

No. 47756-4-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

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STATE OF WASHINGTON,

Respondent,

v.

TAMARA CHURCHILL,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF  
THE STATE OF WASHINGTON FOR KITSAP COUNTY

The Honorable Jennifer A. Forbes

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REPLY BRIEF OF APPELLANT

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A. ARGUMENT

**The search of Ms. Churchill's purse was unlawful under the United States and Washington Constitutions.**

The State's entire argument rests on the fact that there were additional purses in the apartment, thus the police could not know the purse on the sofa at Ms. Churchill's feet was hers. Brief of Respondent at 6-13. The State never answers the issue raised by Ms. Churchill that the fact the purse was discovered at Ms, Churchill's feet on the sofa upon which she sat gave the officers sufficient notice that the purse was hers.

Initially, the State faults Ms. Churchill for not challenging the search warrant or designating it. Brief of Respondent at 5. Ms. Churchill has no qualms with the warrant. As the trial court found in Finding of Fact 1, the warrant was targeted at Anthony Anderson and there was no mention in the warrant or supporting affidavit that any women were assisting Mr. Anderson in his drug transactions. CP 102-03. Thus, the warrant did not name Ms. Churchill and there was no need to challenge the warrant since she was not named in the warrant and the police could not use the warrant as a basis to search her purse.

The State also faults Ms. Churchill for not challenging the findings of fact that found that there were other purses and bags found in the apartment. Brief of Respondent at 6-8. This fact is of no moment to Ms. Churchill's argument. Thus there was no need to challenge them.

As noted, the State's entire argument rests on these additional bags and purses that were found in the apartment. But the State ignores the most damaging fact regarding its argument; the purse was found at her feet on the sofa. Ms. Churchill was found lying on a sofa. CP 85; 3/30/2015RP 32. On the sofa was a purse. CP 85; 3/30/2015RP 35. The purse was close to Ms. Churchill's legs and was the only purse on the sofa. 3/30/2015RP 42.

As a consequence, as argued in the Brief of Appellant, Ms. Churchill's case is much more similar to the facts and results stated in *State v. Worth*, 37 Wn.App. 889, 683 P.2d 622 (1984), and *State v. Lohr*, 164 Wn.App. 414, 263 P.3d 1287 (2011). Brief of Appellant at 9-12. Given the proximity of the purse to Ms. Churchill and the fact the purse was the only purse on the sofa, the police had ample facts to conclude the purse was Ms. Churchill's. As such, the search of the

purse was impermissible and the methamphetamine should be suppressed.

Finally, in addition to Ms. Churchill's argument that the trial court erred in failing to conduct a meaningful inquiry into her ability to pay trial legal financial obligations, Ms. Churchill asks this Court to order that no costs be awarded on appeal in light of her continued indigency and probable difficulty in acquiring employment given her felony conviction. *State v. Sinclair*, \_\_\_ Wn.App. \_\_\_, slip op. at 10-12 (72102-0-I, January 27, 2016).

B. CONCLUSION

For the reasons stated in the previously filed Brief of Appellant as well as this reply brief, Ms. Churchill asks this Court to reverse the trial court's order denying her motion to suppress and order the methamphetamine suppressed. Alternatively, Ms. Churchill asks this Court to remand the matter for a new sentencing hearing at which the court would engage in an individualized inquiry into Ms. Churchill's ability to pay the LFOs prior to the imposition of any LFOs. Finally, in the event this Court affirms Ms. Churchill's conviction and sentence, she asks this Court to order that no costs be imposed because she was found indigent at trial and for the purpose of this appeal.

DATED this 2<sup>nd</sup> day of March 2016.

Respectfully submitted,

*s/Thomas M. Kummerow*

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**SIGNED** IN SEATTLE, WASHINGTON THIS 2<sup>ND</sup> DAY OF MARCH, 2016.



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# WASHINGTON APPELLATE PROJECT

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