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SUPREME COURT
STATE OF WASHINGTON
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

vs.

ERIC DANIEL CRUZ,

Respondent.

NO. 93732-0

SECOND
STATEMENT OF
ADDITIONAL
AUTHORITIES

COMES NOW the petitioner, State of Washington, by and through its attorney, Pamela B. Loginsky, Special Deputy Prosecuting Attorney for Okanogan County, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

United States v. Robinson, No. 14-4902, 2017 U.S. App. Lexis 1134 (4th Cir. Jan. 23, 2017) (en banc) available at <http://www.ca4.uscourts.gov/Opinions/Published/144902A.P.pdf> (last visited Jan. 25, 2017):

(1) Validity of *Terry* search does not depend on whether weapon was possessed in accordance with state law:

“It is also inconsequential that the passenger may have had a permit to carry the concealed firearm. The danger justifying a protective frisk arises from the combination of a forced police encounter and

the presence of a weapon, not from any illegality of the weapon's possession.”

Slip op. at 5.

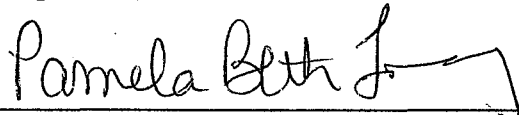
(2) *Terry* frisk is proper when officers have reasonable suspicion to believe the lawfully stopped individual is armed:

Supreme Court law imposes two requirements for conducting a frisk, but no more than two: first, that the officer have conducted a lawful stop, which includes both a traditional *Terry* stop as well as a traffic stop; and second, that during the valid but forced encounter, the officer reasonably suspect that the person is armed and deliberately linked "armed" and "dangerous," recognizing that the frisks in those cases were lawful because the stops were valid and the officer reasonably believed that the person stopped "was armed and thus" dangerous. *Terry*, 392 U.S. at 28 (emphasis added); *Mimms*, 434 U.S. at 112 (emphasis added). The use of "and thus" recognizes that the risk of danger is created simply because the person, who was forcibly stopped, is armed.

Slip op. at 15-16.

DATED January 25, 2017.

Respectfully Submitted,



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PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein.

On the 25th day of January, 2017, I e-mailed a copy of the document to which this proof of service is attached to

Branden Platter at bplatter@co.okanogan.wa.us

Karl Sloan at ksloan@co.okanogan.wa.us

Ronald Hammett at ron@hammettlaw.com

Shelley Williams at ShelleyW1@ATG.WA.GOV

Michael Young at michaely@atg.wa.gov

On the 25th day of January, 2017, I also deposited in the mails of the United States of America, postage prepaid, a copy of the document to which this proof of service is attached in an envelop addressed to:

Ronald Alan Hammett
Law Office of Ronald A. Hammett
PO Box 3940
Omak, WA 98841-3940

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

Signed this 15th day of January, 2017, at Olympia, Washington.



PAMELA B. LOGINSKY
WSBA NO. 18096