

FILED
August 17, 2015
Court of Appeals
Division I
State of Washington

No. 72863-6-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Appellant,

v.

SHAWN GREEN,

Respondent.

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

The Honorable David R. Needy

BRIEF OF RESPONDENT

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TABLE OF CONTENTS

A. SUMMARY OF ARGUMENT IN RESPONSE.....1

B. ISSUES ON APPEAL.....1

C. STATEMENT OF THE CASE.....2

D. ARGUMENT.....6

 1. **THE TRIAL COURT PROPERLY SUPPRESSED WHAT WAS SEIZED BECAUSE THE SEARCH WARRANT LACKED PROBABLE CAUSE.....6**

 a) A search warrant must be supported by probable cause.....6

 b) The *de novo* standard of review applies to the issuing magistrate’s legal conclusion regarding probable cause.....8

 c) Because the police kept confirming that the residents of the house were without narcotics, there was no probable cause to believe a search of the residence would result in discovery of such contraband.....11

 d) This Court should affirm the trial court.....13

 2. **IN THE ALTERNATIVE, THE TRIAL COURT CAN BE AFFIRMED BECAUSE THE WARRANT WAS OVERBROAD AND LACKED PARTICULARITY.....13**

E. CONCLUSION.....16

TABLE OF AUTHORITIES

WASHINGTON SUPREME COURT DECISIONS

In re Det. of Petersen v. State, 145 Wn. 2d 789, 42 P.3d 952 (2002) 8, 9
State v. Chamberlin, 161 Wn.2d 30, 162 P.3d 389 (2007)..... 8
State v. Clark, 143 Wn.2d 731, 24 P.3d 1006 (2001) 14
State v. Huft, 106 Wn.2d 206, 720 P.2d 838 (1986) 7
State v. McKinnon, 88 Wn.2d 75, 558 P.2d 781 (1977)..... 7
State v. Neth, 165 Wn.2d 177, 196 P.3d 658 (2008)7, 8, 9, 10
State v. Ollivier,
178 Wn. 2d 813, 312 P.3d 1 (2013) *cert. denied*, 135 S. Ct. 72, 190 L. Ed. 2d 65 (2014)
..... 12
State v. Partin, 88 Wn.2d 899, 567 P.2d 1136 (1977) 7
State v. Perrone, 119 Wn.2d 538, 834 P.2d 611 (1992)..... 14, 16
State v. Reep, 161 Wn.2d 808, 167 P.3d 1156 (2007)..... 14
State v. Seagull, 95 Wn.2d 898, 632 P.2d 44 (1981)..... 7
State v. Stenson,
132 Wn.2d 668, 940 P.2d 1239 (1997), *cert. denied*, 523 U.S. 1008 (1998)..... 7
State v. Vickers, 148 Wn.2d 91, 59 P.3d 58 (2002)..... 7

WASHINGTON COURT OF APPEALS DECISIONS

State v. Higby, 26 Wn.App. 457, 613 P.2d 1192 (1980) 12
State v. Olson, 73 Wn.App. 348, 869 P.2d 110 (1994) 8
State v. Riley, 34 Wn.App. 529, 663 P.2d 145 (1983) 13, 14

UNITED STATES SUPREME COURT DECISIONS

Aguilar v. Texas,
378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964) 9, 12
Coolidge v. New Hampshire,
403 U.S. 443, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971) 7
Ornelas v. United States,
517 U.S. 690, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996) 8, 10
Spinelli v. United States,
393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969) 9, 12

FEDERAL COURT OF APPEALS DECISIONS

United States v. Johnson, 541 F.2d 1311 (8th Cir.1976) 14

CONSTITUTIONAL PROVISIONS

Article I, section 71, 6, 7
U.S. Const. amend. IV1, 6, 7

STATUTES

RCW 69.50.101 15
RCW 69.50.102 15
RCW 69.50.505 16

A. SUMMARY OF ARGUMENT IN RESPONSE

“No person shall... [have] his home invaded, without authority of law” and “no warrants shall issue, but upon probable cause.” Art. I., Sec. 7; U.S. Const. amend. IV. Below, the trial court correctly ruled that a criminal informant’s continued inability to buy narcotics from the residents of an alleged Sedro-Woolley “drug house” meant there was no probable cause to believe there was illicit contraband inside the home. The trial judge properly ruled that the district court magistrate, who had issued a warrant, erred as a matter of law.

On these facts, the State’s appeal from the Superior Court order granting respondent Shawn Green’s motion to suppress is not well taken. This Court should affirm.

B. ISSUES ON APPEAL

1. Does a search warrant affidavit lack probable cause to believe that a residence to be searched will contain illicit narcotics, when the document describes how the criminal informant sent by the police keeps finding out there are no drugs for sale at the home?
2. This Court has the discretion to affirm on any grounds supported by the record. Where the warrant was also overbroad and lacking particularity, should the trial court order to suppress stand?

C. STATEMENT OF THE CASE

The affidavit in question, filed with the Skagit County District Court on August 1, 2014, consists of two pages of text typed by Sergeant Jason Harris of the Sedro-Wooley police department. CP 34-35. (Attached as Appendix.) In it, Sgt. Harris informed the magistrate of his agency's interest in entering and searching a private residence located at 219 Laurel Drive. CP 34.¹

In the summer of 2014, Sedro-Woolley police sent a criminal informant, with known "past crimes of dishonesty," to the residence to purchase narcotics. CP 34. The affidavit asserts that this person previously purchased narcotics at this address, but that fact is not corroborated and there is nothing in the affidavit to suggest the criminal informant had provided reliable intelligence ever before. The affidavit does not specify when exactly this criminal informant was first dispatched as a police agent to 219 Laurel Drive. All that is written is that this happened "[i]n the latter part of July 2014." CP 34.

¹ Much of the information in the affidavit is inconsequential to the determination of probable cause, unsupported, or both. For example, the author refers to "complaints" about the residence allegedly made as far back as 2007, but does not say who made them, what they said, or what their basis of knowledge was. CP 34. The document also states that Sgt. Harris reported that in 2012 he spoke with the alleged owner, Kirk Peters, who "denied any illegal activity occurring at his residence." CP 34.

The first time the criminal informant went there to buy drugs, there were no drugs to be had. The affiant wrote that “Callie Swartz,” identified as a resident,² allegedly “called several people in an attempt to have someone deliver meth to the residence.” CP 34. While the criminal informant waited, someone named “Brandon Frizzell arrived and offered to sell the CI Methamphetamine.” CP 34. The affidavit does not say that Swartz had called Frizzell to come over, nor does the affidavit say that Frizzell lived at the home. In fact, the affidavit does not explain Frizzell’s association with the house at all or why he may have showed up there.³ The affiant did say that he had “heard” that Frizzell, “carries [meth] in his socks or backpack.” CP 34. On this occasion, Frizzell came to the house and sold less than a gram of methamphetamine to the criminal informant.

The second time the criminal informant went to the residence to buy drugs for the police, “[n]o one present said they had any” to sell. CP 35. The affidavit does say that an unidentified person – whose connection with the residence is likewise unexplained – offered to

² The affidavit does not establish the basis of knowledge for the affiant’s claim that Swartz “lives at 219 Laurel Dr.” CP 34.

³ At the motion to suppress, the prosecutor conceded that “we don’t know” if Frizzell resided at the house. RP 22.

share “a little in a glass bowl pipe” of something “that they were smoking” with the criminal informant who is said to have declined the offer. CP 35. Allegedly, a “Lester Birtchet” called for someone named “Daniel Gilbert” to bring drugs to the house. CP 35. The affidavit relates that Gilbert came to the home and that the criminal informant bought less than a gram of methamphetamine from him. CP 35.

The third time that the criminal informant went to the residence to buy drugs for the police was in “[t]he week of July 28th 2014.” CP 35. (Again, no specific date or time is provided.) The affidavit says that Frizzell and Swartz were there, along with other unidentified persons. CP 35. According to the criminal informant, Frizzell said “that he was going to re-up later that night but didn’t have any now.” CP 35. The affidavit states that “[n]o one else had any either.” CP 35.

The fourth time that the criminal informant went to the residence to buy drugs allegedly occurred sometime “[i]n the same week,” as the above-described failure. CP 35. The affidavit does not say just when this happened, but it does say that this attempt was also “unsuccessful because everyone at the house was sold out.” CP 35.

A fifth – likewise unsuccessful – attempt is revealed by the same sentence: “In the same week *two other* attempts to buy

Methamphetamine from SWARTZ and FRIZZELL were unsuccessful because everyone at the house was sold out and were waiting to re-up.” CP 35. (Emphasis added.)

On August 5, 2014, a district court magistrate issued the warrant the police wanted. CP 37-38. The warrant authorized the police to enter 219 Laurel Drive and search the residence, in part, for controlled substances. CP 37-38. The warrant lists as “defendants,” Peters, Frizzell, and Gilbert, but makes no mention of respondent Shawn Green. CP 37. Mr. Green is not mentioned in the affidavit either.

The police executed the warrant in the early afternoon of August 5, 2014. CP 39-43. Inside, they arrested Mr. Green and others. CP 39-40. Mr. Green was inside what is described as “the south west bedroom.” CP 39. In this bedroom, the police found a “white crystal type substance” that, along with some other items, field-tested positive for the presence of methamphetamine. CP 39-40.

In Skagit County Superior Court Cause Number 14-1-00600-3, Mr. Green was charged with possession of methamphetamine with intent to deliver. CP 61-62. He defended by filing a motion to suppress. CP 22-43.

On November 19, 2014, the Honorable David R. Needy considered the motion and the State's response. RP 1-55. The trial judge ruled: "in reviewing the evidence in the four corners of the search warrant document, that there, in fact, is not probable cause on August 1st to believe that drugs were going to be in that house on that day and time." RP 52.

The defense motion to suppress evidence was granted. RP 53; CP 44-45. Due to lack of sufficient admissible evidence for the State to proceed, the case was dismissed with prejudice. CP 45. The State appealed.

D. ARGUMENT

1. THE TRIAL COURT PROPERLY SUPPRESSED WHAT WAS SEIZED BECAUSE THE SEARCH WARRANT LACKED PROBABLE CAUSE.

a) A search warrant must be supported by probable cause.

The Fourth Amendment to the United States Constitution and article I, section 7 of the Washington State Constitution protect individuals from unreasonable searches and seizures. The police must therefore have a search warrant issued upon probable cause in order to enter and search a residence unless an exception to the warrant requirement justifies a warrantless search. *Coolidge v. New Hampshire*,

403 U.S. 443, 454-55, 91 S.Ct. 2022, 29 L.Ed.2d 564 (1971); *State v. McKinnon*, 88 Wn.2d 75, 79, 558 P.2d 781 (1977).

The warrant clauses of the Fourth Amendment and article I, section 7 require that a trial court issue a search warrant only upon a determination of probable cause. *State v. Vickers*, 148 Wn.2d 91, 108, 112, 59 P.3d 58 (2002). Probable cause to issue a warrant is established if the supporting affidavit sets forth facts sufficient for a reasonable person to conclude the defendant probably is involved in criminal activity. *State v. Huft*, 106 Wn.2d 206, 209, 720 P.2d 838 (1986). Probable cause for a search “requires a nexus between criminal activity and the item to be seized and between that item and the place to be searched.” *State v. Neth*, 165 Wn.2d 177, 183, 196 P.3d 658 (2008).

The affidavit in support of the search warrant must also adequately show circumstances that extend beyond suspicion and mere personal belief that evidence of a crime will be found on the premises to be searched. *State v. Seagull*, 95 Wn.2d 898, 907, 632 P.2d 44 (1981). The affidavit must be tested in a commonsense fashion. *State v. Stenson*, 132 Wn.2d 668, 692, 940 P.2d 1239 (1997), *cert. denied*, 523 U.S. 1008 (1998); *State v. Partin*, 88 Wn.2d 899, 904, 567 P.2d 1136 (1977).

- b) The *de novo* standard of review applies to the issuing magistrate's legal conclusion regarding probable cause.

“Appellate courts review de novo the legal conclusion of law whether probable cause is established.” *State v. Chamberlin*, 161 Wn.2d 30, 40-41, 162 P.3d 389 (2007), *citing to In re Det. of Petersen*, 145 Wn.2d 789, 799, 42 P.3d 952 (2002). Review is limited to the four corners of the affidavit. *Neth*, 165 Wn.2d at 182. “[T]he information [the court] may consider is the information that was available to the issuing magistrate.” *State v. Olson*, 73 Wn.App. 348, 354, 869 P.2d 110 (1994). “In determining whether probable cause is established, the appellate courts review the same evidence presented below. What this means is where the probable cause finding was error, appellate review cures the error.” *Chamberlin*, 161 Wn.2d at 40-41, *citing to Ornelas v. United States*, 517 U.S. 690, 697, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996) (discussing the importance of appellate review of the legal rules for probable cause).

On appeal, the State misstates the burden that applies to the issuance of a search warrant and subsequent judicial review of such a decision to authorize a governmental invasion of personal privacy. State’s Op. Br. at 2-3, 7-8. The burden is squarely on the State:

The probable cause standard is familiar to judges as it is used frequently in the Fourth Amendment context. One of the most common examples is the determination of probable cause to issue a search warrant. There the burden is on the State to recite objective facts and circumstances which, if believed, would lead a neutral and detached person to conclude that more probably than not, evidence of a crime will be found if a search takes place.

Det. of Petersen v. State, 145 Wn. 2d 789, 797, 42 P.3d 952 (2002); citing to *See Aguilar v. Texas*, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964); *Spinelli v. United States*, 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969).

On appeal, in insisting that the trial court erred in “not giving deference to the magistrate’s determination of probable cause,” the State makes another error. State’s Op. Br. at 2-3, 7-8. The State’s argument rests on the false impression that the Superior Court judge who reviewed the same affidavit – but reached a different conclusion than the district court magistrate – was somehow hamstrung by the magistrate’s legal conclusion. State’s Op. Br. at 11.

“[A]t the suppression hearing the trial court acts in an appellate-like capacity.” *Neth*, 165 Wn.2d at 182. What the State now suggests is in conflict with both United States Supreme Court and Washington State Supreme Court precedent.

We think independent appellate review of these ultimate determinations of reasonable suspicion and probable cause is consistent with the position we have taken in past cases. We have never, when reviewing a probable-cause or reasonable-suspicion determination ourselves, expressly deferred to the trial court's determination.

Ornelas v. United States, 517 U.S. at 697-98. (Emphasizing that independent, *de novo* review is “necessary.”) Any deference to a magistrate's determination, in the context of probable cause, extends only to factual, not legal findings. *State v. Kipp*, 179 Wn.2d 718, 728, 317 P.3d 1029 (2014) (discussing *Ornelas* and the settled principle that a reviewing court should review findings of historical fact for clear error, but that legal determinations of reasonable suspicion and probable cause should be reviewed *de novo* on appeal.)

Below, because the magistrate was not presented with anything but the four-corners of the affidavit, there was nothing to defer to. For example, the police did not produce their criminal informant for the magistrate to meet face-to-face.⁴ On the motion to suppress, the trial court justifiably acted “in an appellate-like capacity.” *Neth*, 165 Wn.2d at 182.

⁴ Given that the affidavit does not provide reason to believe that what the informant told the police was credible and reliable – beside the fact that he twice managed to procure drugs for the police – such a presentation of the State's key witness may have been prudent.

- c) Because the police kept confirming that the residents of the house were without narcotics, there was no probable cause to believe a search of the residence would result in discovery of such contraband.

The search warrant affiant had the obligation to set out facts documenting that there was probable cause to believe that the place to be searched will contain evidence of a crime or contraband. Most of the time, the police investigating a particular location turn to the magistrate to get judicial approval to open closed doors. But, the affidavit in this case shows the police were already inserting themselves into the house they wanted to search. What their agent, the unnamed criminal informant, was discovering wholly cut against the notion there was reason to believe the residence contained contraband.

Every time the police agent had entered the home, there were no drugs there. On the first attempt, an outsider who carries drugs on his person brought narcotics to the home. CP 34. The drugs were procured from somewhere else on the second attempt as well. CP 34. On the third attempt, in “the week of July 28th,” the criminal informant was offered a sample of who-knows-what out of a nearly used-up glass bowl, but “[n]o one present said they had any” methamphetamine the police agent was trying to buy. CP 35. “No one else had any,” on the fourth, or fifth, attempted buys either. CP 35.

The trial court correctly rejected, as illogical, the State’s argument that there was probable cause to believe that the drugs would materialize just because the criminal informant reported that Frizzell was holding out hope for a “re-up.” State’s Op. Br. at 10; RP 27.⁵ As the State would have it, any alleged residence, that had at some point in time been the location of a drug crime, would forever remain subject to a search. RP 12-13. This view would eliminate the settled principle that stale information cannot support a probable cause finding.

In *State v. Higby*, 26 Wn.App. 457, 460, 613 P.2d 1192 (1980), this Court held that a two-week delay between observed marijuana sales and the execution of a search was too long for the information not to go stale. The gap in time at issue here appears to have been less than in *Higby*, but the test for staleness of information in a search warrant

⁵ As Mr. Green’s defense counsel noted, on the first and second transactions, “[t]here are no drugs to buy in the residence,” and “[i]t has to be brought in from outside.” RP 4, 6. Regarding the third, fourth, and fifth attempts, there was “no sale, no drugs.” RP 7. To paraphrase a point once made by Albert Einstein, doing the same thing over and over again – while expecting different results – is just not rational. Separately, while the undisclosed criminal informant twice managed to bring the police drugs as asked, that is not the same as the police establishing that what he or she *says* is reliable or trustworthy. The *Aguilar-Spinelli* test continues to apply in Washington and the “veracity prong requires that the affidavit contain information from which a determination can be made that the informant is credible or the information reliable.” *State v. Ollivier*, 178 Wn. 2d 813, 849-50, 312 P.3d 1 (2013) *cert. denied*, 135 S. Ct. 72, 190 L. Ed. 2d 65 (2014).

affidavit is one of common sense. *State v. Riley*, 34 Wn.App. 529, 534, 663 P.2d 145 (1983). Common sense is sufficient to find that the trial court reached the correct result.

d) This Court should affirm the trial court.

Because the police agent kept on learning that there were no drugs to be had at 219 Laurel Drive, the trial court properly found that the police affidavit failed to establish necessary probable cause. The district court magistrate's decision to issue the warrant was in error and the order suppressing should be affirmed. CP 44-45.

2. IN THE ALTERNATIVE, THE TRIAL COURT CAN BE AFFIRMED BECAUSE THE WARRANT WAS OVERBROAD AND LACKED PARTICULARITY.

This Court may affirm the trial court on any ground sufficiently developed in the record. RAP 2.5. Below, Mr. Green's trial counsel correctly argued that the warrant issued was overbroad and the State responded to this argument. CP 17-26, 49-52. While the trial court resolved the motion to suppress in Mr. Green's favor on the probable cause issue, the lack of particularity in the warrant is an equally compelling reason to affirm.

"Whether a warrant meets the particularity requirement of the Fourth Amendment is reviewed de novo." *State v. Clark*, 143 Wn.2d

731, 753, 24 P.3d 1006 (2001). “The Fourth Amendment mandates that warrants describe with particularity the things to be seized.” *State v. Riley*, 121 Wn.2d 22, 28, 846 P.2d 1365 (1993). Specifically, the Fourth Amendment provides, “no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. Conformance with the particularity requirement “eliminates the danger of unlimited discretion in the executing officer's determination of what to seize.” *State v. Perrone*, 119 Wn.2d 538, 546, 834 P.2d 611 (1992). “The underlying measure of adequacy in the description is whether given the specificity in the warrant, a violation of personal rights is likely.” *United States v. Johnson*, 541 F.2d 1311, 1313 (8th Cir.1976); *Accord State v. Reep*, 161 Wn.2d 808, 167 P.3d 1156 (2007).

Defense counsel below correctly pointed out that the warrant, as issued, contained overly broad categories of things to be seized. CP 17-26. The problem stems in part from the fact that the warrant uses shorthand references to statutes, rather than describe particular items to be seized. The warrant allowed to police to seize:

- a) “Controlled substances *as defined in RCW 69.50*”
- b) “drug paraphernalia, scales, packing *as defined in RCW 69.50*”
- c) documentation “related to the delivery or distribution of controlled substances”
- d) documentation regarding ownership and dominion, and,
- e) “all property to include cash which is *subject to seizure and forfeiture under RCW 69.50.505.*”

CP 37. (Emphasis added.)

The first, second, and fifth of these categories rendered the warrant overbroad. The affidavit discusses only one controlled substance – methamphetamine – but the warrant gave the police authority to search for several hundreds of substances deemed controlled under Schedules I through IV. *See 69.50.101(d)* defining “controlled substance” as “a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.”

The warrant authorization as to alleged “drug paraphernalia” is similarly overbroad because it similarly leaves up to the searching police officer what to seize, and what to leave behind. RCW 69.50.102 virtually sets no limits as to what can constitute drug paraphernalia. Moreover, the drug paraphernalia definition statute plainly addresses objects that relate to drugs other than methamphetamine and that is the

only controlled substance even mentioned in the affidavit. (E.g. RCW 69.50.102(a)(12) addresses “objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body.”)

Finally, the same lack of particularity problem applies to what the police were authorized to seize under the umbrella of “all property... subject to seizure or forfeiture under RCW 69.50.505.”

As issued, the warrant authorized a nearly limitless seizure, including seizure of whole categories of items not even referenced in the affidavit. This was nothing less than an unconstitutional “general warrant.” *Perrone*, 119 Wn.2d at 545.

E. CONCLUSION

For the reasons stated, Mr. Green asks this Court to affirm the trial court’s order suppressing the evidence seized.

DATED this 17th day of August 2015.

Respectfully submitted,

/s Mick Woynarowski

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Washington Appellate Project – 91052
Attorneys for Respondent

APPENDIX –

Search Warrant Affidavit filed with the Skagit County District Court on August 1, 2014.

State of Washington}
City of Sedro-Woolley}

AUG - 1 2014

STATE vs Kirk Peters, Brandon Frizzell, Daniel Gilbert

Skagit Co. Dist. Court

I, Sergeant Jason Harris depose and say I am a commissioned police officer for the City of Sedro-Woolley and have been employed for 10 years.

Since 2007 Sedro-Woolley Police have been receiving complaints of illegal drug activity at 219 Laurel Dr. the Residence of Kirk Peters. In 2012 I personally spoke with Kirk Peters at 219 Laurel Dr about the complaints and information the Sedro-Woolley Police was receiving from neighbors and several credible criminal informants that illegal drugs were being used and sold at his residence and in his presence. Kirk denied any illegal activity occurring at his residence, despite Sedro-Woolley Police having made multiple arrests at his residence of people involved in assaults, stolen property, stolen motor vehicles, and VUCSA. I told Kirk to stop selling drugs, and allowing illegal drugs to be sold and used at his residence.

I sent a Drug Nuisance Abatement letter to Kirk Peters adult sister KP informing her of the complaints and that Sedro-Woolley Police was going to activity pursue making controlled drug buys from this address. KP met with the Chief of Police to discuss the problems, and promised to talk to Kirk. In 2012 KP was listed as one of the owners of 219 Laurel Dr. after Peters father passed away.

In July 2014 Sedro-Woolley Police developed a criminal informant (CI) the CI has past crimes of dishonesty. The CI said that they have purchased Methamphetamine from several different people at 219 Laurel Dr in the city of Sedro-Woolley, for past 2 years.

In the latter part of July 2014 Sedro-Woolley Police utilizing a CI have made two purchases of Methamphetamine from two different individuals at 219 Laurel Dr. Each time the CI was searched pre and post buy. The transport vehicles were also searched pre and post buy. The buy money was pre-recorded on each buy, and Officers watched as the CI walked to 219 Laurel Dr after being dropped off and picked up near by, the CI did not make any contact with anyone outside the residence other than police.

The first controlled buy was from BRANDON FRIZZELL, the CI has purchased Methamphetamine from FRIZZELL several times in the past, and identified him as having a tattoo of a diamond shape on his face covering his eye. We purchased .8g of NIK tested Methamphetamine for \$30.00. CALLIE SWARTZ, who also lives at 219 Laurel Dr. called several people in an attempt to have someone deliver Meth to the residence. One of people she called was JAMES SANTARSIERO at 206 200 8590 who said he'd be there in 15 min. with some. As the CI was waiting for SANTARSIERO, BRANDON FRIZZELL arrived and offered to sell the CI Methamphetamine.

FRIZZELL pulled a small baggie with crystal like substance from his sock and weighed the Meth on a small portable digital scale, then packaged it into a smaller ziploc bag. I have heard from several people that FRIZZELL has been selling Methamphetamine, and carries it in his socks or backpack.

The CI left, and was picked up by Sedro-Woolley police where the suspected

Methamphetamine was given to the officer and later weighed .8g and NIK tested positive for the presence of Methamphetamine. The CI was at 219 Laurel Dr for approximately 45 minutes, while they waited for someone to deliver the Methamphetamine to the residence.

The second controlled buy the CI was dropped off again and went to 219 Laurel Dr as officers watched. KIRK PETERS, CALLIE SWARTZ, LESTER BIRTCHET and two others were present in the living room when the CI arrived and asked if anyone had any "Clear" a street term used to identify Methamphetamine. One of the people said they had a little in a glass bowl pipe that they were smoking and went to hand it to the CI. The CI said they wanted to take it with them, not smoke it now.

No one present said they had any. LESTER BIRTCHET said that "DANNY just left and he has some, I'll call him back" DANNY is identified by the CI as DANIEL GILBERT, whom the CI has also purchased Methamphetamine from in the past. BIRTCHET placed a call on his cell phone. Within 15 min GILBERT arrived driving a red Chevy Corsica type vehicle with a partial WA license plate of AHA, GILBERT drove past officers that were on surveillance as he arrived at 219 Laurel Rd.

GILBERT arrived and went into KIRK'S bedroom with the CI, where GILBERT was weighing the suspected Methamphetamine from a larger bag on a portable digital scale. Then packaged .9g into a smaller ziploc baggie and gave it to the CI, the CI paid \$50.00 to GILBERT.

The CI left, and was picked up by Sedro-Woolley police where the suspected Methamphetamine was given to the officer and later weighed .9g and NIK tested positive for the presence of Methamphetamine. The CI was at 219 Laurel Dr for approximately 35 minutes.

The week of July 28th 2014 the CI was taken to 219 Laurel Dr to purchase Methamphetamine. There were 6 people inside the house that included FRIZZELL and SWARTZ, as well as 4 others with VUCSA involvement's and/or convictions. CI asked if anyone had any "Clear" FRIZZELL said that he was going to re-up later that night but didn't have any now. No one else had any either. Re-up is a term used by dealers to indicate that they currently are out of drugs but plan to re-stock soon. The CI left the residence. In the same week two other attempts to buy Methamphetamine from SWARTZ and FRIZZELL were unsuccessful because everyone at the house was sold out and were waiting to re-up.

Based on the above information the Sedro-Woolley Police respectfully request a Search Warrant to enter and search 219 Laurel Dr described as: A single story wood structure single family residence, cream in color with brown trim. The front door faces West, to Laurel Dr. The letters 219 are a fixed next to the door, on the West side of the residence. To Seize: Controlled substances as defined in RCW 69.50; drug paraphernalia, scales, packaging as defined in RCW 69.50; books records, receipts, notes whether stored electronically or otherwise, related to the delivery or distribution of controlled substances; records, receipts, notes whether stored electronically or otherwise, relating to the occupancy or ownership of the aforementioned residence; all property to include cash, which is subject to seizure and forfeiture under RCW 69.50.505. To include any locked containers.

I certify under penalty of perjury and the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge (RCW 9A.72.085). FILED

Signature: Jam 15 4/12c

AUG - 1 2014

At Sedro-Woolley, Washington

Skegit Co. Dist. Court

SW14-255

Date: 8/1/14

Case Number: SWPD #14-W02568
SEDRO-WOOLLEY

FILED

AUG - 1 2014

Skaht Co. Dist. Court

Probable cause established for
issuance of () arrest () search
warrant based on affidavit of
Sgt Murray, SWPD
Date 8/1/2014 Time 12:20 P.M.
[Signature]
Judge / Commissioner

011

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON,)	
)	
Appellant,)	
)	NO. 72863-6-I
v.)	
)	
SHAWN GREEN,)	
)	
Respondent.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 17TH DAY OF AUGUST, 2015, I CAUSED THE ORIGINAL **BRIEF OF RESPONDENT** TO BE FILED IN THE **COURT OF APPEALS - DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

- | | |
|--|--|
| <p>[X] TRISHA JOHNSON, DPA
SKAGIT COUNTY PROSECUTOR'S OFFICE
COURTHOUSE ANNEX
605 S THIRD ST.
MOUNT VERNON, WA 98273</p> | <p>(X) U.S. MAIL
() HAND DELIVERY
() _____</p> |
| <p>[X] SHAWN GREEN
219 LAUREL DR
SEDRO WOOLLEY, WA 98282</p> | <p>(X) U.S. MAIL
() HAND DELIVERY
() _____</p> |

SIGNED IN SEATTLE, WASHINGTON THIS 17TH DAY OF AUGUST, 2015.

X _____ 

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