My porch is directly on the front of the house which faces south.  
 23 CS: Okay.  
 24 JG: But I have a clear view of up the road and down the road.  
 25 CS: So your porch faces Florence Road?  
 26 JG: Correct.  
 27 CS: Florence Acres Road.  
 28 JG: Correct.  
 29 CS: Okay. And if you're... Just so I get my bearings correct. If you're facing your  
 30 porch the fence would be to your right?  
 31 JG: No, to the left. East.  
 32 CS: To the left. Okay. And you've got a clear view from ...

5:00 PM  
↓

Groat knows  
perfect timing  
of travel  
in previous  
statements  
so 5 pm  
is probably  
correct

Adam Krona

PRIVILEGED AND CONFIDENTIAL MEMO TO ATTORNEY

**INVESTIGATION REPORT**

**CLIENT:** Marvin Krona  
**ATTORNEY:** Linda Coburn  
**INVESTIGATOR:** Carley Stenberg  
**REPORT WRITTEN:** Wednesday, January 15, 2014  
**TIME:** 1:43 p.m.

---

**SUBJECT INTERVIEWED:**

Adam Krona  
26415 Florence Acres Road  
Monroe, WA  
DOB: 2/5/75

**DATE INTERVIEWED:** Tuesday, January 14<sup>th</sup> at 2:00 p.m.  
Began interview approximately: 2:00 p.m.  
Ended Interview: 2:50 p.m.

THIS IS NOT A TRANSCRIPT BUT A REPORT OF MY INTERVIEW WITH ADAM KRONA TYPED ON JANUARY 15, 2014 FROM MY NOTES OF THE SAID INTERVIEW. QUOTATIONS INDICATE WORDS VERBATIM USED BY ADAM KRONA.

This interview was conducted at the residence of Adam Krona. Present for the interview was Investigator, Carley Stenberg and Adam Krona.

I handed Adam my business card and explained that I am an Investigator working for the Snohomish County Public Defender and that our office represents his brother, Marvin, in a criminal matter. I told him I had some questions to ask and he agreed to speak with me. I did not record this conversation.

Adam is Marvin's' brother. Adam explained to me that on the day of the incident he could not recall if he saw Marvin earlier that day. Adam thought that Marvin was gone all day, maybe at a friend's house.

X Adam said that sometime in the afternoon he heard a car pulling in and that he didn't know who it was at the time. He was in house "B" which is located next door to the main house.

X Adam said that he walked over to the Grey Oldsmobile but he could not see who was in the car. He walked closer. As he got closer he could see that it was Marvin sitting in the

Adam Krowa

PRIVILEGED AND CONFIDENTIAL MEMO TO ATTORNEY

driver's seat. Adam said that it looked like Marvin was kind slumped over in the seat. The driver's door was open. Adam said that he was looking at the vehicle straight on; meaning he was looking at the front of the vehicle. Adam said that is was about 50 feet away from the vehicle when he was observed Marvin.

I asked Adam if he heard the radio on and he said that he did not know. I asked him if the car was on for off and he said it was off. I asked him if the door chime was going off and he said that was not sure. I asked him if he touched the vehicle to see if the car was hot or not, and he said he did not. I asked him if he could see any beer cans and he said no. I asked Adam if he said anything to Marvin and Adam said no, he just looked at him. Adam said that Marvin looked like he was alert and awake but kind of slumped over. Adam said that he did not see Marvin driving.

Adam said the next thing that occurred was that Jim, the neighbor drove, up to his residence. I asked Adam what specifically Jim told him. Jim told Adam that somebody hit the fence. Adam went on to say that he didn't think that Jim specifically said Marvin was driving. Adam said Jim could have thought it was Marvin's dad driving. Adam said that his conversation with Jim was brief.

Next, Adam started walking down the road when he encountered Brandon, Rose and Willy. They all walked to the fence. Adam said that while at the fence he mainly talked to Brandon. Adam said he apologized for the damage to the fence. Adam said that he thought Rose said she saw Marvin driving. I asked Adam if he told the neighbors that Marvin was drunk. Adam said that it is possible that he said that but he does not remember.

While at the fence, Adam viewed the damage. Adam saw that the fence post was bent over and the fencing looked like there was a big dent in it. Adam then went back home. I asked Adam if he went back and talked to the Marvin. Adam said no.

A little while later, police officers arrived. Adam said the he never talked to the police or filled out a statement. He thought it was weird that the police never talked to him.

I asked who drove the Grey Oldsmobile. Adam said Marvin and Harvey. I asked why. Adam said they were only ones who had keys. Adam thought that Adam and Harvey had a set of keys or they shared a set of keys between the two of them. I asked who drove the vehicle more. Adam said his Harvey did. Then he went on to say that Harvey had been driving Marvin around because his license was suspended.

I asked Adam if his dad would take the car and drive without anyone knowing. Adam said yes, a couple times before the incident. Adam explained Harvey was not well enough to drive but "when he wanted to get his way, he would take off and get fast food." Adam went on to say that they did not want his dad driving the vehicle. I asked

Different from testimony at trial →

Adam Krona

PRIVILEGED AND CONFIDENTIAL MEMO TO ATTORNEY

if he knew if his dad wanted to go have fast food that day. Adam said he didn't think so. Adam went onto say that if he wanted fast food, they would take him but then  
X sometimes he would take off and nobody would know until he got back. Adam said that his dad had major health issues like conjunctive heart failure and diabetes. Harvey died August 13, 2013.

I asked Adam if he recalled seeing his dad this day or had an independent recollection.  
X Adam said that he did not have an independent recollection and that it would an assumption.

X Adam explained that Harvey hit the fence about year ago, in the same spot. He was driving the black Chevy truck and it was thought that the breaks did not work. I asked what the damage was and he said that the chain-link fence had been bent.

At this point, I had Adam escort me about the property. I took pictures of the driveway where the Oldsmobile was parked, the Krona house, the dirt road, Rose's trees and Jim's fence.

Deena Krona I/V

Pretty sure it was summer

Sitting where Adam lives –

Marvin, Marty, myself, Harvey

Incident w/fence

Incident w/jim

Why son got arrested?

Disturbing the peace?

Went out to water flowers – officer putting handcuffs on him

Remember that day? Most of it

Who sleeping where?

Dad in spare bedroom; Marty own room; Marvin on Couch, own room

Fixed breakfast; they ate; 10-11

Later on in the day – his wallet was missing – thought Marty had taken it

I don't think he was even in the house - MARTY

Went to town – did some shopping - usually leave 9,10 o'clock; drive blazer, went by myself

Adam and I went to town that day. I didn't feel like driving b/c back was hurting

Got back - couple of hours – 11 or 12

Marvin was eating

Got cigs from Adam

Recall Adam and Marty ever talking that day?

Don't' know

Who usually drives grey oldsmobile – Harvey – he loved that car and I hated it

Harvey had keys – extra keys? I don't' know

Gave Harvey a bath – 30 min

Put him in bed . . . in bed all the time

Probably watched tv

Went out to water flowers – seen car and Marvin and officers put handcuffs on him.

Officers asked for Marty – said didn't know where he was at.

Then Marty walked up.

They asked Marty if he was driving the car, he said no. – her presence.

Asked what was going on – they didn't say anything.

Car was off.

Q:husband where? Come in the back door and went to his room. Can't remember.

Talk to Harvey – what did you go to town for ; said none of my business.

See marvin drinking that day? Or see drugs or pills?

When Marvin – wants to get away – goes out in back yard

Marty & Marvin relationship? – not good; argue and scream at each other. When Marty starts screaming, Marvin will walk away. Marty just doesn't want him around.

Harvey – enlarged heart, diabetes, high blood pressure, colesteral, you name it – 20percent of his heart left

Where keys kept? – H kept in his pocket. b/c tried to get from him – fight.

Harvey

Who else drove – Harvey

8/13/13 – Harvey died

He went into town for some reason, I remember getting mad at him for driving. Don't think he was capable of driving.

Scared me bc he was alert but wasn't.

Would take vehicle without you tknwoing/ - mght b/c he knows I didn't like him driving.

Go get deep fried food.

Did it more than once.

Marvin drive? – don't think so. I don't think he did; not to my knowledge

Drove Marvin around.

Marty would sometimes drive; Husband would have

Harvey leave that day? – I think he did, gosh 1. I don't know. I don't remember him being home when I came home. The second time.

What time left the second time- pharmacy called me about 1, 1:30

- Takes 15-20 min to go and come back.

Still light out? Yes – no body was home. Someone said he was with his dad

If Marvin took vehicle – I didn't know about it – not impossible

Eeyrone started coming home 30 min after I did

1<sup>st</sup> - Adam – came to check on me

Do you know if they came home at same time, nope

See vehicle drive up? Nope

Hear it? Nope

Harvey came home 3-4 oclok – have to give a bath b/c had accident – couldn't hold bowls

Marvin home at that time? I think so. I don't know to tell you the truth.

Did you see Harvey driving up? No.

Harvey walked through the door – asked him – Marvin in the back yard

**Marvin Krona****Carley Stenberg****Sent:** Tuesday, January 21, 2014 1:16 PM**To:** Linda Coburn**Categories:** Red Category

Linda,

Here is my summary interview with Brandon Maurer. I had a brief interview with him on 1/14/14, at approximately 4:00pm, at his residence.

Brandon told me that he was in his garage working when he got a call from Judy. Judy told Brandon that Marvin hit the fence and that Jim went to up Marvin's residence. Brandon then walked up to Marvin's residence.

Brandon said that when he walked up to the residence, Marty, Jim and Adam were all talking. I asked what they were talking. Brandon said that Jim was talking to Marty and Adam. Jim was mainly upset and wanted to know what was going on. I asked what Adam and Marty's response was. Brandon said that he did not recall their response. I asked if Adam said anything about Marvin being drunk. Brandon said he did not remember. Brandon said that he was at Marvin's residence for about a minute to a minute and half and then left.

Brandon said later that day he and Willy walked down to the fence to see if they could fix the fence. I asked who else walked with Brandon and he said that he didn't remember. I asked what the damage was to the fence. Brandon stated that fence was pushed in about 20 degrees and the links on the fence are about the way they now. I asked if he tell which direction the car came from and he said he could not. I asked Brandon if he had a conversation at the fence, with others, and he said that he did not recall. I asked Brandon if he recalled being at the fence for about 20-30 minutes and he said that he did not recall. Brandon said a couple weeks later he and Willy fixed the fence.

I asked Brandon if he has talked to Jim about this incident. Brandon said not really and that Jim has not said anything about it nor Judy.

I asked Brandon if had seen anyone drive the Grey Oldsmobile. He stated that had seen Harvey driving it once or twice before this incident.

This concluded my interview with Brandon Maurer.

*Carley Stenberg*

Investigator

Snohomish County Public Defender Association.

1721 Hewitt Ave., Suite 100

Everett, WA 98201

Phone: (425) 339-6357

Fax: (425) 339-6363

Why does this look like trial testimony. It is a statement to the investigator Rose Marquiss ~~James~~ Corley Stenberg ~~investigator~~

- 1 RM: Just as when he's passing the mother-in-law apartment. So probably about right  
2 in here.
- 3 CS: Could you mark that for me? Thanks. Do you happen to know the distance  
4 from...?
- 5 RM: It's probably, I don't know, 25, 30 feet.
- 6 CS: Okay. And what's your understanding of who drives that vehicle?
- 7 RM: The only person I saw drive it was Marvin and Harvey.
- 8 CS: Okay. And how many times did you see Harvey driving it?
- 9 RM: Maybe twice.
- 10 CS: Okay. And would it be going down the driveway?
- 11 RM: Mmm hmm (yes). Down and back.
- 12 CS: Okay. And how many times have you seen Marvin driving it?
- 13 RM: At least twice.
- 14 CS: Before this incident?
- 15 RM: Mmm hmm (yes).
- 16 CS: Okay. And the condition of the vehicle, was it the same or different as what  
17 you've seen the vehicle in before?
- 18 RM: It looked the same.
- 19 CS: It looked the same?
- 20 RM: Yeah.
- 21 CS: Okay. Fair to say that you saw a side profile of the driver?
- 22 RM: Mmm hmm (yes).
- 23 CS: Can you say "yes" for me?
- 24 RM: Yes.
- 25 CS: Okay. And do you happen to know where your fiancé is at this point?
- 26 RM: They were in the garage or down at the fence.
- 27 CS: Okay. Down at the fence?
- 28 RM: Where Marvin hit it, down here.
- 29 CS: Okay, so where would that be?
- 30 RM: That would be... So Jim's house is here, it's just off the street so probably right in  
31 here is where he hit the fence.
- 32 CS: So kind of... So that's where you think your fiancé was at?
- 33 RM: I think so, yeah. He was either in the garage or down there at the fence.

This is not trial  
testimony

Rose Carley Stenberg investigators  
Marquiss

1 CS: Okay. And does this driveway have a name?  
2 RM: No. It's just a private driveway.  
3 CS: Okay. Was your son in the mother-in-law, do you know?  
4 RM: No, he was probably the same place my fiancé was.  
5 CS: Okay. And do you know what they were doing if they were down here? What  
6 they were doing down there?  
7 RM: Probably just looking at the fence, talking to Jim. I don't know.  
8 CS: Okay. And how would your fiancé know about the fence or what had happened  
9 with the fence at this point?  
10 RM: Well either Jim... Well I know Judy, his wife, had called our house and  
11 mentioned to I think my son at the time that Jim was going back to the Krona's  
12 because Marvin had hit the fence. So she wanted somebody back there with him  
13 'cause, you know, he's disabled.  
14 CS: Okay. And Judy called the house when?  
15 RM: Before I looked out the window I believe, I don't know.  
16 CS: Okay.  
17 RM: Probably when he hit the fence.  
18 CS: And did you speak with him or did...?  
19 RM: No.  
20 CS: With Judy? Your fiancé did?  
21 LC: Or your son?  
22 CS: Who spoke with Judy?  
23 RM: Either my son or fiancé, I don't know. They were out in the garage before this  
24 happened, so...  
25 CS: Okay. And then someone told you that he had hit the fence?  
26 RM: Mmm hmm (yes).  
27 CS: And who told you that?  
28 RM: Either my fiancé or my son, I don't remember who. It was pretty chaotic.  
29 CS: Okay. And you found out that information before you saw him driving down  
30 your driveway?  
31 RM: I don't remember.  
32 CS: Okay.  
33 RM: I don't remember.

This is not trial testimony

Rose Marquiss Carter, Stenberg investigator

1 CS: Okay. So after you see him driving in the vehicle you lost sight of him. Do you  
2 hear anything about...can you hear anything that's going on at this point?  
3 RM: Can I hear anything? No, not really.  
4 CS: Okay. How long did you stand at your window for and observe that vehicle?  
5 RM: For as long as it takes to drive by, a couple seconds.  
6 CS: Okay. And what did you do next?  
7 RM: I think I went outside to see what was going on.  
8 CS: Okay. And where did you go?  
9 RM: I went to probably the garage. And then we all walked down to the fence. Adam  
10 was there. I think Adam was coming...walking down as I was walking down.  
11 CS: Okay.  
12 RM: And they were all basically at the fence.  
13 CS: You, your fiancé, your son and Adam?  
14 RM: Mmm hmm (yes). And Jim.  
15 CS: And Jim. And what's going on?  
16 RM: Just talking about it.  
17 CS: Who's saying what? What are they saying?  
18 RM: Just basically "Marvin hit the fence. Drunk again."  
19 CS: Do you recall who said that?  
20 RM: No.  
21 CS: Did someone tell you that?  
22 RM: Probably all of us.  
23 CS: Okay. Did someone say that or is that an interpretation of what occurred?  
24 RM: No, somebody said it. I don't know who said it, but somebody said it.  
25 CS: Was Judy out there at all?  
26 RM: No.  
27 CS: Okay. And how long did you guys stand there and talk for?  
28 RM: I don't know, maybe 20 minutes, half hour, I don't know.  
29 CS: Okay. What did Adam say?  
30 RM: I don't know what he said. I know he was frustrated.  
31 CS: Okay. Did you see any of the other brother...the other...  
32 RM: No.  
33 CS: Okay. What was Adam saying about why he was frustrated?



How did she go immediately  
from seeing the car drive  
by, to looking at the fence.  
Groat hadn't even got his  
shoes on to tell anyone  
yet!

1 **RM:** I think he was just frustrated because his brother was drunk again.

2 **CS:** Okay. In your statement you said that he looked...

3 **RM:** Looked a little drunk?

4 **CS:** Yeah. What do you mean by that?

5 **RM:** Just because the way he was slumped over in the seat when he was driving by.

6 **CS:** Okay. And was he slumped to the window or to the center console?

7 **RM:** To the center.

8 **CS:** To the center.

9 **RM:** Yeah.

10 **CS:** Okay. Anything else about that statement that made you think he was drunk?

11 **RM:** No.

12 **CS:** Okay. So you stay at the fence for about 20 or 30 minutes. What kind of damage  
13 do you see of the fence?

14 **RM:** It's pulled away from the rail part, the top. I don't know what you call it. The top  
15 of the fence. The pole I guess. I don't know what you call it.

16 **CS:** Okay. The pole is pulled away?

17 **RM:** Yeah.

18 **CS:** Okay. Any other damage?

19 **RM:** Just that it's pushed in.

20 **CS:** Okay. And do you know where it's pushed in on the pole? Is it on the pole?

21 **RM:** It's the pole here and then the netting or whatever you want to call it. So it's  
22 pushed kind of from the top, in.

23 **CS:** Okay. Do you recall specifically any statements that James or any conversations  
24 that you had with James at this point, at the fence?

25 **RM:** No.

26 **CS:** Okay. What did you do next after you guys were done looking at the fence?

27 **RM:** I went in the house and fixed dinner.

28 **CS:** Okay. And are you aware of who called 911?

29 **RM:** It was one of the brothers.

30 **CS:** How do you know?

31 **RM:** I think it was Marvin...or not Marvin, Marty that time.

32 **CS:** And why do you think that?

33 **RM:** Just from what I heard.

Harvey Krona was driving

from Dulles and bumped the fence which  
was on my property. I was sitting in  
the back seat. On Saturday the 13th of July

Harvey J Krona

9-18-13

~~Harvey Krona~~  
Witness

Doreen Krona

7-18-13

Harvey Krona's statement to driving the car and hitting  
the fence

**B. DECLARATION**

I am the attorney in the above-entitled cause.

Appeal: The defendant was tried and convicted of the crimes of: felony Driving Under the Influence, felony Harassment, Driving While License Suspended in the First Degree before the Honorable Judge George Bowden. A judgment and sentence was entered on this matter on the 24th day of March, 2014. The defendant wishes to appeal that conviction and the sentence imposed. I believe that the appeal has merit and is not frivolous and make the following assignments of error:

- X
1. Denial of Defense Request to Bifurcate the Proceedings
  2. Sufficiency of the evidence;
  3. Any other issues as deemed appropriate by appellate counsel.

The defendant was determined to be indigent by the Snohomish County Office of Public Defense. Judge Bowden also found the defendant indigent at sentencing. I have every reason to believe that the defendant's financial resources have not improved in any way. The defendant has been sentenced to a prison term.

For the foregoing reasons the defendant requests the court to authorize her to seek review at public expense including, but not limited to all filing fees, attorney's fees and preparation of briefs, and preparation of a verbatim report of the trial and of the sentencing hearing together with necessary clerk's papers.

The defendant further requests that trial counsel be allowed to withdraw as counsel effective upon the appointment of new counsel by the appellate court clerk.

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

SIGNED in Everett, Washington, this 3rd day of April, 2014.



LINDA W.Y. COBURN - WSBA #36902  
Attorney for Defendant

MOTION AND DECLARATION FOR  
ORDER AUTHORIZING THE DEFENDANT  
TO SEEK REVIEW AT PUBLIC EXPENSE  
AND APPOINTING AN ATTORNEY ON APPEAL (425) 339-6300

SNOHOMISH COUNTY PUBLIC DEFENDER  
1721 HEWITT AVENUE, SUITE 200  
EVERETT, WASHINGTON 98201

Exhibit A



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS  
P.O. BOX 41100 • Olympia, Washington 98504-1100

**APPEALS PANEL DECISION**

FROM: DOC Appeals Panel

TO: KRONA, MARVIN

DOC #: 908843

Date: February 13, 2014

On JANUARY 14, 2014, you were either sanctioned to 1-3 days of confinement or a hearing was conducted for violations of your conditions of supervision/custody.

On JANUARY 22, 2014, your appeal was received in which you requested a review of a sanction or decision of the Hearing Officer. You specifically appealed:

- A decision based on a procedural issue
- A decision based on a jurisdictional issue
- A sanction imposed that was not reasonably related to:
  - Your crime of conviction
  - The violation you committed
  - Your risk of reoffending
  - The safety of the community

**AND THEREFORE**

The decision is to:

- Affirm the process and decision.
- Modify the sanction as stated below.
- Remand for a hearing. You will be notified of the hearing date.
- Reverse and vacate the process.

Comments: In your appeal you state that you should not have been violated because you had never been told that you were required to participate in the UGM treatment program while livin there. A review of the chronological record totally contradicts your position. It is clear that you had, in fact, been told emphatically numerous times that you were required to participate in the UGM programming.

• Your contention that DOC is somehow responsible for the costs you incurred by placing a vehicle in a location that cost you money for storage fees is not supported by any information from you whatsoever.



---

DOC Appeals Panel Member Cly F. Evans

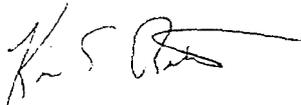
Date 2.14.14



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DOC Appeals Panel Member Joanna Prideaux

Date 2.14.14



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DOC Appeals Panel Member Kevin Rentner

Date 2.14.14

Distribution: **ORIGINAL** - Hearing File **COPY** - Offender, Central or Field File via CCO, Hearing Officer, Hearing Supervisor, Work Release Supervisor, Imaging System