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IN THE COURT OF APPEALS OF THE STATE  
OF WASHINGTON, DIVISION I

STATE OF WASHINGTON  
Respondent

Court of Appeals  
Case No. 64927-2-1

v.

Addendum to  
Statement of Additional  
Grounds for Review

TRACY FLOREN  
Appellant

I Tracy Floren do hereby submit the following addendum to my previously submitted Statement of Additional Grounds for Review.

3. It was error for the court to allow the state to admit confidential alcohol treatment records as evidence during my trial.

A. As an argument to support the above position I present the following 'motion to suppress' submitted by my council during pretrial proceedings.

B. During pre trial (subjects xx 84+85)  
The court denied this motion to  
surpress. It is acknowledged that  
the court then ordered the records  
sealed but then after reading the  
records himself, he unsealed what  
portions of these records he thought  
related to motive. In so doing  
the court denied my constitutional  
right to a fair trial.

This addendum completes my statement  
of Additional Grounds for Review.

Date: April 13, 2011

Signature: Tracy Horn

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THE HONORABLE HARRY J. MCCARTHY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,  
  
Plaintiff,  
  
v.  
  
JOHN DOE,  
  
Defendant.

No. 08-1-03027-6 SEA

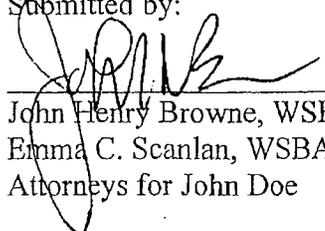
ORDER GRANTING MOTION TO  
SUPPRESS

THIS MATTER having come before the Court upon motion of the defendant, John Doe, for an Order Granting Mr. Doe's Motion to Suppress, and the Court having considered said motion, and being otherwise fully appraised, now, therefore, it is hereby

ORDERED that, in the interests of justice and in compliance with both federal and state statutes and regulations, Mr. Doe's Motion to Suppress is granted.

DATED this \_\_\_\_ day of June, 2009.

\_\_\_\_\_  
The Honorable Harry J. McCarthy

Submitted by:  
  
\_\_\_\_\_  
John Henry Browne, WSBA #4677  
Emma C. Scanlan, WSBA #37835  
Attorneys for John Doe

ORDER GRANTING MOTION TO  
SUPPRESS- 1

ORIGINAL

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**II. MEMORANDUM OF LAW**

**A. STATEMENT OF FACTS**

The defendant, Mr. Doe, is charged with one count of first degree murder-domestic violence- alleged to occur on or about September 2, 2007.

**1. Western Washington Alcohol and Drug Treatment Center Records**

On October 8, 2007, Detective J.K. Pavlovich of the King County Sheriff's Office ("KCSO") submitted the seventh addendum to the original search warrant in the above-captioned cause, which is attached hereto as Exhibit A and incorporated by this reference. The relevant portion of this warrant addendum requested "any and all alcohol and drug treatment records [for the defendant] while in attendance at the Western Washington Alcohol and Drug Treatment Center during the 2007 calendar year."

As the basis for its request, the state asserted that the victim's sister, Marcia Ashley, informed detectives that Mr. Doe suffered an alcohol relapse and enrolled in an inpatient rehabilitation program in the spring of 2007. According to Ms. Ashley, the victim was concerned about this relapse and told her that this chance at treatment was the "last chance" for Mr. Doe.

In addition, the victim allegedly told Denise Warner, one of Mr. Doe's co-workers, that Mr. Doe was "ruining our future" by continuing to drink alcohol and that she had found alcohol that he had hidden.

Affiant Pavlovich contends that during an interview on September 2, 2007, Mr. Doe stated that he was sober since January of 2007, omitting that he had relapsed in the spring of 2007. Mr. Doe did admit that that he was drinking again in the latter part of August, when he and the victim were vacationing in Sequim, Washington. He said he

1 drank when his wife was not around in order to relax and unwind while on vacation.  
2 John Doe also allegedly admitted that he was an alcoholic and that he had participated in  
3 inpatient treatment roughly nine years ago. John Doe also allegedly related to Affiant  
4 Pavlovich that he had relapsed at least twice in the past three to four years, and that his  
5 wife discovered the drinking and made him return to treatment. John Doe finally stated  
6 that these relapses "disappointed" his wife.

7 Affiant Pavlovich then makes the bold assertion that "it seems very likely that  
8 [John Doe's] relapses relate directly to his motive for killing his wife."

9 Affiant Pavlovich also learned that John Doe had attended an alcohol treatment  
10 program at the Western Washington Alcohol and Drug Treatment Center between March  
11 and May of 2007. On September 8, 2007, he contacted Annette McInturf, an  
12 administrative assistant with the Treatment Center, who verified that all treatment records  
13 were stored at the Center's offices located at 140 Rainier Avenue South, Renton,  
14 Washington 98055.

15 Based on the above, Pavlovich requested "any and all alcohol and drug treatment  
16 records of [John Doe], regardless of the storage medium, while in attendance at the  
17 Western Washington Alcohol and Drug Treatment Center during the 2007 calendar year.

18 A warrant authorizing the seizure of Mr. Doe's treatment records at the Western  
19 Washington Alcohol and Drug Treatment Center, which is attached hereto as Exhibit B  
20 and incorporated by this reference, was granted on October 8, 2007, but execution proved  
21 fruitless. On October 16, 2007, therefore, Pavlovich applied for the eighth addendum to  
22 the original search warrant in this cause, which is attached hereto as Exhibit C and  
23 incorporated by this reference.  
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1 In the eighth addendum, Pavlovich explained that during execution of the warrant  
2 on October 9, 2007, he discovered that the records sought had been taken home by the  
3 treatment director, Janiel Thomas, who was out of the area on vacation and not reachable  
4 by phone. On October 16, 2007, Pavlovich learned that Thomas had returned and that the  
5 files were available. He then repeated the same allegations from the seventh addendum  
6 as the basis for his request for the confidential treatment records relating to Mr. Doe from  
7 the 2007 calendar year.

8 On October 16, 2007, a warrant authorizing seizure of Mr. Doe's treatment  
9 records from the Western Washington Alcohol and Drug Treatment Center during the  
10 2007 calendar year, which is attached hereto as Exhibit D and incorporated by this  
11 reference, was granted.

## 12 **2. Boeing Company Employment Records**

13 Also in the seventh addendum, Affiant Pavlovich states that during the  
14 investigation, detectives learned that John Doe was employed by the Boeing Company at  
15 7733 E. Marginal Way, building 101, in Seattle, Washington. Mr. Doe related that he  
16 was in good stead with the company, had never experienced problems there, and that he  
17 had received permission to work in a part-time "virtual" mode from his retirement in  
18 Sequim. During interviews with co-workers, John Doe was allegedly described as  
19 "volatile," "having a short fuse," and "anal retentive." One of Mr. Doe's female  
20 colleagues allegedly asked to be transferred away from Mr. Doe due to these traits.  
21 Affiant Pavlovich somehow categorizes this as a contradiction in Mr. Doe's statement.

22 Ex. A.  
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1 Pavlovich then states his belief that information in Mr. Doe's Boeing personnel  
2 file "may establish that his supervisors were aware of his battle with alcoholism and his  
3 continuing efforts at treatment" and "whether [he] had any problems at work related to  
4 his alcoholism." Pavlovich closes with the conclusory allegation: "Detectives believe  
5 that this evidence relates to [Mr. Doe's] motive for murdering his wife, as any issues at  
6 work, particularly if they affected his ability to continue to work part time, would be  
7 particularly stressful for the [] couple as they prepared for retirement." Ex. A.

8 On October 8, 2007, Pavlovich spoke with Kathie Powell, a representative with  
9 the Boeing Company legal department, who related that all personnel files of Seattle-  
10 based Boeing employees are kept in a computer system accessed in their Seattle offices.

11 Based on the above, Pavlovich requested "the personnel employment file for  
12 [John Doe] as kept by the Boeing Company during the course of his entire employment  
13 there, including all complaints, disciplinary actions, investigations, and attendance logs."

14 A warrant authorizing the seizure of Mr. Doe's Boeing Company personnel file  
15 for the entire course of his tenure there, which is attached hereto as Exhibit E and  
16 incorporated by this reference, was granted on October 8, 2007, but given the problems  
17 with execution of the warrant, on October 16, 2007, Pavlovich submitted the eighth  
18 addendum to the original search warrant in this cause.

19 Pavlovich repeated that on October 8, 2007, he spoke with Kathie Powell. She  
20 stated that Boeing maintains personnel files, which contain information about attendance,  
21 disciplinary actions, complaints, and investigations into employee conduct. Powell also  
22 explained that records documenting an employee's treatment for alcoholism, substance  
23 abuse, or other health issues are maintained through the company's Employee Assistance  
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1 Program ("EAP"). Since approximately 2003, Boeing has outsourced the EAP to  
2 "Valueoptions," a company based in California. ValueOptions contracts with Boeing and  
3 its employees to assist with requests for counseling or treatment of these types of issues  
4 and maintains the records and files of all Boeing employees who received treatment for  
5 alcoholism, substance abuse, or mental health issues. Ex. C.

6 On October 8, 2007, Pavlovich contacted ValueOptions to inquire about Mr.  
7 Doe's records. On October 9, 2007, Pavlovich received a call from Seattle lawyer Russ  
8 Aoki, who represents ValueOptions and is their contact for any legal requests. Mr. Aoki  
9 stated that ValueOptions did have records for Mr. Doe documenting treatment he  
10 received via the Boeing Company EAP. Ex. C.

11 On October 10, 2007, Pavlovich again spoke with Mr. Aoki, who related that  
12 ValueOptions was making a hard copy of Mr. Doe's mental health treatment records and  
13 that they would be forwarding a copy to him. Mr. Aoki also confirmed that he was  
14 representing ValueOptions and that he would be willing to accept service of any search  
15 warrants or subpoenas on behalf of ValueOptions at his Seattle offices, where Mr. Doe's  
16 records would be stored. Ex. C.

17 Pavlovich then repeats the allegations from the seventh addendum as the basis for  
18 requesting "any and all files relating to [Mr. Doe] and mental health treatment he  
19 received or applied for thru the 'Valueoptions' Company." Ex. C

20 On October 16, 2007, a warrant authorizing seizure of "any and all files relating  
21 to [John Doe] and mental health treatment he received or applied for thru the  
22 'Valueoptions' Company," which is attached hereto as Exhibit F, was granted.  
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1           **B.    ARGUMENT: BECAUSE THE STATE FAILED TO COMPLY WITH**  
2           **THE MANDATORY PROCEDURES FOR ACCESSING**  
3           **CONFIDENTIAL TREATMENT RECORDS, SUCH RECORDS**  
4           **SHOULD BE SUPPRESSED.**

5           Given that the State applied for and received warrants authorizing the seizure of  
6           Mr. Doe’s confidential treatment records, but failed to comply with the host of statutory  
7           and regulatory provisions protecting such records from disclosure, the Court should  
8           suppress Mr. Doe’s confidential treatment records.

9           1.       State Law

10           Both state and federal laws require that drug and alcohol treatment records must  
11           remain confidential, with limited enumerated exceptions.

12           Under RCW 70.96A.150, Records of Alcoholics and Intoxicated Persons, “the  
13           registration and other records of treatment programs *shall* remain confidential.”  
14           (emphasis added). Records are subject to disclosure solely when a relevant enumerated  
15           exception applies. The exception ostensibly applicable here is when a court of competent  
16           jurisdiction orders disclosure in response to an application “showing good cause.” RCW  
17           70.96A.150(1)(b)(2)(C).

18           In addition to the state requirements, the statute further invokes federal law:

19           Nothing contained in this chapter relieves a person or firm from the  
20           requirements under federal regulations for the confidentiality of alcohol  
21           and drug abuse records. Obligations imposed on drug and alcohol  
22           treatment programs and protections afforded alcohol and drug abuse  
23           patients under federal regulations apply to all programs approved by the  
24           department under RCW 70.96A.090.

          RCW 70.96A.150(3); see State v. Wheat, 118 Wn.App. 435, 438, 76 P.3d 280 (2003).

          As a result, 42 U.S.C. § 290dd and the regulations under Title 42 C.F.R.,  
          particularly 42 C.F.R. § 2.65, therefore apply. Wheat, 118 Wn.App. at 438.

1 As a threshold matter, the records from the Western Washington Alcohol and  
2 Drug Treatment Center are clearly records from a treatment program and are therefore  
3 covered by this statute.

4 In addition, Mr. Doe's Boeing file contains a report from 1998 regarding Mr.  
5 Doe's self-referral for alcoholism treatment. While the nature of the referral is unclear,  
6 the summary seems to constitute a record from a treatment program and is thus also  
7 covered by the confidentiality statute.

8 Finally, the materials requested and received from ValueOptions are specifically  
9 in reference to Mr. Doe's participation in the Western Washington Alcohol and Drug  
10 Treatment Center, including records of registration and authorizations and are therefore  
11 covered by the confidentiality statute as well.

## 12 2. Federal Law

### 13 a. The State committed multiple violations of the applicable 14 confidentiality statutes and regulations.

15 Federal law protects the identity and confidentiality of treatment records of any  
16 individual in a treatment program, with limited exceptions for disclosure. See 42 U.S.C.  
17 290dd; 42 C.F.R. § 2.1 *et. seq.*; Wheat, 118 Wn.App. at 438. The express purpose of  
18 these confidentiality provisions "is to encourage patients to seek treatment for substance  
19 abuse without fear that by so doing, their privacy will be compromised." Mosier v.  
20 American Home Patient, Inc., 170 F.Supp.2d 1211, 1213 (N.D.Fla. 2001) (citing 42  
21 C.F.R. § 2.64(f); United States v. Cresta, 825 F.2d 538, 551-52 (1st Cir. 1987); United  
22 States v. Graham, 548 F.2d 1302, 1314 (8th Cir. 1977)).

23 In enacting these confidentiality provisions, Congress issued a Report containing  
24 a separate and specific provision, "Confidentiality of Patient Records," that memorialized

1 its finding of the requirement for the confidentiality of patient records in the successful  
2 treatment of drug abuse:

3 The conferees wish to stress their conviction that the strictest adherence to  
4 the provision of this section is absolutely essential to the success of all  
5 drug abuse prevention programs. Every patient and former patient must be  
6 assured that his right to privacy will be protected. Without that assurance,  
7 fear of public disclosure of drug abuse or of records that will attach for life  
8 will discourage thousands from seeking the treatment they must have if  
9 this tragic national problem is to be overcome.

7 United States v. Hughes, 95 F.Supp.2d 49, 57 (D.Mass. 2000) (quoting H.Conf.Rep. No.  
8 92-920, 92nd Cong., 2d Sess., reprinted in 1972 U.S.Code Cong. & Admin.News, 2072;  
9 see also Testimony of Legal Action Center before the Subcommittee of the Committee on  
10 Government Operations on the H.R.4077, The Fair Health Information Practices Act of  
11 1994 (May 5, 1994), 1994 WL 232739 (F.D.C.H.) (discussing the continued viability of  
12 42 C.F.R. § 2.65 and its presumption against disclosure even in the wake of newly  
13 proposed legislation- which was never passed- that might weaken the federal protection  
14 currently afforded substance abuse patients).

15 The legislative history thus reveals that "Congress intended to deal with the  
16 nation's drug problems 'in facilitating the work of drug and alcohol treatment centers by  
17 assuring the confidentiality of its patients.'" Hughes, 95 F.Supp.2d at 57 (quoting United  
18 States v. Eide, 875 F.2d 1429, 1436 (9th Cir. 1989)). Id. Congress, therefore, "felt 'the  
19 strictest adherence' to the confidentiality provision was needed, lest individuals in need  
20 of drug abuse treatment be dissuaded from seeking help." Mosier, 170 F.Supp.2d at 1213  
21 (quoting Fannon v. Johnston, 88 F.Supp.2d 753, 757 (E.D.Mich.2000) (quoting Ellison v.  
22 Cocke County, Tennessee, 63 F.3d 467, 470 (6th Cir.1995)).

1 This privilege and presumption of confidentiality “should not be ‘lightly  
2 abrogated.’” Id. (quoting Fannon, 99 F.Supp.2d at 758). The relevant case law, in fact,  
3 “describes the statute at issue and the governing regulations as ‘carry[ing] a strong  
4 presumption against disclosing records of this kind.’” Hughes, 95 F.Supp.2d at 56  
5 (quoting Cresta, 825 F.2d at 551-52).

6 “The heavy burden the government must carry in a case like this serves the  
7 laudatory, and what Congress deems to be the necessary, purpose of facilitating the work  
8 of the drug treatment centers that service the defendant, and others like him.” Id. at 57.

9 Under 42 U.S.C. § 290dd-2(c), the use of alcohol or substance abuse treatment  
10 records in criminal proceedings is flatly prohibited and may not be used “to initiate or  
11 substantiate any criminal charges against a patient or to conduct any investigation of a  
12 patient” except as authorized by court order. An appropriate order of a court of  
13 competent jurisdiction, in turn, is authorized solely “after application showing good cause  
14 therefore, including the need to avert a substantial risk of death or serious bodily harm.”  
15 42 U.S.C. § 290dd-2(b)(2)(C).

16 In assessing good cause, the court must “weigh the public interest and the need for  
17 disclosure against the injury to the patient, to the physician-patient relationship, and to the  
18 treatment services.” Id. Finally, if a court grants such an order, “the court, in  
19 determining the extent to which any disclosure of all or any part of any record is  
20 necessary, shall impose appropriate safeguards against unauthorized disclosure.” Id.

21 Pursuant to 42 C.F.R § 2.65(a), an application by law enforcement for confidential  
22 treatment records “must use a fictitious name such as John Doe, to refer to any patient  
23 and may not contain or otherwise disclose patient identifying information unless the court  
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1 has ordered the record of the proceeding sealed from public scrutiny.” Here, none of the  
2 pleadings have been sealed and Mr. Doe has been explicitly identified by his given name  
3 so that the State failed to comply with this statutory dictate.

4 42 C.F.R. § 2.65(b) describes the requisite notice that must be provided to the  
5 holder of the requested records. First, the notice must be adequate and not disclose  
6 patient identifying information to third parties; the person holding the records must be  
7 given “[a]n opportunity to appear and be heard for the limited purpose of providing  
8 evidence on the statutory and regulatory criteria for the issuance of the court order”; and  
9 an opportunity to be represented by independent counsel.

10 Here, Detective Pavlovich did contact Russ Aoki, representative for  
11 ValueOptions, and Kathie Powell, legal representative for Boeing, respectively, yet there  
12 was neither notice of an application for disclosure nor an “opportunity to appear and be  
13 heard” in regards to the statutory and regulatory criteria. Moreover, while Pavlovich  
14 contacted Annette McInturf and Janiel Thomas of the Western Washington Alcohol and  
15 Drug Treatment Center, they simply confirmed where the records were located. They  
16 were not provided with adequate notice of any pending or forthcoming application. Both  
17 the State and the Court thus erred in failing to provide this fundamental due process  
18 notice and opportunity to be heard.

19 Next, and most importantly, “a court may authorize the disclosure of drug  
20 treatment records for the purpose of conducting a criminal investigation or prosecution of  
21 a patient, such as those being requested in this case, “only if the court finds that *all* of the  
22 following criteria are met.” Hughes, 95 F.Supp.2d at 56 (adding emphasis) (citing 42  
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1 C.F.R. § 2.65(d)). If, therefore, the government fails to meet any single one of the  
2 criteria, “a court must not authorize the disclosure of the drug treatment records.” Id.

3 The criteria enumerated in 42 C.F.R. § 2.65(d) are: (1) the crime involved is  
4 “extremely serious,” including, as here, homicide; (2) there is “a reasonable likelihood  
5 that that the records will disclose information of *substantial value* in the investigation or  
6 prosecution” (emphasis added); (3) other means of obtaining the information are  
7 unavailable or would be ineffective; (4) the potential injury to the patient, to the  
8 physician-patient relationship and to the ability of the program to provide services to  
9 other patients is outweighed by the public interest and the need for the disclosure; and (5)  
10 if the person is performing a law enforcement function, (i) the person holding the records  
11 has been afforded the opportunity to be represented by independent counsel.

12 Here, while the alleged crime is extremely serious, the court failed to make any  
13 findings in relation to the additional, mandatory criteria the state must fulfill before a  
14 court can authorize disclosure of the confidential treatment records. The authorization  
15 was therefore deficient and, as a result, the court should suppress the improperly obtained  
16 confidential treatment records.

17 First, there is not a “reasonable likelihood” that Mr. Doe’s confidential treatment  
18 records are “of substantial value in the investigation or prosecution.” The records did not  
19 lead to additional discovery or furnish the State with evidence of “substantial value.”  
20 Rather, the medical records simply serve to prejudice the jury and provide the State with  
21 some sort of motive to ascribe to Mr. Doe, when in fact there is none.

22 Next, other ways of obtaining the same information are available. In United  
23 States v. Oberle, 136 F.3d 1414, 1420 (10th Cir. 1998), for example, the court held that  
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1 because the jury heard testimony about the subject's treatment and addiction, the  
2 subpoenaed treatment clinic was not the sole source of the requested information. As the  
3 court pronounced: "Given that the basic information was available, even if not in [the]  
4 most preferred form, [the moving party's] need for the information did not outweigh  
5 section 290dd-2's emphasis on keeping treatment records confidential." Id. Here, the  
6 information about Mr. Doe's past issues with alcoholism and his participation in  
7 treatment is readily available from numerous sources so that the State failed to meet this  
8 criterion. Disclosure was thus unwarranted.

9 In addition, both the State and the court erred in failing to demonstrate that the  
10 deleterious effects of disclosure to Mr. Doe, to the physician-patient relationship in  
11 general, and to the overall ability of the program to provide services to other patients is  
12 outweighed by the public interest and the need for disclosure. Under this "public policy  
13 prong," there is a "strong presumption against disclosure" of this type of confidential  
14 treatment record. Hughes, 95 F.Supp.2d at 59.

15 In Hughes, representatives of the treatment providers from whom records were  
16 requested testified, during the hearing on the government's application for disclosure of  
17 the records, about the dramatic and chilling effect this type of disclosure poses to both the  
18 business of such programs and the ability of those who need help to seek private and  
19 protected treatment. Id. These arguments mirror case law precedent. Id.; see also Cresta,  
20 825 F.2d at 551-52; Whyte v. Connecticut Mut. Life Ins. Co., 818 F.2d 1005, 1009-10  
21 (1st Cir. 1987) (holding that the confidentiality statutes concerning alcoholism and  
22 substance abuse treatment are "an indispensable prerequisite to successful alcoholism  
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1 research ... [and] ... treatment” and that “[w]ithout guarantees of confidentiality, many  
2 individuals ... would be reluctant to participate fully in alcoholism programs”).

3 The Hughes Court further expounded that “it is the very nature of the treatment  
4 centers’ staunch and protective stand with regard to their patients’ privacy that  
5 encourages some in more troubled populations- ‘populations who have been traditionally  
6 suspicious of government programs, medical services and other institutions’- to seek the  
7 help they need.” Id. (citing Testimony of the Legal Action Center before the  
8 Subcommittee of the Committee on Government Operations on the H.R.4077, The Fair  
9 Health Information Practices Act of 1994 (May 5, 1994), 1994 WL 232739 (F.D.C.H.)  
10 (testifying about the reasons for- and the effectiveness thereof- of the confidentiality  
11 provisions in 42 C.F.R).

12 For all of these reasons- which are the same in Mr. Doe’s case- the Hughes Court  
13 could not find that the Government fulfilled its burden of establishing how the  
14 confidential records and the attendant damages to the patient, the relationship between the  
15 physician and the patient, and the ability of the program to provide services to others  
16 were outweighed by the public interest and the need for disclosure.

17 Here, given that the State did not provide the court with any argument about this  
18 issue- and the court thus could not possibly make any such finding- the State failed to  
19 satisfy this criterion. Disclosure was therefore unwarranted.

20 As discussed above, while Pavlovich *contacted* Kathie Powell and Russ Aoki  
21 about Mr. Doe’s personnel file, he did not provide notice of the application for the  
22 records. In like manner, although Pavlovich *spoke with* Annette McInturf and Janiel  
23 Thomas of the Western Washington Alcohol and Drug Treatment Center, they were not  
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1 afforded the opportunity to be represented by independent counsel, thus violating 42  
2 C.F.R. § 2.65(b) and (d)(5)(ii).

3 Finally, any order issued pursuant to 42 C.F.R. § 2.65 must: (1) limit disclosure  
4 and use to only those parts of the record essential to fulfill the objective of the order; (2)  
5 limit disclosure only to those law enforcement and prosecutorial personnel responsible for  
6 or conducting the investigation; and (3) include other such measures as are necessary to  
7 limit disclosure and use to the “to the fulfillment of only that public interest and need  
8 found by the court,”

9 Here, given that the warrants issued contained no limitations and simply repeated  
10 the requests in the search warrant applications, it is impossible to determine how  
11 extensive the dissemination of Mr. Doe’s confidential treatment records has been.

12 Given the numerous statutory and regulatory violations, suppression is the  
13 remedy. First, the records from the Western Washington Alcohol and Drug Treatment  
14 Center and ValueOptions- as well as that portion of the Boeing personnel file pertaining  
15 to Mr. Doe’s consultation for alcoholism- are clearly covered by the confidentiality  
16 statutes and regulations. Next, the State did not even contemplate- or make any attempt  
17 to comply with- the federal guarantees of confidentiality and the regulations which ensure  
18 the privacy of treatment records. As mentioned above, failure to meet even one of the  
19 regulatory criteria is fatal to an application by law enforcement for disclosure of  
20 confidential treatment records. Finally, as the State committed numerous violations of  
21 the governing statutes and regulations, disclosure is unwarranted and suppression is  
22 necessary to effectuate and perpetuate the Congressional intent underlying the  
23 promulgation and implementation of the federal statutory scheme.  
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b. Suppression is the remedy.

As discussed above, the legislative history of the statutory scheme at issue reveals that Congress intended to deal with “this tragic national problem” of alcohol and drug abuse by ensuring the confidentiality of the identities and records of those seeking treatment. Eide, 875 F.2d at 1436 (citing 1972 U.S.Code & Admin.News 2045, 2072). The rationale underlying the confidentiality statutes and regulations is “to encourage people with drug or alcohol problems to seek treatment.” Id.

Here, Mr. Doe enrolled in a treatment program because of his alcoholism and he received medical care for this problem. As the Eide Court summarized:

Allowing [Mr. Doe's] admissions and medical records to be admitted in a criminal prosecution contradicts the literal meaning of [42 U.S.C. § 290dd-2] as well as the Congressional intent underlying the statute. A contrary ruling would discourage people from seeking professional help for their alcohol and drug problems and would frustrate the work of alcohol and drug treatment facilities. The district court erred in refusing to suppress this evidence.

Id. at 1437.

The analysis here is the same. The State failed in many respects to comply with the relevant statutes and regulations. To nevertheless permit the State to admit Mr. Doe's medical and treatment records would not only contravene the explicit Congressional intent, but also irreparably damage both the ability of programs to provide treatment services without regards for collateral consequences and the nature of treatment programs in general. If there is no assurance of confidentiality, there will be less interest in participation so that those with addictions would not seek assistance. This is simply not the slippery slope that we should even remotely contemplate.

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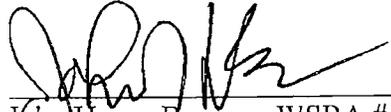
**C. CONCLUSION**

For the reasons stated above, Mr. Doe respectfully requests that the Court find that the State did not fulfill its "heavy burden" in satisfying all of the statutory and regulatory criteria requisite for the disclosure of confidential treatment records and thus suppress such records.

DATED this 26th day of June, 2009.

Respectfully Submitted,

THE LAW OFFICES OF JOHN HENRY BROWNE, P.S.



John Henry Browne, WSBA #4677  
Attorney for John Doe



Emma C. Scanlan, WSBA #37835  
Attorney for Mr. Doe

# Exhibit A

DISTRICT COURT FOR KING COUNTY, BURIEN DIVISION

STATE OF WASHINGTON ) NO. KEN 010757  
 )  
COUNTY OF KING ) AFFIDAVIT FOR SEARCH WARRANT

The undersigned by oath states that:

- (X) Evidence of the crime of MURDER
- () Contraband, the fruits of a crime, or things otherwise criminally possessed, and
- () Weapons,ammunition or other things by means of which a crime has been committed or reasonably appears to be committed, and
- () A person for whose detention there is probable cause, or who is unlawfully restrained

is/are located in, on, or about the following described residence, premises(s) and vehicle(s):

PLACE: Western Washington Alcohol and Drug Treatment center,  
140 Rainer Avenue #5, Renton WA. 98055  
20303 102<sup>nd</sup> Avenue SE, in the Unincorporated area of  
Kent, King County Washington. Specifically the front and  
back yards, to include all surrounding areas.

The Boeing Company Legal Office. Fax#206/662-9001.

My belief is based upon the following facts and circumstances:

THIS WILL BE THE SEVENTH (7<sup>TH</sup>) ADDENDUM TO THE ORIGINAL SEARCH WARRANT AUTORIZED BY KING COUNTY DISTRICT COURT JUDGE CHARLES DELAURENTI ON 09-02-07. THE 1<sup>ST</sup> ADDENDUM WAS AUTOHRIZED BY JUDGE DELAURENTI ON 09-02-07, THE 2<sup>ND</sup> ADDENDUM BY JUDGE DELAURENTI ON 09-04-07, THE 3<sup>RD</sup> ADDENDUM BY JUDGE DELAURENTI ON 09-06-07, THE 4<sup>TH</sup> ADDENDUM BY KING COUNTY SUPERIOR COURT JUDGE BRAIN GAIN ON 09-12-07, THE 5<sup>TH</sup> ADDENDUM BY JUDGE GAIN ON 09-13-07 AND THE 6<sup>TH</sup> ADDENDUM BY JUDGE DELAURENTI ON 09-26-07. THE ORIGINAL AFFIDAVIT AND ALL SUBSEQUENT ADDENDUMS ARE ATTACHED FOR REVIEW AND HEREBY INCORPORATED BY REFERENCE.

During the course of the investigation, Detectives have interviewed several friends, co-workers and family members of victim Nancy Floren. During these interviews, Detectives learned that Tracy and Nancy were preparing to retire to the Sequim WA. area, and had recently started construction of a retirement home worth approx. \$600,000. Detectives learned that Tracy and Nancy were both planning on working part-time after retiring to Sequim in order to supplement the income.

Detectives learned from an interview with Nancy's sister Marcia Ashley that Tracy suffered an alcohol relapse and underwent subsequent structured rehabilitation treatment in the Spring of 2007. Per Marcia, this relapse by Tracy was very concerning to Nancy, given the fact they were preparing to take the substantial step of retiring and investing a large portion of their savings and income into their retirement home. Marcia stated that Nancy told her that this chance at treatment was Tracy's "last chance" and that "this was it for him".

Detective also interviewed Denise Warner, a co-worker of Nancy's. Per Warner, Nancy told her about Tracy's recent relapse, stating that she told Tracy he was "ruining our future" by continuing to drink alcohol, and that she had found alcohol hidden by Tracy.

During his interview with Detectives on 09-02-07, Tracy omitted the fact that he had relapsed in the Spring of 2007, instead stating initially that he had been sober since January of 2007 and then later admitting that he had in fact begun drinking again only during the latter part of August when he and Nancy were vacationing in Sequim WA. He described hiding mini-bottles of Smirnoff Vodka in his belongings and drinking from the bottles when Nancy was not around, stating that his reason for drinking was to be able to unwind and relax while on vacation. He also admitted that he was an alcoholic, and that he had begun attending alcoholism treatment approx. 9 years earlier as the result of receiving a DUI. Tracy also admitted that he had relapsed at least two times in the past 3-4 years, and that each time his drinking had been detected by Nancy, who made him return to treatment. Tracy admitted that these relapses made Nancy "disappointed" and caused tension between them.

At this time in the investigation, as previously established, there is probable cause to believe that Tracy murdered his wife Nancy Floren. Investigators believe that Tracy's alcoholism and his recent relapses created a stress on the relationship. In light of Nancy's recent comments about ending their relationship if Tracy continued to drink, it seems very likely that Tracy's relapses relate directly to his motive for killing his wife.

During the investigation it was discovered that Tracy Floren had attended an alcohol treatment program at the "Western Washington Alcohol and Drug Treatment" center between March and May of 2007. On September 8<sup>th</sup>, 2007 your affiant contacted Annette McInturf, who is an administrative assistant with the Western Washington Alcohol and Drug Treatment Center. Mrs. McInturf verified that all treatment records for a specific individual will be kept at the center offices located at 140 Rainer Avenue South, Renton WA. 98055.

During the search and examination of the Floren residence on September 2<sup>nd</sup>, Detective Kathleen Decker identified a human track leading from the backyard of the Floren residence into and through a water retention field that borders the West side of the Floren property (documented in previous addendums). Grass samples were collected from this field. On September 3<sup>rd</sup> Detectives searched the vehicle Tracy Floren was driving on the morning Nancy was murdered, a black Nissan Altima WA. 218SVM, and collected a floor mat from the backseat. Adhered to this mat were several pieces of grass that appeared to be similar to the grass found in the retention field. Detectives were particularly interested in this grass as it appeared fresh, and during his interview with the police Tracy told Detectives that he and his wife had been out of town for two weeks, returning the day before the murder. During this trip Tracy told Detectives that he and Nancy had been driving their SUV, not the Altima, which he said had remained parked in their garage during those two weeks.

On October 1<sup>st</sup> 2007 the grass samples collected from the water retention field and the grass adhered to the floor mat were examined by Peter Zika, a botanist associated with the University of Washington Herbarium. During his examination he tentatively identified one species of grass, *Holcus Lanatus*, that was present in BOTH the control samples collected from the retention field and in the grass blades adhered to the floor mat. Mr. Zika stated that this type of grass is NOT normally found in residential lawns, and given the length of the sample found on the floor mat (measured at 3 7/8") he DID NOT believe it was consistent that this grass would have come from a well maintained lawn, such as the lawn found in the backyard of the Floren residence.

In order to complete his examination and render the most thorough conclusion possible, Mr. Zika stated that an examination of the Floren lawn would need to be conducted during dry weather in daylight hours. This will establish whether or not there is any grass of the species *Holcus Lanatus* present in the lawn, and thus assist Detectives in further clarifying the source of the grass found in the backseat of Tracy Floren's vehicle. In turn, this information will assist Detectives in establishing the sequence of events and the movements of Tracy Floren both before and after the murder of Nancy Floren.

During the investigation of this case Detectives learned that Tracy is employed by the Boeing Company at 7755 E. Marginal Way, building 101, in Seattle WA. Tracy claimed that he was in good stead with his employer, the Boeing Company, and that they had indicated he would be able to work in a "virtual" mode from his retirement in Sequim on a part time basis. Tracy denied that his chronic alcoholism had ever been a factor for him while working for Boeing and stated that he had never experienced any problems while working there. However, during interviews with his co-workers Floren was described as being "volatile", having a "short fuse" and being "anal retentive." It was also learned that one of his female co-workers had asked to be transferred away from Floren because of these traits, in contradiction to Tracy's earlier statements to Detectives.

Detectives believe that information contained in Tracy's Boeing personnel file may establish that his supervisors were aware of his battle with alcoholism and his continuing efforts at treatment. This file would also establish whether Tracy had any problems at work related to his alcoholism. Detectives believe that this evidence relates to Tracy's motive for murdering his wife, as any issues at work, particularly if they affected his ability to continue to work part time, would be particularly stressful for the Floren couple as they prepared for retirement.

On October 8<sup>th</sup> 2007 I spoke with Kathie Powell, who is a representative with the legal department of the Boeing Company. Powell explained that Boeing maintains all personnel files of their Seattle based employees in a computer system accessed in their Seattle offices.

I would therefore request that an additional search warrant be issued, authorizing a search of the following locations: the offices of the "Western Washington Alcohol and Drug Treatment" center located at 140 Rainer Avenue #5 in Renton WA 98055; 20303 102<sup>nd</sup> Avenue SE Unincorporated King County, specifically the front and back yards, to include all surrounding areas; and the Boeing Company, employee records section, personnel files, Seattle WA. Furthermore, that any and all evidence related to the murder of Nancy Floren be seized, specifically any and all alcohol and drug treatment records of Tracy Floren, regardless of the storage medium, while in attendance at the Western Washington Alcohol and Drug Treatment Center during the 2007 calendar year; a complete examination of the lawn (front, back and surrounding areas) of the Floren residence, including collection of any samples as deemed necessary by Botanist Peter Zika to complete his examination; and the personnel employment file for Tracy Floren as kept by the Boeing Company during the course of his entire employment there, including all complaints, disciplinary actions, investigations and attendance logs.

Senior DPA Cheryl Snow of the King County Prosecutors Office has reviewed this affidavit,

Affiant

J. K. PANLOVICH DET. K.C.S.O. #01352

Agency, Title and Personnel Number

Subscribed and sworn to before me this 14<sup>th</sup> day of NOV 2007

[Signature]  
14<sup>th</sup> NOV

Judge

[Signature]

Issuance of Warrant Approved:  
DAN SATTERBURG

ORIGINAL

## Exhibit B

DISTRICT COURT FOR KING COUNTY, BELLEVUE DIVISION

STATE OF WASHINGTON) NO. KEN 010757.  
 ) SS.  
COUNTY OF KING ) SEARCH WARRANT

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:  
Upon the sworn complaint made before me there is probable cause to believe that the crime of MURDER occurred on or about September 2nd 2007, and that evidence of that crime may be present in the locations described below.

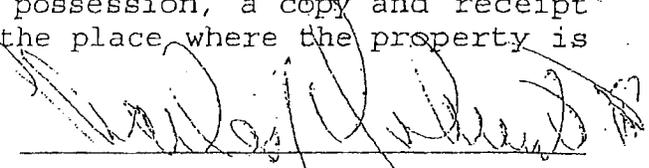
YOU ARE COMMANDED TO: Search within five (5) days of this date, the premises, vehicle, person or item(s) described as follows:

PLACE: Western Washington Alcohol and Drug Treatment center, 140 Rainer Avenue #5, Renton WA. 98055

2. Seize, if located, the following items: specifically any and all alcohol and drug treatment records of Tracy Floren, regardless of the storage medium, while in attendance at the Western Washington Alcohol and Drug Treatment Center during the 2007 calendar year.

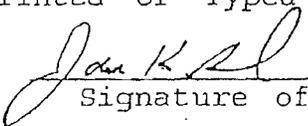
3. Promptly return this warrant to me or the clerk of this court; the return must include an inventory of all property seized. A copy of the warrant and a receipt for the property taken shall be given to the person from whom or from whose premises property is taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found.

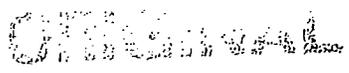
Date/Time: 10/10/07

JUDGE 

CHARLES J. DELAURENTI, II  
Printed or Typed Name of Judge

JOHN K. PAVLOVICH K.C.S.O. #01352  
Printed or Typed Name of Peace Officer, Agency and Personnel #

 #01352  
Signature of Peace Officer



## Exhibit C



On October 8<sup>th</sup>, 2007 Judge DeLaurenti reviewed and authorized search warrant addendum #7 in this investigation. That addendum authorized a search and seizure of treatment files related to Tracy Floren at the Western Washington Alcohol and Drug Treatment Center located at 140 Rainer Avenue #5 in Renton WA. On October 9<sup>th</sup>, 2007 I served that warrant and learned that the files were not on the premises, but had been taken home, along with other files, by the treatment director Janiel Thomas. I also learned that Thomas was out of the area on vacation and was not reachable by phone. I attempted to contact Thomas several times during the time period that the warrant was in effect, but was not able to reach her and therefore was not able to seize the files related to Tracy Floren. On October 16<sup>th</sup> I learned that Thomas is now back in the area and the files are available. These files are still relevant to the investigation for the reasons mentioned in addendum #7.

During the course of this investigation, Detectives have interviewed several friends, co-workers and family members of victim Nancy Floren. During these interviews, Detectives learned that Tracy and Nancy were preparing to retire to the Sequim WA. area, and had recently started construction of a retirement home worth approx. \$600,000. Detectives learned that Tracy and Nancy were both planning on working part-time after retiring to Sequim in order to supplement the income.

Detectives interviewed Denise Warner, a co-worker of Nancy's at Husky International. Per Warner, Nancy told her about Tracy's recent relapse, telling Warner that she told Tracy he was "ruining our future" by continuing to drink alcohol, and that she recently had found alcohol hidden by Tracy.

Detectives learned from an interview with Nancy's sister Marcia Ashley that Tracy suffered an alcohol relapse and underwent subsequent structured rehabilitation treatment in the Spring of 2007. Per Marcia, this relapse by Tracy was very concerning to Nancy, given the fact they were preparing to take the substantial step of retiring and investing a large portion of their savings and income into their retirement home, plus the fact Nancy was quitting her lucrative job at the "Husky International" Corporation, where she made in excess of \$150,000 per year in salary and bonuses. Marcia stated that Nancy told her that this chance at treatment was Tracy's "last chance" and that "this was it for him".

During his interview with Detectives on 09-02-07, Tracy omitted the fact that he had relapsed in the Spring of 2007, instead stating initially that he had been sober since January of 2007 and then later admitting that he had in fact begun drinking again only during the latter part of August when he and Nancy were vacationing in Sequim WA. He described hiding mini-bottles of Smirnoff Vodka in his belongings and drinking from the bottles when Nancy was not around, stating that his reason for drinking was to be able to unwind and relax while on vacation. He also admitted that he was an alcoholic, and that he had begun attending alcoholism treatment approx. 9 years earlier as the result of receiving a DUI. Tracy also admitted that he had relapsed at least two times in the past 3-4 years, and that each time his drinking had been detected by Nancy, who made him return to treatment. Tracy admitted that these relapses made Nancy "disappointed" and caused tension between them.

During the investigation of this case Detectives learned that Tracy is employed by the Boeing Company at 7755 E. Marginal Way, building 101, in Seattle WA. Tracy claimed that he was in good stead with his employer, and that they had indicated he would be able to work in a "virtual" mode from his retirement in Sequim on a part time basis. Tracy denied that his chronic alcoholism had ever been a factor for him while working for Boeing and stated that he had never experienced any problems while working there. However, during interviews with his co-workers Floren was described as being "volatile", having a "short fuse" and being "anal retentive." It was also learned that one of his female co-workers had asked to be transferred away from Floren because of these traits, in contradiction to his earlier statements to Detectives.

On October 8<sup>th</sup> 2007 I spoke with Kathie Powell, who is a representative with the legal department of the Boeing Company. Powell explained that Boeing maintains all personnel files of their Seattle based employees. These records include information about an employee's attendance, including attendance, disciplinary actions, complaints and any investigations into an employees conduct. Powell also explained that any records documenting an employee's treatment for alcoholism, substance abuse or other health issues are maintained through the company's Employee Assistance Program. Since approx. 2003 the E.A.P. program was "outsourced" by Boeing to the "Valueoptions" company, based in California. "Valueoptions" contracts with the Boeing Company and their employees to assist them with requests for counseling or treatment of these types of health issues. "Valueoptions" maintains records and files of all Boeing employees who receive this type of treatment.

On October 8<sup>th</sup> I contacted the "Valueoptions" company in California to inquire about any records regarding Tracy Floren. On October 9<sup>th</sup> I was contacted by Seattle Lawyer Russ Aoki, who represents "Valueoptions". Mr. Aoki informed me that he would be the contact person for any legal requests made to "Valueoptions". He further informed me that "Valueoptions" does in fact have records on file for Tracy Floren documenting mental health treatment he received via the Boeing Company Employee Assistance Program.

On October 10<sup>th</sup> I again spoke with Mr. Aoki. He informed me that "Valueoptions" was currently making a hard copy of their mental health treatment files regarding Tracy Floren, and that they would be forwarding the copy to him. Mr. Aoki verified that he is representing "Valueoptions" in this matter, and that he would be willing to accept service of any search warrants or subpoenas on behalf of "Valueoptions" at his offices located in Seattle. The records regarding Tracy Floren will be held at his office in Seattle.

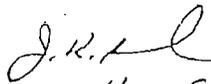
At this time in the investigation, as previously established, there is probable cause to believe that Tracy murdered his wife Nancy Floren. Investigators believe that Tracy's alcoholism and his recent relapses created a stress on the relationship. In light of Nancy's recent comments about ending their relationship if Tracy continued to drink, it seems very likely that Tracy's relapses relate directly to his motive for killing his wife. Furthermore, Tracy has been described by co-workers as being "volatile" and having a "short fuse". Any documentation supporting these descriptions or personality traits, such as the mental health treatment records maintained by the "Valueoptions" company, will corroborate these statements.

Detectives believe that the information contained in Tracy's E.A.P. files may establish that his supervisors were aware of his battle with alcoholism and/or other substance abuse or mental health issues regarding his "volatile" behavior, and his continuing efforts at treatment. This file would also establish whether Tracy had any problems at work related to these issues. Detectives believe that this evidence relates to Tracy's motive for murdering his wife, as any issues at work, particularly if they affected his ability to continue to work part time, would be particularly stressful for the Floren couple as they prepared for retirement.

I would therefore request that an additional search warrant be issued, authorizing the search and seizure of the following: any and all files relating to Tracy Floren and mental health treatment he received or applied for thru the "Valueoptions" company, a subcontractor to the Boeing Corporations Employee Assistance Program. These files are currently being held at the law office of attorney Russ Aoki, located at 701 Pike Street, suite #1525 in Seattle Washington 98101. Additionally any and all files relating to alcohol addiction treatment Tracy Floren received during the 2007 calendar year from the Western Washington Alcohol and Drug Treatment Center located in Renton WA.

Senior DPA Cheryl Snow of the King County Prosecutors Office has reviewed this affidavit.

Affiant

  
J.K. PAYLOVICH KING CO. S.O. #01352

Agency, Title and Personnel Number

Subscribed and sworn to before me this 15<sup>th</sup> day of October, 2007

Judge

Issuance of Warrant Approved:  
DAN SATTERBURG

## Exhibit D

DISTRICT COURT FOR KING COUNTY, BELLEVUE DIVISION

STATE OF WASHINGTON)

NO. *KEN0107S7*

) SS.

COUNTY OF KING )

SEARCH WARRANT

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

Upon the sworn complaint made before me there is probable cause to believe that the crime of MURDER occurred on or about September 2nd 2007, and that evidence of that crime may be present in the locations described below.

YOU ARE COMMANDED TO: Search within five (5) days of this date, the premises, vehicle, person or item(s) described as follows:

PLACE: The offices of the "Western Washington Alcohol and Drug Treatment Center" located at 140 Rainer Avenue #5, Renton WA. 98055

2. Seize, if located, the following items: specifically any and all alcohol and drug treatment records of Tracy Floren, regardless of the storage medium, while in attendance at the Western Washington Alcohol and Drug Treatment Center during the 2007 calendar year

3. Promptly return this warrant to me or the clerk of this court; the return must include an inventory of all property seized. A copy of the warrant and a receipt for the property taken shall be given to the person from whom or from whose premises property is taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found.

Date/Time:

*12/4/07*

*[Handwritten signature]*

JUDGE

*[Handwritten signature]*

*CHARLES J. DELAURENTI, II*

Printed or Typed Name of Judge

*JOHN K. PAVLOVICH K.C.S.O. #01352*  
Printed or Typed Name of Peace Officer, Agency and Personnel #

*[Handwritten signature]* #01352  
Signature of Peace Officer

# Exhibit E



## Exhibit F

DISTRICT COURT FOR KING COUNTY, BELLEVUE DIVISION

STATE OF WASHINGTON)

NO. *KENO10757*

) SS.

COUNTY OF KING )

SEARCH WARRANT

TO ANY PEACE OFFICER IN THE STATE OF WASHINGTON:

Upon the sworn complaint made before me there is probable cause to believe that the crime of MURDER occurred on or about September 2nd 2007, and that evidence of that crime may be present in the locations described below.

YOU ARE COMMANDED TO: Search within five (5) days of this date, the premises, vehicle, person or item(s) described as follows:

PLACE: THE LAW OFFICES OF RUSS AOKI, LOCATED AT 701 PIKE STREET, SUITE #1525, SEATTLE WA. 98101.

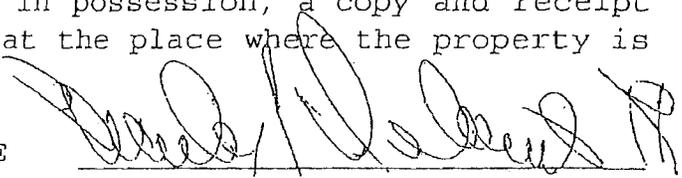
2. Seize, if located, the following items: any and all files relating to Tracy Floren and mental health treatment he received or applied for thru the "Valueoptions" company, a subcontractor to the Boeing Corporations Employee Assistance Program. These files are currently being held at the law office of attorney Russ Aoki, located at 701 Pike Street, suite #1525 in Seattle Washington 98101.

3. Promptly return this warrant to me or the clerk of this court; the return must include an inventory of all property seized. A copy of the warrant and a receipt for the property taken shall be given to the person from whom or from whose premises property is taken. If no person is found in possession, a copy and receipt shall be conspicuously posted at the place where the property is found:

Date/Time:

*10-16-07*  
*12:49*

JUDGE

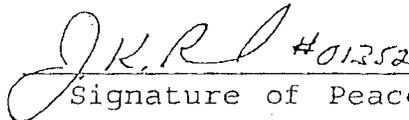


CHARLES J. DELAURENTI, II

Printed or Typed Name of Judge

JOHN K. PAJLOVICH K.C.S.O. #01352

Printed or Typed Name of Peace Officer, Agency and Personnel #



Signature of Peace Officer

IN THE COURT OF APPEALS FOR THE STATE  
OF WASHINGTON, DIVISION I

STATE OF WASHINGTON  
Respondent  
V.

Court of Appeals  
Case No. 64927-2-I

TRACY FLOREN  
Appellant

Declaration of Service

I certify under penalty of perjury under the laws of the State of Washington, that on this day I sent a copy of "Addendum to Statement of Additional Grounds for Review" to the WSP mailroom with provision for first class postage USPS to be mailed to the below addressees:

King Co. Prosecutor Chan/Sun  
W554 King Co. Courthouse  
516 3RD AVE  
SEATTLE, WA 98104

NEELSON BREMAN KOCH  
CHRISTOPHER GILSON  
1908 E. Madison St.  
SEATTLE, WA 98132

Dated at Walla Walla, Washington  
on April 13, 2011

Tracy Floren

337937 EE204  
WASH. STATE PENITENTIARY  
1313 NO. 13TH AVE  
WALLA WALLA, WA 99136Z