SUPREME COURT NO. 99062-0
COURT OF APPEALS NO. 79023-4-I

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Petitioner,

v.

REECE BOWMAN,

Respondent.

PETITION FOR REVIEW

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A. IDENTITY OF PETITIONER

The State of Washington, Petitioner here and Respondent below, respectfully requests that this Court review the published decision of the Court of Appeals in State v. Bowman, No. 79023-4-I (September 8, 2020), a copy of which is attached as Appendix A.

B. ISSUE PRESENTED FOR REVIEW

This case asks the Court to consider the extent to which article I, section 7, of the Washington constitution creates a privacy interest in the intangible nature of another person's identity.

Reece Bowman agreed to sell drugs to a person he thought was a customer named Mike Schabell, even though Schabell was sending text messages from a strange number and declined to have a voice conversation. Unbeknownst to Bowman, he had actually been conversing with DHS Agent Marco Dkane. The real Schabell was a confidential informant who had identified Bowman as his drug supplier and given Agent Dkane permission to search his cell phone, which contained evidence Bowman sold methamphetamine. Agent Dkane then arranged a drug sale using his own police-issued phone but identifying himself as Schabell. Bowman was arrested when he arrived to consummate the transaction. The Court of Appeals held that Agent Dkane's ruse violated article I, section 7 of the Washington constitution.

Did Bowman have a privacy interest in Schabell's identity, and, if so, was that interest defeated by Schabell's voluntary cooperation with law enforcement?

C. STATEMENT OF THE CASE[1]

Agent Dkane arrested Schabell during a previous narcotics operation unrelated to Bowman. RP 30. Schabell agreed to cooperate with investigators and identified Bowman as one of his drug suppliers. RP 30-31. Schabell later gave Agent Dkane permission to examine his cellular phone. RP 31. Schabell unlocked his phone for Agent Dkane, and they went through its contents together. RP 31. Agent Dkane found a series of text messages showing that Bowman had sold Schabell methamphetamine. RP 32, 51.

Agent Dkane later sent Bowman a series of text messages in which he posed as Schabell. RP 32; CP 94. Agent Dkane used a separate phone maintained by police specifically for undercover operations. RP 32. "Schabell" explained the strange number by claiming he had recently gotten a new phone. RP 33-34. When Bowman asked "Schabell" to call him, Agent Dkane declined, saying he was "with my old lady." CP 4, 100. Bowman nevertheless continued the text conversation, and Agent Dkane

[1] The following facts are taken from the pre-trial suppression hearing.

arranged to purchase $500 worth of methamphetamine at a nearby convenience store. RP 34-35. This location was chosen because the real Schabell had purchased drugs from Bowman there earlier. RP 35. The police arrested Bowman when he arrived with approximately 50 grams of methamphetamine. RP 37, 40.

Relying on State v. Hinton, 179 Wn.2d 862, 319 P.3d 9 (2014), and State v. Roden, 179 Wn.2d 893, 321 P.3d 1183 (2014), Bowman argued that Agent Dkane's text conversation and its fruits should be excluded.[2] RP 89. The trial court denied Bowman's motion to suppress, finding that Agent Dkane's ruse was constitutionally permissible:

> ...this Court finds that Hinton is distinguishable based on the facts. As the State points out, the differences here, the police [officer] used his own phone and his own phone number to contact Mr. Bowman who actually questioned the caller, "Yeah, what Mike is this? Mike, come on then. Didn't realize who this was." Because it was a new telephone number. Under the facts of this case, the Court does not find that Mr. Bowman's expectation of privacy rights were violated.

RP 98-99.

On appeal, Division One of the Court of Appeals considered whether Agent Dkane had violated Bowman's right to privacy. Bowman,

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[2] Roden was a companion case to Hinton arising out of the same underlying facts. Roden, 179 Wn.2d at 899, n.2. Roden dealt solely with Washington's Privacy Act, while Hinton discussed article I, section 7. Id. Because Bowman did not make any Privacy Act arguments on appeal, it is unnecessary to discuss Roden further.

No. 79023-4 at 1. The court held that Bowman had a cognizable privacy interest in the conversation with Agent Dkane based on his reasonable belief that he was speaking to the real Schabell. The court also found this interest was not defeated by Schabell having allowed Agent Dkane to search the contents of his phone.

The Court of Appeals relied primarily on State v. Hinton, *supra*. The detective in Hinton arrested a man named Lee and seized his cell phone. Hinton, 179 Wn.2d at 865-66. The detective then searched the phone without a warrant or consent and read text messages Lee had received from Hinton. Id. The detective, posing as Lee, responded to the texts and arranged a drug sale with Hinton. Id. This Court ultimately reversed Hinton's conviction for attempted heroin possession, finding that his "private affairs were disturbed by the warrantless search of Lee's cell phone." Id. at 877-78.

D. REASONS REVIEW SHOULD BE ACCEPTED

RAP 13.4(b) permits review by this Court if, *inter alia*, an issue raises a significant question of law under the Washington State constitution or deals with an issue of substantial public interest. Both these criteria are met here.

The extent to which article I, section 7, of the Washington constitution protects a privacy interest in the intangible nature of a

relationship is an issue of great constitutional significance. Older opinions have become difficult to apply in a society dominated by digital communication, and the more recent case of State v. Hinton, *supra*, does not provide guidance in this situation because its reasoning was based on an unlawful seizure. Whether the constitution protects a relationship even when one party is cooperating with law enforcement is an issue with broad implications for the future of policing that should be decided by this Court.

This case also presents a question of significant public interest because it impacts law enforcement's ability to detect criminal activity. Undercover operations are often necessary to expose crimes such as drug trafficking and child sexual abuse. However, the Court of Appeals essentially disallowed any ruse that implicates the identity of someone known to the suspect. This Court should review any rule of law that significantly restricts law enforcement's investigatory capability, and thus potentially compromises public safety.

1. THE DECISION BELOW RAISES A SIGNIFICANT QUESTION OF STATE CONSTITUTIONAL LAW.

Article I, section 7, of the Washington constitution provides that "[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law." An alleged violation of article I, section 7,

triggers a two-part analysis. State v. Miles, 160 Wn.2d 236, 243, 156 P.3d 864 (2007). The reviewing court must first determine whether government action intruded upon a "private affair." Id. at 243-44. If the court determines that a protected privacy interest was disturbed, it then asks whether the conduct was justified by the "authority of law." Id. "Private affairs" are defined as "those privacy interests which citizens of this state have held, and should be entitled to hold, safe from governmental trespass absent a warrant." State v. Myrick, 102 Wn.2d 506, 511, 688 P.2d 151 (1984). "A privacy interest must be reasonable to warrant protection...under article 1, section 7." State v. Goucher, 124 Wn.2d 778, 784, 881 P.2d 210 (1994); State v. Cheatam, 112 Wn. App. 778, 787, 51 P.3d 138 (2002).

The defendant bears the burden of showing that the State intruded upon his private affairs. Service Employees Int'l Union Local 925 v. Freedom Foundation, 197 Wn. App. 203, 223, 389 P.3d 641 (2016). The trial court's conclusions of law are reviewed *de novo*. State v. Rankin, 151 Wn.2d 689, 694, 92 P.3d 202 (2004).

Any unchallenged factual findings from a suppression hearing are considered verities on appeal. Cheatam, 112 Wn. App. at 782. There were no disputed facts at the CrR 3.6 suppression hearing in this case, and

Bowman did not assign error to any of the trial court's factual findings on appeal. CP 96; Bowman, No. 79023-4 at 5.

This case asks the court to determine under what circumstances a person's name can be used by law enforcement. It is undisputed that Agent Dkane's conversation would have been admissible had he assumed an identity previously unknown to Bowman. State v. Goucher, 124 Wn.2d 778, 783, 881 P.2d 210 (1994). Thus, the issue becomes whether Bowman had a constitutional right to be conversing only with the real Mike Schabell given their acquaintanceship.

State v. Hinton answered this question where the conversation flowed from the unlawful search, seizure, and use of the impersonated individual's phone, which was the fact pattern in that case. 179 Wn.2d at 873 ("Hinton retained a privacy interest in the text messages he sent, which were delivered to Lee's phone but never received by Lee."). But no Washington opinion has considered whether a privacy interest exists in another's identity when: (1) a person voluntarily provided their device to law enforcement knowing it would be used for a criminal investigation; and (2) a detective then used their *own* phone to contact the defendant.

Hinton had a relatively narrow inquiry: "whether an individual has a privacy interest in the actual text messages received by and stored on another individual's phone." Id. at 878 (Johnson, J., concurring). The

Court of Appeals greatly expanded Hinton by creating a privacy interest in Bowman's relationship with Schabell that was inviolable even if Schabell consented to his name being used to contact Bowman.[3] Bowman, No. 79023-4 at 8. This rule is contrary to Hinton, which suggested the outcome of that case might have been different had the phone's owner consented to the detective's conduct. See Hinton 179 Wn.2d at 874 ("Hinton certainly assumed the risk that Lee would betray him to the police, but Lee did not consent to the officer's conduct."); see id. at 879 ("...while there may be a risk that the person to whom we impart private information could disclose it, we do not assume the risk that the government will conduct a warrantless intrusion into a person's private affairs.") (Johnson, J., concurring).

Cell phones are susceptible to warrant requirement exceptions like any other type of evidence. See State v. Samalia, 186 Wn. App. 224, 230, 344 P.3d 722 (2015) (cell phones subject to abandonment doctrine). If Schabell could terminate Bowman's constitutionally protected privacy interest in their relationship by consenting to a recording, see State v. Salinas, 119 Wn.2d 192, 197, 829 P.2d 1068 (1992) (no constitutionally

[3] The Court of Appeals also stated that even if Schabell could consent to being impersonated, he had not sufficiently done so in this case. Bowman, No. 79023-4 at 9. Whatever the merits of this conclusion, the court's primary holding that Schabell was unable to give consent was error that will bind future trial courts, and thus warrants review.

protected privacy interest in a conversation where one party consents to it being recorded), it logically follows that he could end that same privacy interest by allowing Agent Dkane to use information on his phone.

Hinton forbade Agent Dkane from seizing Schabell's phone without a warrant or consent and then using Bowman's text messages on it to further his investigation, as doing so would "tip[] the balance too far in favor of law enforcement at the expense of the right to privacy." Id. at 877. But Hinton did not grant Bowman an interest in Schabell's phone or identity exceeding that of Schabell himself. While the State is not asking this Court to overrule Hinton, it's scope and application to these facts should be assessed in light of Schabell's cooperation and Agent Dkane's use of a different phone.

2. THE COURT OF APPEALS' DECISION IMPLICATES AN ISSUE OF SUBSTANTIAL PUBLIC INTEREST.

Creating a protected privacy interest in the identity of cooperating third parties impacts the ability of law enforcement to detect and investigate criminal activity, which is a matter of great public interest. See State v. Thetford, 109 Wn.2d 392, 396, 745 P.2d 496 (1987) (noting the "public interest in the free flow of information for law enforcement"). While this case occurred in the context of the sale of drugs, its holding has much broader implications.

Suppose, for example, that an adult formed a relationship with a 12-year-old girl in an Internet chat room and eventually asked to meet her for sex. Suppose also that the child then contacted police, and a detective obtained consent to use her digital identity to investigate the defendant's behavior. According to Bowman, this would constitute a violation of article I, section 7, as our hypothetical offender believed he was having a private conversation with an actual person.[4] To give another example, a person who has been offered money to commit murder, a would-be hitman, could not consent to his identity being used to investigate a murder-for-hire plot. Such restrictions are contrary to public policy. See RCW 4.24.790(4)(d) (statute creating civil liability for electronic impersonation does not apply to police officers performing criminal investigations).

[4] These are not unrealistic scenarios; fact patterns implicating the Bowman rule have occurred frequently in courts nationwide. See State v. Smith, 300 Or. App. 101, 102, 452 P.3d 492 (2019) (offender who offered to "hook up" with young girl contacted police; police then impersonated the girl over text message); Commonwealth v. Cruttenden, 619 Pa. 123, 126, 58 A.3d 95 (Penn. Supreme Court 2012) (drug trafficker allowed police to text accomplice using his cell phone); Johnson v. State, 390 P.3d 1212, 1215 (Court of App. of Alaska 2017) (police officer pretended to be juvenile victim while texting with would-be molester); Brown v. State, 2012 WL 335851 (2012 Texas Court of App. Unpublished Decision) (detective and victim's father impersonated victim in text messages to child molester); State v. Abdulle, 193 Wn. App. 1033, 2016 WL 1627660 at *2 (2016 Unpublished Opinion) (detective posed as juvenile sex trafficking victim in text messages); Boyd v. State, 175 So.3d 1, 3 (Miss. Supreme Court 2015) (detective posed as young girl via text after the girl was targeted by sexual predator).

Courts have long recognized that effective law enforcement sometimes requires police officers to conceal their true identity. State v. Hashman, 46 Wn. App. 211, 215-16, 729 P.2d 651 (1986); see also United States v. Marcello, 731 F.2d 1354, 1357 (9th Cir. 1984) ("The informant and the undercover agent must be permitted, within reason, to assume identities that will be convincing to the criminal elements they have to deal with."). It is not plausible that the drafters of the constitution intended to prohibit a victim or informant from voluntarily permitting the police to use their private information to expose criminal activity.

E. CONCLUSION

For the reasons set forth above, the State respectfully requests this Court grant review of the Court of Appeals' decision in this case.

DATED this 25 day of September, 2020.

Respectfully submitted,

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APPENDIX A

FILED
9/8/2020
Court of Appeals
Division I
State of Washington

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

THE STATE OF WASHINGTON, Respondent, v. REECE WILLIAM BOWMAN, Appellant.	No. 79023-4-I DIVISION ONE PUBLISHED OPINION

APPELWICK, J. — A Department of Homeland Security agent sent a series of text messages from a department phone to Bowman. He claimed to be a person to whom Bowman had sold methamphetamine earlier that day, and indicated he wanted to buy more drugs. The ruse led to charges of possession of methamphetamine with intent to deliver. Bowman claims that the ruse violated his right to privacy. He claims the trial court erred in denying his motion to suppress the drugs and drug paraphernalia on his person and in his vehicle. We agree. We reverse and remand for a new trial consistent with this opinion.

FACTS

On February 21, 2017, Reece Bowman received text messages from an unfamiliar number claiming to be an associate of his named Mike Schabell and asking to buy drugs. Unbeknownst to Bowman, the individual sending the text messages was Department of Homeland Security Supervisory Agent Marco Dkane.

A month earlier, Schabell had been arrested and offered an opportunity to cooperate with law enforcement. Law enforcement wanted to know who his drug suppliers were. Schabell identified Bowman as one of his suppliers. When he was arrested again on February 21, he gave law enforcement permission to search his cell phone. Law enforcement looked through his text messages and discovered a conversation with Bowman, from which they learned Bowman's cell phone number and that Bowman had sold Schabell methamphetamine earlier that day.

Dkane texted Bowman from his undercover phone. They had the following exchange:

> [Dkane:] Hey Reese, it's [M]ike. I got a burner [phone] [be]cause my old school phone went to shit.
>
> [Dkane:] You avail[able]?
>
> [Dkane:] ?
>
> [Bowman:] Yes.
>
> [Dkane:] Got cash [redacted]
>
> [Dkane:] I could meet you in Ballard?
>
> [Dkane:] ? Lemme know please[.]
>
> [Bowman:] Yeah what Mike is this[?]
>
> [Dkane:] Schabell. Dude from today.
>
> [Dkane:] Serious?
>
> [Dkane:] I just wanna know if I can get some. Lemme know please.
>
> [Dkane:] Bro, I need 300 more at least.
>
> [Dkane:] Can I meet you back at the 7-11? [redacted] I finally have a good buyer and I need help[. P]lease let me know where to meet you and I'll come wh[e]rever. How much do I have to buy [t]o get [you] to come? I have cash.

[Bowman:] Mike come on then. Didn[']t realize who this was.

[Bowman:] ["thumbs up" emoji]

[Bowman:] Call me.

[Dkane:] I'm with my old lady. Can you come meet or no?

[Dkane:] I just need to know if I should drop her off and come meet you or no.

[Bowman:] Yes[.]

[Dkane:] Where at? Ballard?

[Bowman:] I[']m up on Queen Ann[]e

. . . .

[Dkane:] K. I can head over there. Where [do] you want to meet?

[Bowman:] Where [a]r[e] [yo]u at

[Dkane:] You have clear?[1]

[Dkane:] Coming from [S]nohomish

[Dkane:] I can drop her off to meet her girlfriend around [G]reen [L]ake so.

[Bowman:] Bring her too.

[Dkane:] Where do you want me to come to?

[Dkane:] And haha btw [(by the way)].

[Bowman:] 7-11 same one[.]

[Dkane:] Ok I can be there by 10.

[Dkane:] Can I get [$]500 of clear?

[Bowman:] Sure.

[Dkane:] Thanks.

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[1] "Clear" is a common street slang term for methamphetamine.

[Dkane:] See you at 7-11.

[Dkane:] On my way.

Bowman arrived at the 7-11 in Queen Anne with his girlfriend and two year old daughter. Dkane was waiting there with an arrest team. Dkane confirmed Bowman's identity and the team arrested him.

Officers read Bowman his Miranda[2] rights. Bowman indicated he understood his rights. He did not ask for a lawyer or indicate that he wished to remain silent. During the search incident to arrest, officers found 3.5 grams of methamphetamine on his person.

Officers then asked Bowman for consent to search his vehicle, indicating that if he refused the vehicle would be impounded and his girlfriend and daughter would be removed and without transportation. Bowman agreed and signed a consent to search form. During the search, police recovered 55.2 grams of methamphetamine, digital scales, and $610 in cash from the vehicle.

Police then transported Bowman to the Seattle Police Department West Precinct. At the precinct, Dkane and Seattle Police Detective Amy Branham interviewed Bowman. Bowman admitted during the interview that he had six to seven drug customers, there were two ounces of methamphetamine in his car that belonged to him, and his girlfriend was not involved.

The State charged Bowman with violation of the Uniform Controlled Substances Act, RCW 69.50.401(1), (2)(c). Bowman moved to suppress all evidence against him. He argued that Dkane's text message conversation with

[2] Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

him violated his privacy rights. The trial court denied that motion, finding that his privacy rights had not been violated.

A jury found Bowman guilty as charged. Bowman appeals.

DISCUSSION

Bowman argues the trial court erred in denying his motion to suppress evidence that flowed from his text message conversation with Agent Dkane. Specifically, he argues that Dkane impersonating a known contact of his through text messages violated his right to privacy under the Washington Constitution, article I, section 7.

Under article I, section 7 of the Washington Constitution, "No person shall be disturbed in his private affairs, or his home invaded, without authority of law." Interpretation of this article requires a two part analysis. State v. Miles, 160 Wn.2d 236, 243, 156 P.3d 864 (2007). First, we must determine whether the action complained of constitutes a disturbance of "private affairs." Id. at 243-44. If we determine that a valid private affair has been disturbed, we then must determine whether the intrusion is justified by "authority of law." Id. at 244. Where, as here, the trial court's findings of fact are unchallenged, they are verities on appeal. State v. Cheatam, 112 Wn. App. 778, 782, 51 P.3d 138 (2002), aff'd, 150 Wn.2d 626, 81 P.3d 830 (2003). We review whether uncontested facts constitute a violation of article I, section 7 de novo. State v. Rankin, 151 Wn.2d 689, 694, 92 P.3d 202 (2004).

Our first inquiry is whether the text message conversation constituted a private affair. "Private affairs" are those privacy interests which citizens of this

state have held, and should be entitled to hold, safe from government trespass without a warrant. State v. Myrick, 102 Wn.2d 506, 511, 688 P.2d 151 (1984). In State v. Hinton, 179 Wn.2d 862, 876-77, 319 P.3d 9 (2014), the principal case upon which Bowman relies, our Supreme Court found that individuals have a privacy interest in text message conversations with known contacts. There, police arrested Daniel Lee and seized his phone. Id. at 865. While the phone was in their possession, it received a text message from a contact named "Z-Shawn Hinton." Id. at 866. The text message contained drug terminology. Id. A police detective responded to the text message on Lee's phone, posing as Lee, and set up a meeting with the sender to buy drugs. Id. When the sender, Hinton, arrived, police arrested him. Id.

Our Supreme Court held that Hinton's right to privacy had been violated. Id. at 877. It held that Hinton retained a privacy interest in the conversation because he "reasonably believed" he was texting with a "known contact." Id. at 876. It differentiated text message communication from a phone call because "unlike a phone call, where a caller hears the recipient's voice and has an opportunity to detect deception, there was no indication that anyone other than Lee possessed the phone." Id.

The State argues that because Bowman responded to messages from an unfamiliar number, he "knowingly converse[d] with a stranger," and therefore had no privacy interest. It relies on State v. Goucher, 124 Wn.2d 778, 881 P.2d 210 (1994). There, police executed a search warrant on the home of Garcia-Lopez, a drug dealer known to sell drugs out of his house. 124 Wn.2d at 780. While at the

residence, the phone rang. Id. at 780-81. An officer answered the phone and the caller requested to speak to "Luis." Id. at 781. The officer responded that Luis had "gone on a run," but that the officer was "handling business" until he returned. Id. The caller and officer proceeded to arrange a deal to buy drugs at the home. Id. When the caller arrived, officers arrested him. Id. Our Supreme Court held that the caller's privacy rights had not been violated because he had voluntarily conversed with someone he did not know. Id. at 784, 789.

Here, Bowman did not converse with someone he knew to be a stranger. Rather, he conversed with a person who represented himself as someone that Bowman knew. This case differs from Hinton in that the unfamiliar phone number gave some indication that the other party to the conversation might be someone other than Schabell. But, Dkane affirmatively identified himself as Schabell. His explanation for the changed number was reasonable: that his previous phone had broken. He provided details that Schabell would have known. For example, posing as Schabell, Dkane sent a text message to Bowman stating that he had met him earlier in the day and that they had done business in the past. Based on these facts, Bowman reasonably believed he was texting with a known contact. Therefore, as in Hinton, Bowman had a reasonable expectation of privacy for that conversation. Dkane invaded that right of privacy.

Our next inquiry is whether Dkane operated with "'authority of law.'" Miles, 160 Wn.2d at 243 (quoting WASH. CONST., art. I, § 7). The State does not claim that Dkane had a warrant. Rather, it claims that authority came from Schabell's consent to the search of his cell phone. The State points out that this case differs

from Hinton, because Schabell gave police permission to "use his phone for investigatory purposes." Consent can provide authority of law required by article I, section 7 if the State can show (1) that the consent was voluntary, (2) that the person giving consent had authority to do so, and (3) that any search did not exceed the scope of the grantor's consent. State v. Monaghan, 165 Wn. App. 782, 788-89, 266 P.3d 222 (2012). Here, the State is unable to show that either elements (2) or (3) are satisfied.

First, the State has not explained why Schabell, who was not a party to the conversation between Bowman and Dkane, would have any authority to consent to the State's invasion of Bowman's privacy interest in the conversation. Hinton recognized that one in Bowman's situation risked that a contact like Schabell would betray him to police. 179 Wn.2d at 874. For example, he could do so verbally. He could do so by surrendering his phone or computer. He could do so by sharing text messages or e-mails with law enforcement. He could consent to the State listening in on or recording his phone conversation. See State v. Corliss, 67 Wn. App. 708, 713, 838 P.2d 1149 (1992) (expectation of privacy is destroyed when one party consents to the recording), aff'd, 123 Wn. 2d 656 870 P.2d 317 (1994). Schabell betrayed Bowman verbally and by surrendering the phone and text messages. But, unlike in Corliss, Schabell was not a party to the subsequent text conversation between the police and Bowman. Schabell had no privacy interest in that conversation, and had no authority to consent to invasion of the privacy interest that under Hinton was held by Bowman.

Second, the search exceeded the scope of the consent that was given. The State points out that "a private relationship loses its constitutional significance if the other person involved chooses to cooperate with police and share their secrets." It points to the following language from Hinton: "Hinton certainly assumed the risk that Lee would betray him to the police, but Lee did not consent to the officer's conduct." 179 Wn.2d at 874 (emphasis added). Schabell consented to the search of his phone. However, even if Schabell had authority to consent to Dkane impersonating him, the record does not indicate that Schabell consented to being impersonated.

Therefore, Dkane was not acting under authority of law, and violated Bowman's right of privacy. The trial court erred by failing to suppress the evidence obtained by that violation of privacy.

We reverse and remand for a new trial, with instructions to suppress evidence obtained in violation of Bowman's right to privacy.[3]

Appelwick, J.

WE CONCUR:

[3] Bowman challenges two aspects of the LFOs imposed in his judgment and sentence. Should those issues arise on remand, we note that RCW 10.82.090 provides, "As of June 7, 2018, no interest shall accrue on nonrestitution legal financial obligations." And in State v. Dillon, we held that the supervision fees associated with his community custody are discretionary LFOs. 12 Wn. App. 2d 133, 152, 456 P.3d 1199, review denied, 195 Wn.2d 1022, 464 P.3d 198 (2020).

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