

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

STATE OF WASHINGTON)
)
 Respondent,)
)
 v.)
)
CURTIS RODGERS)
 (your name))
)
 Appellant.)

72712-5
 No. 72715-2-I
 STATEMENT OF ADDITIONAL
 GROUNDS FOR REVIEW

I, CURTIS RODGERS, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Additional Ground 1

EVIDENCE OBTAINED BY POLICE IN VIOLATION OF 4TH AMENDMENT OF THE UNITED STATES CONSTITUTION GUARANTEES THE RIGHT TO BE SECURE IN PERSON, HOME, PAPERS AND EFFECTS AGAINST UNREASONABLE SEARCHES AND SEIZURES, WARRANTLESS SEARCHES AND SEIZURES ARE "PER SE UNREASONABLE UNDER BOTH THE STATE AND FEDERAL CONSTITUTIONS. STATE V. WALKER, 136 WN.2d 578, 682 (1998), STATE V. WILLIAMS, 102 WN.2d 733, 736 (1984). U.S. V. VASEY, 834 F.2d 782, 785 (9TH CIR. 1987).

Additional Ground 2

MIRANDA V. ARIZONA, 384 U.S. 436 (1966). IN MIRANDA THE SUPREME COURT HAS ESTABLISHED A CONCLUSIVE PRESUMPTION THAT ALL CONFESSIONS OR ADMISSIONS MADE DURING A PERIOD OF CUSTODIAL INTERROGATION ARE COMPELLED IN VIOLATION OF THE 5TH AMENDMENT'S PRIVILEGE AGAINST SELF-INCRIMINATION. THIS PRESUMPTION CAN BE OVERCOME ONLY UPON A SHOWING THAT

If there are additional grounds, a brief summary is attached to this statement.

Date: 7/8/15

Signature: [Signature]

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 COURT OF APPEALS
 STATE OF WASHINGTON

1 THE ONLY SIMILARITY BETWEEN MR. RODGERS AND THE SUSPECT
2 IS THAT HE WAS A BLACK MAN IN DARK CLOTHING IN THE GENERAL
3 LOCATION OF THE CRIME. IT IS NOT OBJECTIVELY REASONABLE TO
4 ARREST AND HANDCUFF EVERY BLACK MALE WALKING NEAR A
5 SUSPECTED CRIME SCENE.

6 THE FRUIT OF THIS UNCONSTITUTIONAL SEARCH AND SEIZURE MUST BE
7 SUPPRESSED. WONG SUN V. U.S., 371 U.S. 471 (1963); STATE V. LADSON,
8 138 WN. 2D 343, 359 (1999); STATE V. AVILA-AVINA, 99 WN. APP. 2,
9 13-14 (2000).

10 BECAUSE THE SEIZURE IN THIS CASE WAS UNLAWFUL, THE EVIDENCE
11 GAINED AGAINST MR. RODGERS AFTER HIS DETENTION MUST BE
12 SUPPRESSED, INCLUDING THE SUBSEQUENT IDENTIFICATION BY MR.
13 RICE, AND ANY STATEMENTS MADE BY MR. RODGERS, INCLUDING
14 JAIL CALLS. FN 1

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1 ADDITIONAL GROUNDS #2

2 LAW ENFORCEMENT OFFICIALS GAVE THE SUSPECT CERTAIN
3 WARNINGS OF HIS CONSTITUTIONAL RIGHTS PRIOR TO THE TAKING
4 OF ANY STATEMENTS, AND THAT THE SUSPECT KNOWINGLY AND INTELLIGENTLY
5 WAIVED THOSE RIGHTS. ROYCE FERGUSON, 12 WASH. PRAC., CRIMINAL
6 PRACTICE & PROCEDURE § 3306 (3d ed.)

7 INVOCATION OF THE MIRANDA WARNINGS ARE MANDATED ONLY
8 DURING A PERIOD OF "CUSTODIAL INTERROGATION" BY LAW ENFORCEMENT
9 PERSONNEL BEFORE THE TAKING OF ANY STATEMENT THAT
10 IS NOT VOLUNTEERED. MIRANDA WARNING MUST BE GIVEN WHEN POLICE
11 EXPRESSLY QUESTION OR ATTEMPT TO ELICIT AN INCRIMINATING RESPONSE
12 FROM A SUSPECT WHO IS IN CUSTODY AT THE STATION-HOUSE OR OTHERWISE
13 DEPRIVED OF HIS FREEDOM OF ACTION IN ANY SIGNIFICANT WAY. FN 2

14 THE SUPREME COURT RECENTLY HAS ELUCIDATED THE TEST FOR
15 DETERMINING WHEN MIRANDA SAFEGUARD EXIST. "THE SAFEGUARDS PRESCRIBED
16 BY MIRANDA BECOME APPLICABLE AS SOON AS A SUSPECT'S FREEDOM OF ACTION IS
17 CURTAILED TO A DEGREE ASSOCIATED WITH FORMAL ARREST." BERKEMER V.
18 MCCARTY, 468 U.S. 420, 441 (1984) (QUOTING CALIFORNIA V. BEHELER,
19 463 U.S. 112, 1125 (1983)). THE COURT DESCRIBES THE PROPER
20 INQUIRY AS INVOLVING A TWO-PART TEST: "FIRST, WHAT WERE THE
21 CIRCUMSTANCES SURROUNDING THE INTERROGATION; AND SECOND, GIVEN
22 THOSE CIRCUMSTANCES, WOULD A REASONABLE PERSON HAVE FELT
23 HE WAS NOT AT LIBERTY TO TERMINATE THE INTERROGATION AND
24 LEAVE." ROBERTS V. KEORHNE, 514 U.S. 200, 212 (2005).

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1 WHEN POLICE OFFICERS ASKED MR. RODGERS FOR HIS NAME, THEY HAD
2 ALREADY ORDERED HIM TO THE GROUND, ORDERED HIM TO HIS FEET, PLACED
3 HIM IN HANDCUFFS, AND ORDERED HIM BACK ON THE GROUND. GIVEN THESE
4 CIRCUMSTANCES, AND GIVEN ESPECIALLY THE DISCOMFORTING NATURE OF
5 HANDCUFFS, A REASONABLE PERSON WOULD HAVE "FELT HE OR SHE WAS NOT
6 AT LIBERTY TO TERMINATE THE INTERROGATION AND LEAVE." SEE 516 U.S. AT
7 112. MR. RODGERS WAS THEREFORE IN CUSTODY WHEN OFFICERS ASKED HIM
8 FOR HIS NAME.

9 GIVEN THAT MR. RODGERS WAS IN CUSTODY, OFFICERS HAD A CONSTITUTIONAL
10 DUTY TO ADVISE HIM OF HIS MIRANDA RIGHTS BEFORE SUBJECTING HIM TO ANY
11 INTERROGATION. THEY FAILED TO MEET THAT DUTY. RATHER THAN ADVISE MR.
12 RODGERS OF HIS MIRANDA RIGHTS, OFFICERS ASKED HIM FOR HIS NAME.
13 UNDER THE RULES ARTICULATED IN MIRANDA ITSELF, MR. RODGERS'S
14 ANSWER TO THEIR IMPROPER QUESTION MUST BE SUPPRESSED. FN 3

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EVIDENCE PAGE

FOOTNOTES

FN 1: DEFENSE MOTION PAGE #3, 4, 5

FN 2: TRIAL MEMORANDUM PAGE # 4 (LN# 9-20)

FN 3: " " PAGE # 5 (LN# 9-18)