

FILED  
COURT OF APPEALS

06 APR 27 PM 2:33

STATE OF WASHINGTON

BY  CITY

NO. 33697-9-11

COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION II

---

STATE OF WASHINGTON,  
Respondent,

vs.

ASHLEY WADE SICLOVAN,  
Appellant, pro se.

---

STATEMENT OF ADDITIONAL GROUNDS

---

ASHLEY WADE SICLOVAN  
Appellant, pro se  
1830 Eagle Crest Way  
Clallam Bay, WA 98326

COURT OF APPEALS  
DIVISION TWO  
OF THE STATE OF WASHINGTON

FILED  
COURT OF APPEALS

06 APR 27 PM 2:33

STATE OF WASHINGTON

BY [Signature]

STATE OF WASHINGTON )  
 )  
 Respondent, )  
 )  
 v. )  
 )  
 ASHLEY WADE SICLOVAN )  
 (your name) )  
 )  
 Appellant. )

No. 33697-9-II

STATEMENT OF ADDITIONAL  
GROUNDS FOR REVIEW

I, Ashley W. Siclovan, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

ADDITIONAL GROUNDS

GROUND #1 The information provided by the informant for the search warrant was stale.

GROUND #2 The court erred by considering a "belief" from a CI enough to show that an ongoing enterprise existed.

GROUND #3 The court erred by not allowing the defense to address the issue of staleness after additional information became known that would change the prior decision.

GROUND #4 The court abused its discretion by not allowing the defense to address the issue of misstatements in the search warrant affidavit after a clear showing was made that they existed.

GROUND #5 The court erred by considering the informant credible on a bold assertion provided in the search warrant affidavit.

GROUND #6 The court erred on 1-03-05 when finding probable cause within the four corners of the affidavit.

1 GROUND #7 The court erred on 1-03-05 by considering the  
2 informant credible because he had a felony drug charge he  
3 wanted consideration for.

4 GROUND #8 The search warrant affidavit did not establish the  
5 credibility of the informant.

6 GROUND #9 The mismanagement and misconduct all throughout the  
7 case by the prosecution amounts to a due process violation.

8 GROUND #10 The misconduct in closing arguments go beyond what  
9 was briefed in Appellants opening brief and amounts to a due  
10 process violation. In addition to the opening brief a mirroring  
11 case will be cited from the 9th Cir.

12 GROUND #11 DISCOVERY VIOLATION: No itemized list of items  
13 seized was provided to the defense until the day of trial.

14 GROUND #12 Non disclosure of itemized list of materials seized  
15 until morning of trial enabled the defense from investigating  
16 and forming a defense.

17 GROUND #13 Non disclosure of itemized list enabled the defense  
18 from seeing the amount of items seized that were not preserved  
19 or seen in the photographs provided in discovery.

20 GROUND #14 Non disclosure of itemized list caused the defense  
21 surprise on the morning of trial.

22 GROUND #15 The court abused its discretion by denying the  
23 defense a one day continuance when it became apparent Siclovan  
24 was never aware of what items were seized from storage unit 49  
25 until the morning of trial.

26 GROUND #16 The court abused its discretion by denying the one  
day continuance do to a "full docket on Friday".

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

GROUND #17 The state and investigators destroyed exculpatory evidence without notice or preservation.

GROUND #18 The state should be sanctioned for filtering evidence and destroying evidence without properly preserving as the destruction order states.

GROUND #19 The order of destruction was violated.

GROUND #20 The police were aware of the value of the evidence before it was destroyed.

GROUND #21 The court erred by ruling that the post trial issues pertaining to destruction of evidence was without merit.

GROUND #22 The court erred by making a ruling on the post trial issue without including the exhibit when he indicated that he did.

GROUND #23 The state and Federal constitutional rights to be able to put together a complete defense was violated.

GROUND #24 There was insufficient evidence to convict on all counts.

GROUND #25 There was not sufficient evidence to charge or convict in count II. There was no showing of any intent.

SUMMARY OF GROUND #1 & 2

1 STALENESS: On 1-03-05 at suppression hearing while Siclovan  
2 was represented by G.W. Brintnall. Honorable Judge Bennett  
3 found that the information in the search warrant affidavit was  
4 not stale due to a mere "belief" from an informant. This mere  
5 belief that Siclovan traveled to the storage unit on a daily  
6 basis was not followed up and or corroborated by further  
7 police investigation. See warrant affidavit top of page 6, CP  
8 24. The court found that a continuing enterprise existed do to  
9 this uncorroberated belief.

10 This belief is stated as follows: "The CRI stated he/she  
11 believes Siclovan travels to the storage facility daily to  
12 retrieve the items..." CP 24. The State converts this mere  
13 belief from the affidavit to, The defendant is "known" to  
14 visit unit 49 on a daily basis CP 28 (page 11 #9 of the  
15 State's response to motion to suppress).

16 The court in making his ruling converts this belief to: "the  
17 "practice" was to return glassware and other items to this  
18 storage unit" RP 138 (line 14).

19 Judge Bennett also converts this mere belief to: "according to  
20 the affidavit, on a daily basis returned to that storage unit  
21 and kept there" RP 139 (line 5).

22 I do not believe the informants mere belief should of been  
23 converted to any thing other then an uncorroberated belief or  
24 guess. This belief does not donate to an ongoing enterprise.

25 The information was given on January 13th 2004, that belief  
26 was already a month old. The warrant was requested a month  
later making that belief two months old at the time the  
warrant was signed.

I believe that the court erred in expanding the staleness  
doctrine due to a belief. The record does not indicate that  
the court would of came to the decision to expand the doctrine  
on any evidence other then the hearsay belief of the unknown  
informant. The test for staleness is "common sense" as to  
whether or not property will still be on the premises at the  
time the warrant is issued, not the actual date on which  
actual activity was observed State v. Young, 62 Wn.App. 895.

1 If case law on staleness refers to "actual activity  
2 observed", then in no way should a hearsay belief be  
3 considered in the test.

4 SUMMERY OF GROUND #3

5 The court abused its discretion by refusing to reconsider the  
6 staleness issue after it was made apparent that Officer Martin  
7 withheld information from the search warrant affidavit that  
8 was known to him at the time he submitted it to Judge  
9 Zimmerman. This information was that Siclovan was not seen at  
10 the storage unit 49 by the live in manager for "weeks" before  
11 the warrant was requested.

12 "I didn't see him-- all I remember is I didn't see the  
13 defendant the last couple weeks" RP 493.

14 The manager also testifies to: "in February you didn't come  
15 around" RP 504.

16 This was known to Officer Martin on the day of the search of  
17 the other storage unit 6001 on 2-15-04. A document was given  
18 to the officers.

19 Bev. Bates goes into a discussion about this document RP 477  
20 (line 18) to RP 479. The manager testifies to the document  
21 being a computer print out of all the times and dates of the  
22 storage being entered. She gave it to the police department RP  
23 479 (line 5).

24 The manager also indicates that she is testifying to the  
25 memory of the print out, not from her memory RP 479 (line 15).

26 Officer Martin investigated this case and talked to her about  
activities at unit 49. He was aware Siclovan was not seen at  
unit 49 for weeks when he submitted the affidavit for search  
warrant.

No where in the affidavit did Officer Martin give this information to the magistrate.

1 Siclovan was given a second 3.6 hearing on the issues of  
2 what date the unit 49 was entered. This was due to the  
3 surprise testimony of the manager. Additional surprise  
4 testimony indicated that Martin knew of the time period  
5 Siclovan was not seen at unit and the document also provided  
6 that information.

7 The court should of allowed the defense to bring up the  
8 staleness issue on the second suppression hearing. The  
9 defense attempted to address this issue but the court  
10 refused to hear it.

11 A motion was submitted on 7-06-2005 CP 92 (defense motion  
12 to suppress). The court refused to hear any other issue  
13 other then the date of the search.

14 If the court was aware of Siclovan not being seen at unit 49  
15 for weeks before the affidavit was submitted at the 1-03-05  
16 hearing he would not of considered the informants belief  
17 over the manager.

18 SUMMERY OF GROUND #4

19 The court abused its discretion by not allowing the defense  
20 to address the issues of misstatements in the search warrant  
21 affidavit after a clear showing was made that they existed.

22 Officer Martin included this information in the search  
23 warrant affidavit "The CRI has seen Siclovan store chemicals  
24 and manufacture equipment...at the storage facility (#49) on  
25 at least two occasions in the past thirty days". CP 24 (page  
26 5 & 6).

Without this information the place to be searched would not  
be indicated in the affidavit nor any personal knowledge  
from the informant be listed.

1 The prosecutor at trial, states to the jury that Calvin has  
2 never been to storage unit #49 RP 935.

3 Posner also gives this inference in even more detail at the  
4 post trial hearing by stating what he really meant.

5 POSNER: "I submit Calvin Brown doesn't exist in regards to  
6 storage unit no. 49" RP 1137

7 Calvin Brown, the informant submitted a declaration stating  
8 he has never seen Siclovan place materials in that entire  
9 facility CP 106.

10 Officer martin also testified to their being a "variety of  
11 sources" RP 308. The officer only indicates one CI in the  
12 affidavit.

13 1) The officer submits in the affidavit that the CI seen  
14 Siclovan place materials in the unit.

15 2) Calvin Brown Submits he did not give that specific  
16 information.

17 3) Officer Martin obtained information from a variety of  
18 courses.

19 4) The State tells the jury and the court, Brown has not  
20 been to unit.

21  
22 I believe Siclovan made a clear showing that a Franks  
23 hearing was justified. The court abused his discretion in  
24 not even addressing the issue at the trial court and in post  
25 trial. The latter filed 7.8 motion was also given do  
26 consideration.

1 Sivlovan made a clear showing that the affidavit contained  
2 misstatements placed with a clear disregard for the truth  
3 State v. Jackson, 46 P.3d 257. Franks v. Delaware, 438 U.S.  
4 154 (1978).

5 The court should of allowed the defense to address this  
6 issue when he briefed it with legal authority CP 92.

7 I request a Franks hearing to make my showing that if these  
8 misststements were taken out probable cause would not exist.

9 I also request the Appeals court to consider it and make the  
10 desission.

11 SUMMERY OF GROUND #'s 5, 6, 7 & 8:

12 Under the Aguilar-Spinelli, test used in washington, the  
13 State must establish both the basis of the CRI's knowledge,  
14 as well as the credibility of the informant State v. Cole,  
15 128 Wn.2d 262 (1995).

16 The credibility of the CRI is suspect for a number of  
17 reasons set forth in the affidavit .Officer Martin merely  
18 states that the CRI has, in the past, provided information  
19 "on numerous investigations in which a quantity of  
20 controlled substances (including methamphetamine) were  
21 found.

22 This gives no information, for all we know it could of been  
23 the informants meth that was recovered. There is no  
24 indication of who's meth was recovered or if there was any  
25 convictions that followed.

26 To state that information is giving a bald assertion and is  
not sufficient to show the CRI's credibility, especially  
given the CRI's prior convictions for dishonesty.

In the suppression hearing on 1-03-05 Judge Bennett  
indicated that the reliability was a "little skimpy" RP 115  
(line 22).

1 The court also states that the information in the affidavit  
2 does not draw any conclusion, any causative link between  
3 providing information and finding the drugs RP 118.

4 The State then agrees with the court RP 118.

5 With that argument failing the State then goes to claiming  
6 the informant was providing info. against his penal  
7 interest. This argument failed RP 120 (line 7).

8 Then the State goes into argument that a person that has  
9 current drug charges can be considered to tell the truth.  
10 The court used this factor in assuming the informant would  
11 be truthful RP 137 (line 20).

12 AS A MATTER OF LAW IS A CONVICTED FELON WITH CRIMES OF  
13 DISHONESTY CONSIDERED TO BE TRUTHFUL ONLY BECAUSE HE HAS A  
14 CURRENT DRUG CHARGE TO WORK OFF?

15 No place in the warrant affidavit does it say that the  
16 informant has to provide truthful information to get  
17 consideration.

18 Nor does the affidavit say anything about any penalty to the  
19 informant if information is not truthful.

20 The decision that the trial court made on 1-03-05 in the  
21 case before the court now means any criminal that has a  
22 current drug offence is a honest and truthful person.

23 It is clear that the informants credibility was not  
24 established in the affidavit, the court erred by finding  
25 probable cause in the affidavit.

26 I request this court to reconsider the defense motion to  
suppress.

SUMMARY OF GROUND #'s 9 & 10:

1 The misconduct and mismanagement goes for beyond what was briefed  
2 in counsels opening brief. The best mirroring case is a 9th cir.  
3 case U.S. v. LAPAGE, 231 F.3d 488. This case involves a  
4 prosecutor that allowed a lie to be heard by the jury, then  
5 latter in closing informed the jury of the false testimony.

6  
7 The defense was not given a chance to mend the damage done by  
8 this testimony. The court reversed the conviction.

9  
10 The court states that the due process clause entitles defendants  
11 in criminal cases to fundamentally fair procedures. It is  
12 fundamentally unfair for a prosecutor to knowingly present  
13 perjury to the jury.

14  
15  
16 In the case before the court now is one far more serious of a  
17 situation. Here prosecutor Posner is the one committing the  
18 perjury, and giving the defense no opportunity to mend the  
19 damage.

20  
21  
22 Over forty years ago, the Supreme Court made it clear that "a  
23 conviction obtained through false evidence, known to be such by  
24 representatives of the state, must fall under the 14th  
25 amendment. NAPUE V. ILLINOIS, 360 U.S. 264, at 269 (1959).

1 SICLOVAN: "I know there was--there was an interview, two  
2 witnesses, and signed statements and recording. I've seen and  
3 heard of Sandra Gray's.

4 And now there's another person interviewed about this--this case,  
5 Calvin Brown, and I have not seen it nowhere in the record..." RP  
6 194

7  
8 POSNER: "I DON'T KNOW ANYTHING ABOUT A CALVIN BROWN" RP 194

9  
10 POSNER: "THERE'S NO CALVIN BROWN CONNECTED WITH THIS CASE" RP  
11 194

12  
13 POSNER: "I DON'T KNOW ANYTHING ABOUT A CALVIN BROWN" RP 195

14  
15 POSNER: "I DON'T SEE THE NAME CALVIN BROWN ONCE IN ANY OF THE  
16 REPORTS" RP 195.

17  
18 Siclovan was prose for two minutes and has already been lied to  
19 FOUR times already.

20 Then the court instructs the State to inquire about a statement  
21 from Brown RP 195.

22  
23 COURT: "as to whether or not there's any statement from a Calvin  
24 Brown that has to do with this case" RP 195.

25 The issue was Statements/interviews.  
26

1 This prose appellant and appellant council will demonstrate  
2 complete lies that the prosecutor Posner submitted to the jury.  
3 "A lie is a lie no matter what its subject"NAPUE at, 270.

4 The State made an inference to the jury that Calvin never existed  
5 in the storage unit #49.

6  
7 POSNER: "and that's because this Calvin NEVER REALLY EXISTED IN  
8 STORAGE UNIT NO. 49 did he?" RP 750

9  
10 Latter in the testimony Posner utters "whoever calvin may be..."  
11 RP 763

12  
13 In closing the State makes comments to the jury that he does not  
14 know this Calvin.

15 POSNER: "do we know who Calvin is?, I don't think so" RP 934.

16  
17 This seems to be more like the State is actually testifying to  
18 the jury as to him not believing he knows Calvin. "do we know..."  
19 RP 934

20  
21 Now for the State to Submit to the jury that Calvin never existed  
22 when he knows he does and even has it in the back of his mind  
23 that Calvin Brown has actually been to the unit (according to the  
24 search warrant affidavit).

25  
26 As for the mismanagement of the entire case.

The defense requested Calvin Browns WRITTEN AND ORAL STATEMENTS  
RP 194.

1 Eight days later, the defense makes this request again. This  
2 time Posner tells the court he does not have any additional  
3 information in regards to the Defenses special discovery request.  
4 The reason the State gives for not having the requested  
5 information is a completely fabricated statement with absolutely  
6 no truth to it.

7 POSNER: "I've been playing phone-tag with Officer Martin to try  
8 to address any concerns about calvin Brown," RP 210 (line 19).

9 Their was no phone-tag, and no need to try and address the issue  
10 with the officer. Their was no eight day phone-tag going on for a  
11 situation that Posner was well aware of himself.

12 The State made no attempt to contact the court and request an  
13 In-Camera review in that eight days of phone tag.

14  
15 POSNER: "the State still is not aware of how Calvin Brown has  
16 any relevance to this case whatsoever" RP 210 (line 21).

17 This is not true.

18  
19 The State is well aware of his relevance and the only reason to  
20 make such a statement to the court is to deceive.

21  
22 5) Phone-tag story is a deception.

23 6) Posner tells court he is not aware of any relevance to case.

24  
25 Now to address the one lie from the State that is in writing. The  
26 Defense submitted motion for new trial/dismissal CP 76 page 17 of

10) misrepresents to the court when asked directly about statement.

There is 10 documented untrue statements that are one the record for this appeals court to review. The deception lead the trial court to believe the Prose defendant was chasing his tail when in fact the requests were corroborative of the defense. How much of an advantage does a bar member need over a prose defendant with a 10th grade education?

Does he need to go as far as deceive the court, lie and submit false statements on responses? Not to mention lie to the Jury.

The state relies on this privilege to explain such a long drawn out deception. NO privilege allows any bar member to lie to the court, adverse party and the jury.

The proper way to handle the situation that occurd would be to inform the court of the situation In-Camera back in pre-trial, not to lie.

Simple mismanagement is a sufficient basis to dismiss a case. State v. Frazier, 82 Wn.App. 576 (1996)

Where prosecution failed to comply with discovery rule and court orders, dismissal in interest of justice was proper. State v. Dailey, 93 Wn.2d 454 (1980)

Governmental misconduct includes simple mismanagement as well as conduct of an evil or dishonest nature. State v. Sulgrove, 19 Wn.App. 860 (1978)

Lets apply the three prong **Napue** test. (1) testimony or evidence was false (2) prosecutor knew it was false (3) false testimony was material **Napue**, at 269-71.

All three prongs of that test have been demonstrated in this summery making this a constitutional violation. Please also take in to consideration that in **Napue and Lapage**, it was the prosecution merely allowing false testimony in the trial, here before you it IS the prosecutor himself doing it.

Now to apply the three prong test to this case before the court.

(1) TESTIMONY OR EVIDENCE WAS FALSE: It has been clearly demonstrated that the testimony that Brown does not exist is untrue. (2) PROSECUTOR KNEW IT WAS FALSE: The prosecutor knew Brown existed RP 211. The prosecutor knew brown existed at unit 49 see search warrant affidavit CP 24. Posner also knew Brown was the informant RP 1647. (3) FALSE TESTIMONY WAS MATERIAL: Posner agrees with the court that anything connecting Brown to the unit is material even **BRADY** RP 976.

All three prongs of the **Napue** test have been met and this Appellant declares the post trial motions filed on these issues did have merit and the court erred on ruling that they did not. I request the court , consider a full dismissal due to the mismanagement of the entire case.

30 was in regards to non disclosure of the written and oral statements of Calvin Brown. The State responds with:

1  
2 ONCE AGAIN, THE DEFENSE ASSERTS PROSECUTORIAL MISCONDUCT BY  
3 CLAIMING THE STATE FAILED TO DISCLOSE STATEMENTS MADE BY CALVIN  
4 BROWN. THE STATE IS NOT IN POSSESSION OF, HAS NEVER BEEN IN  
5 POSSESSION OF, AND DOES NOT KNOW OF THE EXISTENCE OF ANY  
6 STATEMENTS BY CALVIN BROWN TO ANY INVESTIGATOR.  
7

8 Then he goes to another challenge for me to prove it.  
9 CP 78 page 7.  
10

11 This challenging the defense to prove what he is withholding from  
12 even the court is quite a deliberate deception. In this response  
13 the State even points out that this is ongoing "Once again, the  
14 defense asserts". Clearly admitting that the claim has been made  
15 repeatedly.

16 7) The state is not in possession of.

17 8) has never been in possession of.

18 9) does not know of the existence of any statements by Calvin  
19 Brown to any investigator.  
20

21 In the post trial hearing that followed the court asked the  
22 Posner directly "You're representing to the court to your  
23 knowledge there is no such statement in the possession of the  
24 state" RP 1139.  
25

26 POSNER: "correct" RP 1139.

SUMMARY TO GROUND #'s 11, 12, 13, 14, 15 & 16:

1 This case was based off of the contents found in storage unit  
2 49. In the most part the twelve (12) rubbermaid type containers  
3 that were located which contained equipment CP 2 (page 2).  
4 Officer Martin started going through some of the bins at the unit  
5 and found that some of the bin contained what appeared to be  
6 equipment consistent with manufacturing RP 311. He then seized  
7 what he could lawfully due to the warrant and transported them to  
8 a facility to be sorted on another day RP 312. Officer Martin Was  
9 the evidence officer. On 2-15-05 Siclovan complained that the  
10 evidence was being filtered by the police RP 250. Siclovan  
11 indicates how much stuff was in the unit by pointing it out in  
12 the photographs RP 251. The court understands what the defense is  
13 requesting by stating "he wants to see all the evidence seized"  
14 RP 254.

15  
16 Posner states "everything's in the photograpgh" RP 255.  
17 Siclovan was able to look through the remaining evidence after it  
18 was filtered by police on 2-10-05. Officer Martin refused to  
19 speak to Siclovan when asked where the items in the photos are  
20 located.

21  
22 Siclovan requests a list of all items seized out of the unit  
23 RP 260. Siclovan points out a Yellow envelope that is consistent  
24 to those used by inmates in the jail RP 263. The defense is not  
25 aware of what it is and either does the state. The state suggests  
26 that their could be a photographs of bin B.

1 He does not offer any list of items that describes all the  
2 items that were in each bin. Only suggests looking at the photos  
3 RP 263. The court asked who the evidence officer was and the  
4 state told the court it was Martin RP 263. The state also says  
5 Martin marked EVERYTHING into evidence RP 264.

6 The court is then informed by standby counsel that officer  
7 Martin refused to speak to Siclovan regarding evidence RP  
8 264-265.

9  
10 The morning of trial the defense again complains about not  
11 seeing all the seized items RP 274. The court asked the state if  
12 he got a list of every thing seized and the state refers to the  
13 warrant return and says it has been provided to the defense. The  
14 warrant return only said (12) bins. It was not until later that  
15 all the items in each bin was taken out and filtered RP 278. In  
16 the attempt to find out what and where some of the items seen in  
17 the photo's are at the court asks for the list of items. The  
18 defense complains it is vary vague and only says (12) bins RP  
19 275. The state pulls out an inventory list that not even the  
20 court had in the court file, the state had to give one to the  
21 court RP 276.

22  
23 Now the court sees that it is a vary detailed list and the  
24 state says to his belief it is everything that was seized RP 276.  
25  
26

1 Officer Martin tells the court that this is an inventory list  
2 of every thing seized RP 278.

3 Mr. Brintnall, and the defense state they have never seen this  
4 list. RP 279

5 See Brintnalls written declaration CP 70 he declares again  
6 that he was not provided with the itemized list of items seized.

7  
8 Now that siclovan is provided with a list of the items that  
9 were seized he notices that their are items seen in the photos  
10 that are not on the list and things on the list that are not seen  
11 in the photos. The court reads off the items in bin B and there  
12 is no listing of any yellow envelope that was seen in the photo  
13 of bin B RP 283.

14  
15 Officer Martin tells the court that items that were not  
16 evidentiary were destroyed RP 284.

17  
18 The court states that it does not list the yellow piece of  
19 paper RP 285.

20  
21 Given the situation the court informs the defense that the  
22 best he can do is ask these questions in front of the jury RP  
23 286.

24  
25 The defense then, has to ask for this inventory list that he  
26 has been trying to get for weeks RP 287.

1 This prose defendant is provided discovery on the day of trial  
2 and sees that he has pretrial issues to address and the need to  
3 prepare for trial and is denied due to a full docket on Friday.  
4 The solution given by the court is that I can cross examine the  
5 officer at trial.

6  
7 The list was material evidence as was the photos were also.  
8 The destruction order said to preserve the items before  
9 destruction. There for the form of preservation is a replacement  
10 of the item that would be useful. The form of preservation being  
11 photos and inventory list is material.

12  
13 The granting or denying of a motion for continuance of the  
14 trial court of a case, whether criminal or civil, rests within  
15 the sound discretion of the trial court, and this court will not  
16 disturb the courts ruling absent a showing that the trial court  
17 in ruling upon the motion either failed to exercise it's  
18 discretion or manifestly abused it's discretion State v. Bailey,  
19 426 P.2d 988 (1967).

20  
21 In the matter before the court it can not be logical for a  
22 person being charged for the contents of (12) bins to stand trial  
23 on the very day he is disclosed the contents of those bins. The  
24 state will argue that the defense was given photo's. The record  
25 shows that the photo's are vague and do not show the contents of  
26 all the bins, only the filtered items that the officers decided  
to save. Bin A & B do not have photo's of the contents.

1 The defense was prejudiced by late disclosure of this list by  
2 not being able to file motions to dismiss and or sanctions for  
3 destruction of evidence with out notice or preservation.

4 Later the defense files these motions in post trial and the  
5 state claims all the motions the defense files should of been  
6 done in pretrial. The defense was not allowed to.

7  
8 The defense became prose on 1-26-05 then struggles to see all  
9 contents of bins. 2-16-05 Siclovan then is disclosed the contents  
10 and is forced into trial. It was (25) days that Siclovan had  
11 control of the case, on that twenty fifth day he obtains  
12 disclosure of the contents of the bins and is forced into trial  
13 that day.

14  
15 The defense gives good argument on this issue in post trial  
16 rearing on 5-06-05 & 5-26-05.

17  
18 See this summery's exhibit "A" to see the only listing of  
19 items seized out of storage unit no. 49 up till the day of trial.

20  
21 See this summery's exhibit "B" to see the itemized list that  
22 was kept from the defense up till the day of trial.

23  
24 See RP 1130 to 1133 for good argument on the materiality of  
25 the list not disclosed.

SUMMARY OF GROUND # 17 to 23

1 This case involves the issue of material evidence that was  
2 destroyed without NOTICE or PRESERVATION.

3  
4 The defense also makes a claim that their was a large amount  
5 of it was done without any contamination to the items destroyed.

6  
7 The officers violated the destruction order as to the order to  
8 preserve items and photograph.

9  
10 The search warrant requests specific items making a showing  
11 that the officers knew their materially exculpatory value.

12  
13 The states argument that the evidence destroyed was not  
14 apparent to the officers before destruction CP78 page 10.

15  
16 Siclovan gave good argument that it was apparent before  
17 destruction because it was items that were listed on the search  
18 warrant RP 1150 & 1152.

19  
20 The state responds to the argument by saying the search  
21 warrants are standard forms and it is not always apparent to the  
22 officers what is listed on them.

23  
24 The court makes comments about how we know **"they destroyed a**  
25 **bunch of evidence because they felt it didn't have evidentiary**  
26 **value"** RP 1152 line 23

BIN A

1 Bin a contained two cell phones and miscellaneous  
2 paperwork also the lease agreement.

3 The lease agreement was entered into evidence and ended  
4 up in the hands of the jury.

5 The two cell phones were destroyed with no preservation  
6 at all. The serial numbers were not even written down, no  
7 listing of numbers that the phone has called or received.  
8 The phones were not preserved by photo or sample as the  
9 destruction order states to do. see this summery's  
10 exhibit "C" PHOTO #9 that is the only showing and only  
11 form of preservation of both phones.

12 There is NO preservation of the miscellaneous paperwork  
13 that is listed on the itemized list. see this summery's  
14 exhibit "B".

15  
16 The argument on 5-06-06 at post trial hearing Siclovan  
17 makes good argument on showing the phones where more then  
18 potentially useful to the defense RP 1036. The state  
19 makes a big showing in their case about some phone code  
20 print out that they saved from destruction yet they  
21 destroy two actual cell phones.

22  
23 RP 1037 Siclovan makes a showing of how the defense would  
24 of benefited from the cell phones.

25  
26 Siclovan also makes a showing that the value was apparent  
to the officers when they discovered them RP 1037 & 1038

1 by pointing out where in the search warrant affidavit  
2 officer martin requested the vary items.  
3

4 The paper work that was destroyed out of bin "A" was not  
5 preserved by photo or sample as the destruction order  
6 stated to do see this summery's exhibit "D" DESTRUCTION  
7 ORDER.

8 The state makes a claim that the items had to be  
9 destroyed for safety and health concerns. Then why did  
10 they put the lease that was in bin "A" in the hands of  
11 the jury?

12 Safety was never the concern. There was no concern in  
13 putting an item in the hands of the jury because their  
14 was NO contamination in bin "A".

15 See list of contents.

16 All of the bins were separate and some even locked. No  
17 contents in bin "A" were contaminated.

18 I request the state be sanctioned in the events of a new  
19 trial not being allowed to use any items in bin "A" as  
20 evidence.

21 BIN B

22 There was a lot of discussion in regards to bin "B" due  
23 to the miscellaneous papers seen in the photo also a  
24 yellow envelope that was seen yet their is no listing if  
25 any papers in the inventory list.  
26

There was no

1 preservation of the papers out of this bin (as I have  
2 cited from the 2-16-05 See RP 284 to 287 to see  
3 descuion regarding what was in the bin.

4  
5 There was two photo albums found in bin "B" and they were  
6 preserved outside of the order to destroy for the purpose  
7 of the state only.

8  
9 This was another showing of filtering evidence.

10  
11 The state can not argue that the papers and envelopes  
12 were not obviously apparent to the officers. Due to the  
13 fact they requested the vary items in the warrant. Also  
14 because they did preserve similar evidence that  
15 incriminated only Siclovan.

16  
17 I request that the state be sanctioned and not allowed to  
18 use any item that was preserved and put in the hands of  
19 the jury that came out of bin "B"

20  
21 The contents in bin "B" were not contaminated.

22  
23 There is no showing of any contamination in bin "B".  
24  
25  
26

BIN J

1 This bin is described by officer martin as having " ITEMS USED  
2 IN THE MANUFACTURE OF METHAMPHETAMINE, TO INCLUDE ETHANOL, SODIUM  
3 HYDROXIDE OR RED DEVIL LYE" RP 317.

4  
5 This is clearly a contaminated container. see this summery's  
6 exhibit "C" photo (7), also found on the record as state exhibit  
7 #22

8  
9 Along with the obvious contaminating equipment was a blue  
10 folder that was saved from the order of destruction that the  
11 state rely's on so much see states exhibit #43 & # 39.

12  
13 This blue folder was filtered out for the states use only. To  
14 save this item goes to show that the officers knew that papers  
15 were exculpatory evidence.

16  
17 The same type of evidence was not saved out of bin "A" & "B".  
18 Those items in bin "A" & "B" would of been saved from the  
19 destruction if it would of served the officers only interest  
20 (obtaining evidence on only Siclovan).

21  
22 This clearly contaminated folder was placed in the hands of  
23 the defense, standby council and finally the jury. All not  
24 trained in this field or experienced as the officer is that saved  
25 it from destruction. See CP 75 Issue I. The defence filed  
26 memorandum in support of the post trial motion.

1 At post trial hearing Siclovan gave good argument and stated  
2 the situation that happened the day the defense was allowed to  
3 sort through the preserved evidence. The officer gave Siclovan  
4 protective gloves when touching the blue folder. The officers  
5 kept that item knowing it was contaminated RP 1046.

6 At trial this folder was placed in the hands of the defense  
7 and the jury RP 1046 to 1047.

8  
9 Why was this, known to be contaminated item kept when other  
10 simuler items that don't appear to be contaminated destroyed?

11  
12 The items in bin "A" & "B" did not serve the only purpose of  
13 the officers.

14  
15 I request the blue folder and its contents be excluded in the  
16 events of a new trial.

17  
18 Please see the search warrant affidavit to see knowledge of  
19 the officer that clearly states he knows the items he destroyed  
20 are exculpatory.

21  
22 The states argument that the officers did not know fails.

23  
24 The misuse of the destruction order results in a State and  
25 constitutional violation of a defendants right to have material  
26 evidence and ability to form a defense.

The officers obviously filtered for their purpose only.

1  
2 The defense was not allowed to make these requests for  
3 sanctions before the trial when it was made apparent that such a  
4 violation took place RP 228.

5  
6 Please see argument presented on this issue on 2-16-05 RP 274  
7 to 289.

8 Also oral argument at post trial hearings RP 1032 to 1070,  
9 also RP 1073 to 1162.

10  
11 DENIAL OF POST TRIAL ISSUES

12 The court denied the defense motions without looking at the  
13 exhibits and evidence that he presented to the court.

14  
15 On 5-06-05 at end of the hearing the court said to have every  
16 thing marked RP 1069.

17  
18 also see CP 79.( exhibit list containing 15 exhibits turned in  
19 5-06-05.

20  
21 Also see clerks in court record CP 79 it states 15 exhibits  
22 retained by judge.

1 ON 5-26-05 at the end of argument the court ruled against the  
2 defense on the destruction issues. The defense was shocked and  
3 asked " are you including the last hearing" RP 1155.

4  
5 Then the defense asked for his exhibits back from the court RP  
6 1161.

7  
8 The court stated he did not have them RP 1161 now the defense  
9 asks how he can make the decision without the exhibits and  
10 evidence that was presented RP 1161, 1162.

11 SUMMERY TO GROUND # 24 & 25:

12 The evidence used to convict on count II was a bag of byproduct  
13 that was already used to extract. There was no showing that it  
14 could have the ability to use in a later manufacture.

15  
16 This evidence was as exhibit 26 also marked as K-2 Hess states  
17 that this material could be used to cut meth increase the yield  
18 RP 656.

19  
20 This sample is simuler to what remains after a pill extraction.

21  
22  
23 It was said to be starches and binders and after use it's gonna  
24 leave over into a pinkish or red color RP 656 line 21.

25  
26 It is clearly stated and describer to be evactly what the  
states expert witnesses explain it to be what you get after  
pills are extracted.

1  
2 The state crime lab report states that it is starch and binders  
3 with a trace of sphudoephererane. Consistent with a pill  
4 extraction.

5  
6 Their is simply no showing that one could intend to use this  
7 again or even knew if you could or not.

8  
9 Also the defense is not given a chance to sample it and prove  
10 there is not enough sphudo left to have any intention.

11  
12 I request that the appeals court see that the search warrant  
13 did no contain P.C.

14 The informant was not credible.

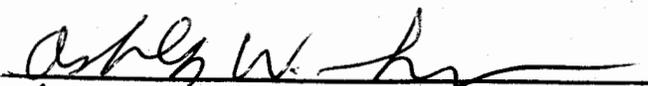
15 The states conduct authorizes a dismissal.

16 The state needs to be sanctioned in the events of a new trial.

17 The defense is not being given enough evidence to form a  
18 defense.

19 Their was not sufficient evidence to convict.

20  
21 Dated This 25<sup>th</sup> day of April, 2006

22  
23   
24 Ashley Wade Siclován, PROSE  
25  
26

# EXHIBIT

## A

THIS DOCUMENT IS THE ONLY LISTING OF EVIDENCE  
UNTIL THE MORNING OF TRIAL.

FOUND ON THE RECORD AS EXHIBIT #5 & #6

ON 05-06-06 HEARING

ex. (5)

# Vancouver Police Department

Case Number  
04003031

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty | Caliber | Drug Type | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|-----|---------|-----------|----------|---------|-------|
| 1      | EVIDENCE    | OTHER    | /                  | 12  |         |           |          |         |       |

|       |       |               |                      |
|-------|-------|---------------|----------------------|
| Brand | Model | Serial Number | Owner Applied Number |
|-------|-------|---------------|----------------------|

Miscellaneous  
**CONTAINERS CONTAINING CHEMICALS/GLASSWARE**

|                 |                      |                   |                 |
|-----------------|----------------------|-------------------|-----------------|
| Recovery - Date | Recovered - By (PSN) | Recovering Agency | Value Recovered |
|-----------------|----------------------|-------------------|-----------------|

|  |                               |
|--|-------------------------------|
| Recovery Location<br>5820 NE 8TH CT UNIT #49 | City, State, ZIP<br>VANCOUVER |
|--|-------------------------------|

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty | Caliber | Drug Type | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|-----|---------|-----------|----------|---------|-------|
| 2      | EVIDENCE    | OTHER    | /                  | TWO |         |           |          |         |       |

|       |       |               |                      |
|-------|-------|---------------|----------------------|
| Brand | Model | Serial Number | Owner Applied Number |
|-------|-------|---------------|----------------------|

Miscellaneous  
**TWO HEAT SOURCES-LAB EQUIPMENT**

|                 |                      |                   |                 |
|-----------------|----------------------|-------------------|-----------------|
| Recovery - Date | Recovered - By (PSN) | Recovering Agency | Value Recovered |
|-----------------|----------------------|-------------------|-----------------|

|                                      |                               |
|--------------------------------------|-------------------------------|
| Recovery Location<br>STORAGE UNIT 49 | City, State, ZIP<br>VANCOUVER |
|--------------------------------------|-------------------------------|

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty | Caliber | Drug Type | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|-----|---------|-----------|----------|---------|-------|
| 3      | EVIDENCE    | OTHER    | /                  | ONE |         |           |          |         |       |

|       |       |               |                      |
|-------|-------|---------------|----------------------|
| Brand | Model | Serial Number | Owner Applied Number |
|-------|-------|---------------|----------------------|

Miscellaneous  
**BAG CONTAINING LITTER-HOSE**

|                 |                      |                   |                 |
|-----------------|----------------------|-------------------|-----------------|
| Recovery - Date | Recovered - By (PSN) | Recovering Agency | Value Recovered |
|-----------------|----------------------|-------------------|-----------------|

|                                      |                  |
|--------------------------------------|------------------|
| Recovery Location<br>STORAGE UNIT 49 | City, State, ZIP |
|--------------------------------------|------------------|

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty | Caliber | Drug Type | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|-----|---------|-----------|----------|---------|-------|
| 4      | EVIDENCE    | OTHER    | /                  |     |         |           |          |         |       |

|       |       |               |                      |
|-------|-------|---------------|----------------------|
| Brand | Model | Serial Number | Owner Applied Number |
|-------|-------|---------------|----------------------|

Miscellaneous  
**PHOTOS, MAIL, MISC PAPERWORK**

|                 |                      |                   |                 |
|-----------------|----------------------|-------------------|-----------------|
| Recovery - Date | Recovered - By (PSN) | Recovering Agency | Value Recovered |
|-----------------|----------------------|-------------------|-----------------|

|                                      |                  |
|--------------------------------------|------------------|
| Recovery Location<br>STORAGE UNIT 49 | City, State, ZIP |
|--------------------------------------|------------------|

|  |             |                 |                       |                                    |
|--|-------------|-----------------|-----------------------|------------------------------------|
| Reporting Officer<br><b>Martin, Neil</b>   | PSN<br>1326 | Ref Case Number | Report ID<br>ORIGINAL | Agency/Case Number<br>VPD/04003031 |
| Approving Officer<br><b>Gunderson, Rex</b> | PSN<br>1061 |                 |                       |                                    |
| Report printed by: MARTINW                 |             | Page 3 of 10    |                       |                                    |

# Vancouver Police Department

Case Number

04003031

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty           | Caliber | Drug Type            | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|---------------|---------|----------------------|----------|---------|-------|
| 5      | EVIDENCE    | OTHER    | /                  | TWO           |         |                      |          |         |       |
| Brand  |             | Model    |                    | Serial Number |         | Owner Applied Number |          |         |       |

Miscellaneous  
**CHEMICAL BOOKS**

|                   |                      |                   |                  |
|-------------------|----------------------|-------------------|------------------|
| Recovery - Date   | Recovered - By (PSN) | Recovering Agency | Value Recovered  |
| Recovery Location |                      |                   | City, State, ZIP |

**STORAGE UNIT 49**

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty           | Caliber | Drug Type            | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|---------------|---------|----------------------|----------|---------|-------|
| 6      | EVIDENCE    | OTHER    | /                  |               |         |                      |          |         |       |
| Brand  |             | Model    |                    | Serial Number |         | Owner Applied Number |          |         |       |

Miscellaneous  
**BLUE BACKGROUND-BLANK BUSINESS CHECKS**

|                   |                      |                   |                  |
|-------------------|----------------------|-------------------|------------------|
| Recovery - Date   | Recovered - By (PSN) | Recovering Agency | Value Recovered  |
| Recovery Location |                      |                   | City, State, ZIP |

**STORAGE UNIT 49**

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty           | Caliber | Drug Type            | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|---------------|---------|----------------------|----------|---------|-------|
| 7      | EVIDENCE    | OTHER    | /                  | ONE           |         |                      |          |         |       |
| Brand  |             | Model    |                    | Serial Number |         | Owner Applied Number |          |         |       |

Miscellaneous  
**LARGE PIECE OF PLASTIC TUBING**

|                   |                      |                   |                  |
|-------------------|----------------------|-------------------|------------------|
| Recovery - Date   | Recovered - By (PSN) | Recovering Agency | Value Recovered  |
| Recovery Location |                      |                   | City, State, ZIP |

**STORAGE UNIT 49**

## Property Information

| Item # | Loss/Action | IBR Type | NCIC Category/Type | Qty           | Caliber | Drug Type            | Quantity | Measure | Value |
|--------|-------------|----------|--------------------|---------------|---------|----------------------|----------|---------|-------|
| 8      | EVIDENCE    | OTHER    | /                  | ONE           |         |                      |          |         |       |
| Brand  |             | Model    |                    | Serial Number |         | Owner Applied Number |          |         |       |

Miscellaneous  
**LOCK CUT FROM STORAGE UNIT #49**

|                   |                      |                   |                  |
|-------------------|----------------------|-------------------|------------------|
| Recovery - Date   | Recovered - By (PSN) | Recovering Agency | Value Recovered  |
| Recovery Location |                      |                   | City, State, ZIP |

**SEE NARRATIVE**

|  |                    |                 |                              |   |
|--|--------------------|-----------------|------------------------------|---|
| Reporting Officer<br><b>Martin, Neil</b>   | PSN<br><b>1326</b> | Ref Case Number | Report ID<br><b>ORIGINAL</b> | Agency/Case Number<br><b>VPD/04003031</b> |
| Approving Officer<br><b>Gunderson, Rex</b> | PSN<br><b>1061</b> |                 |                              |   |
| Report printed by: MARTINW                 |                    | Page 4 of 10    |                              |   |

# EXHIBIT

## B

THIS IS THE MORE DETAILED INVENTORY LIST NOT  
DISCLOSED UNTIL THE DAY OF TRIAL.  
FOUND ON THE RECORD AS EXHIBIT #1 on 5-06-05.



|     |  |   |   |  |
|-----|--|---|---|--|
| E-3 |  |   | X | 1000ml flask with cork in it   |
| E-4 |  |   | X | 2 100ml flasks one of which has a clear liquid in it   |
| E-5 |  | X | X | Tip of rubber spatula with stains on it. Photo: DSCN8264   |
| E-6 |  |   | X | Glass condenser  |
| F   |  | X |   | Large Tan in color plastic container/bin with black in color handles containing: a one gallon can of Coleman fuel (about ¾ full), miscellaneous lab glassware, miscellaneous lab Tupperware, a single electric heating mantle/hot plate and one empty/used box of Target Brand Sinus and Allergy Medicine. Photos: DSCN8265, 8266, 8267  |
| G   |  | X |   | Large Blue in color plastic container/bin with a blue in color lid containing: rubber hosing, a Braun handheld mixer with red stains on it, a gallon size can of Coleman Fuel (about 1/8 <sup>th</sup> full) a gallon size can of Denatured Alcohol (about ½ full) a gallon size can of Mineral Spirits (full), Pyrex measuring glasses and miscellaneous glassware (lab related items). Photos: DSCN8268, 8269, 8270  |
| G-1 |  | X |   | Handheld Braun Mixer. Photo: DSCN8271  |
| H   |  | X |   | A smaller "tool box size" blue in color container with a silver in color lid containing: a smaller plastic Tupperware type container with tin foil and used coffee filters with red in color sludge in them, four brown in color glass (4 ounce) bottles (two of which are about ¼ full of suspected Red Phosphorous). A plastic baggie containing suspected Red Phosphorous, a sixteen ounce glass bottle containing a bi-layer liquid (green on top and brown on the bottom (PH 8/14). Another brown in color (4 ounce) glass bottle containing a unknown liquid. A plastic baggie containing numerous white in color pills marked L054 (the pills Field Tested Positive for Pseudo/Ephedrine). The box also contained a Taylor Temperature Gauge, a folding knife, a Putty knife, a glass pipette and a sealed bottle of PH 6-7 IndicatAR. Photos: DSCN8272, 8273, 8279 |
| H-1 |  | X | X | A smaller plastic Tupperware type container with tin foil and used coffee filters with red in color sludge in them. Photos: DSCN8274, 8280   |
| H-2 |  | X | X | Bottles containing suspected Red Phosphorous. Photos: DSCN8275, 8277, 8281   |
| H-3 |  | X | X | A sixteen ounce glass bottle containing a bi-layer liquid (green on top and brown on the bottom (PH 8/14). Photos: DSCN8276, 8282  |
| H-4 |  | X | X | Brown in color (4 ounce) glass bottle containing an unknown liquid. Photos: DSCN8278, 8283   |
| H-5 |  | X |   | A plastic baggie containing numerous white in color pills marked L054 (the pills Field Tested Positive for Pseudo/Ephedrine). Photo: DSCN8284  |
| I   |  | X |   | Large clear in color plastic container/bin with a red in color top containing: Funnels, miscellaneous Tupperware containers, and two (2) Mini-Tabs Pseudo 60's, 60mg- 36 tablets. One of the bottles is full of a unknown liquid (PH-1). The lot number on one bottle is #03F395S, Expiration date June/06. The lot number on the second bottle is #03G529J, Expiration date July/06. Photos: DSCN8285, 8286   |
| J   |  | X |   | Large clear in color plastic container/bin with a blue in color lid containing: one gallon container of denatured alcohol (¾ full), one gallon container of Coleman fuel (¾ full), one   |

|     |  |   |   |  |
|-----|--|---|---|--|
|     |  |   |   | twelve fluid ounce bottle of Heet (1/4 full), one sealed jar of Vinegar, one gallon bottle of Muriatic Acid (about 1/8 <sup>th</sup> full), one bottle of Red Devil Lye, one jar of activated charcoal (about 1/2 full), plastic bag containing white sludge, a blue in color folder and miscellaneous paperwork. Photos: DSCN8287, 8288   |
| J-1 |  | X | X | Plastic bag containing white sludge. Photos: DSCN8289, 8290  |
| K   |  | X |   | Large clear in color plastic container/bin with a red in color top containing: a yellow and black in color foot pump, several used coffee filters in plastic grocery bags (one of which contained a gold in color ring with small diamonds on it), a glass Pyrex jar with a handle on it, several boxes of matchbooks/matchboxes, plastic baggies with used cotton balls with suspected Iodine stains on them, plastic baggie with pink in color paste in it, a green in color glass bowl with a downspout on it. Photos: DSCN8291, 8292 |
| K-1 |  | X | X | Plastic baggie with pink in color paste in it. Photos: DSCN8293, 8294, 8296  |
| K-2 |  | X | X | Plastic baggie containing cotton balls with suspected Iodine Stains on them. Photos: DSCN8295, 8297  |
| L   |  | X |   | Miscellaneous Lab related equipment and chemicals including glass test tubes, one twelve ounce bottle of Heet, and miscellaneous glassware. Photos: DSCN8298, 8299, 8300   |
| M   |  | X |   | Two heating mantles/"Hot Plates" and the bag of cat litter with a rubber hose/plastic tubing sticking out of it. Photo DSCN8301  |

10/2/04

# EXHIBIT

## C

COPIES OF THE PHOTO'S TURNED ON AT POST TRIAL  
HEARINGS

FOUND ON THE RECORD AS EXHIBIT #7 TO #14

IN THE POST TRIAL HEARINGS:

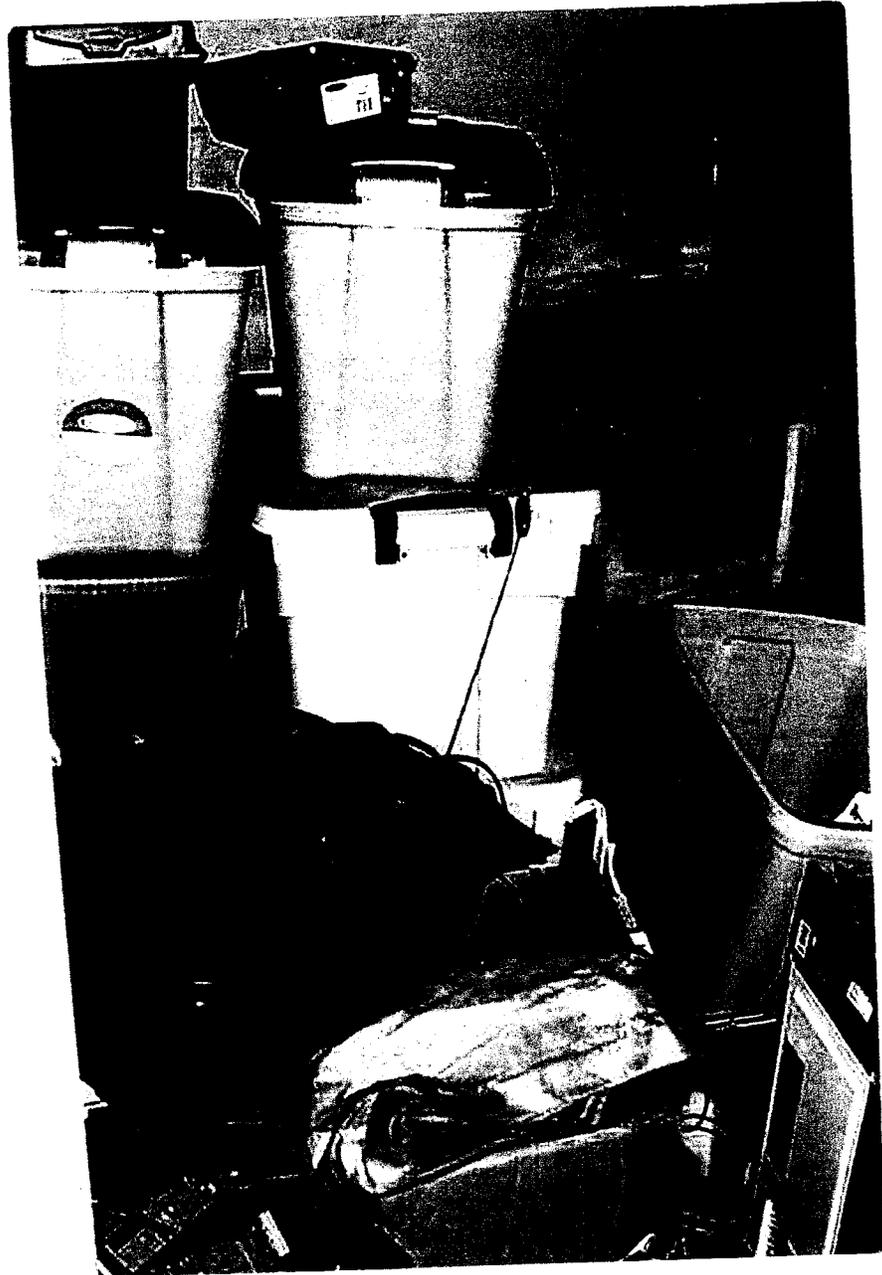
5-06-05 & 5-26-05

7

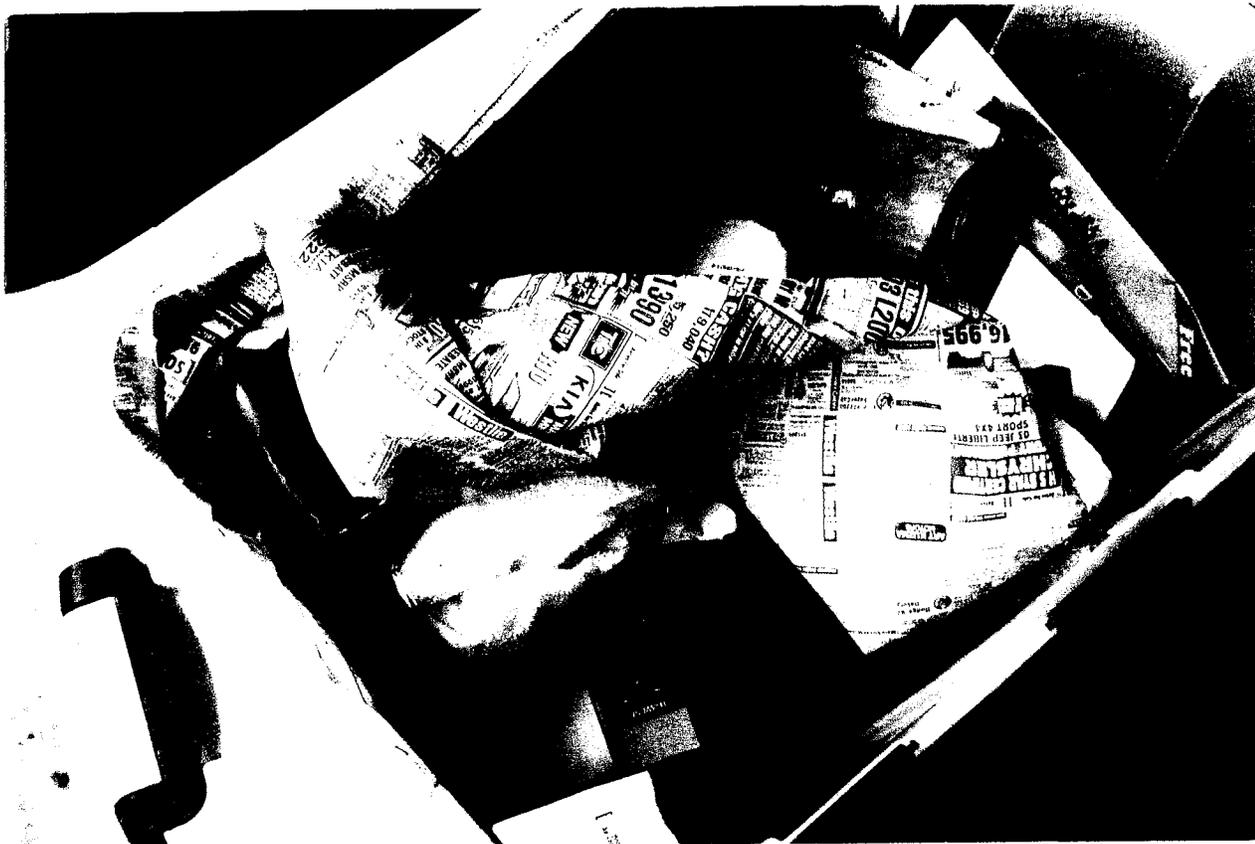


CONTAMINATED BLUE FOLDER THAT THE OFFICERS  
SAVED FROM DESTRUCTION FOR THEIR PURPOSES.  
THIS FOLDER MADE IT TO THE HANDS OF JURORS.

8



9



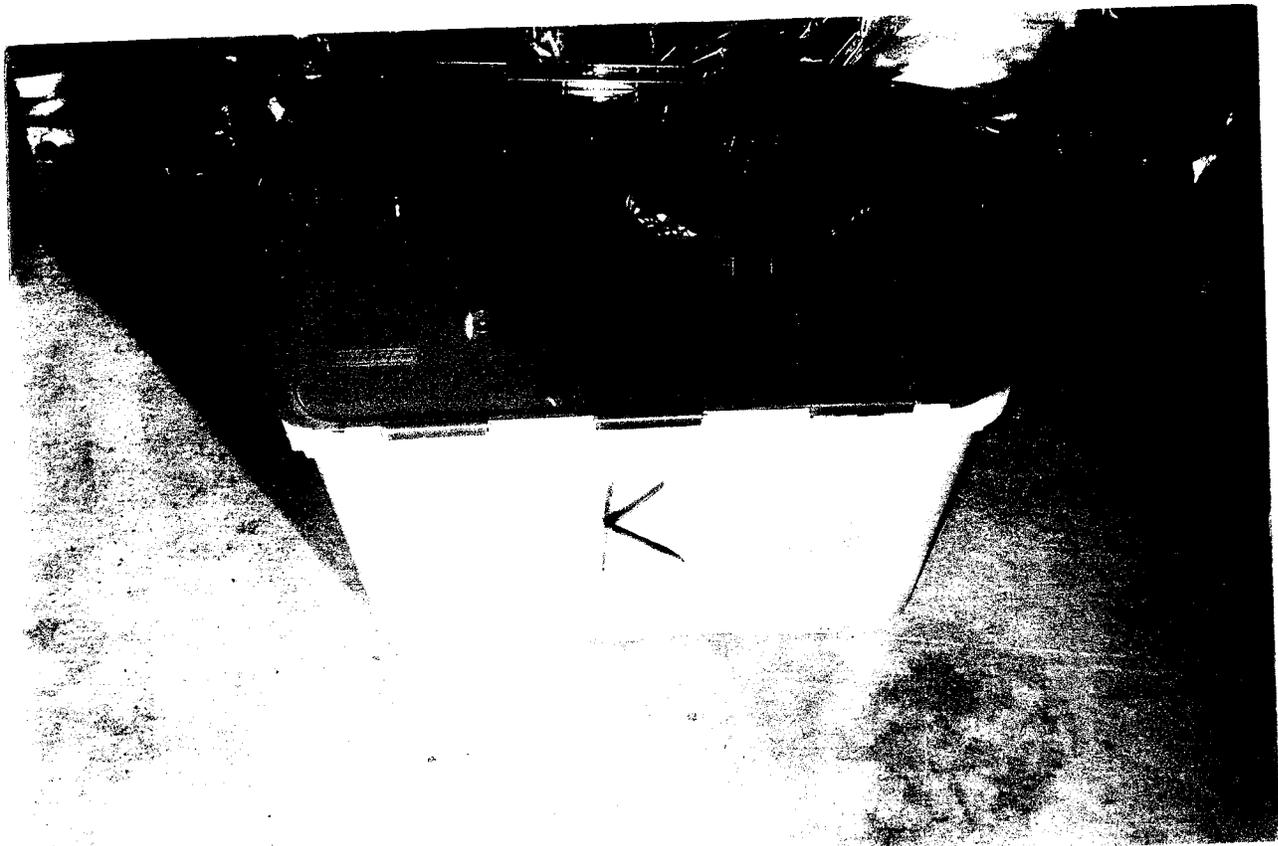
THE ONLY PRESERVATION OF (TWO) CELL PHONES IS  
THIS PHOTO OF ONE OF THE TWO.

NOTE: NO CONTAMINATION IN THIS BIN BIN A

10



11



12



IN BETTER PHOTO YOU CAN SEE TOP TWO BIBS HAVE  
SEVERAL ITEMS IN THEM THAT ARE NOT LISTED IN  
EXHIBIT B  
ITEMS THAT WOULD IDENTIFY OTHERS.

13



14



# EXHIBIT

## D

COPY OF THE DESTRUCTION ORDER THAT CLEARLY ORDERS  
TO PRESERVE ITEMS AND ONLY DESTROY CONTAMINATED  
ITEMS.

ROUND IN THE RECORD EXHIBIT # 15

FROM POST TRIAL HEARING:

5-06-05

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF CLARK

**COPY**

In Re:  
Seizure and Destruction of  
Chemicals and Materials  
belonging to Ashley Siclovan  
and Sandra Gray

NO:  
  
ORDER ALLOWING  
DESTRUCTION OF CHEMICALS

THIS MATTER having come before the court on the request of Officer Neil T. Martin of the Vancouver Police Department, for the destruction of chemicals, chemical residue or contaminated material found as a result of the execution of a search warrant issued by the Clark County District Court. That the destruction of the hazardous or toxic chemicals, their chemical residues or contaminated material is necessary to preserve the public health and welfare, now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the chemicals, chemical residues or contaminated materials seized pursuant to the search warrant issued by the Clark County District Court Judge D. Zimmerman on the 19th day of February, 2004, shall be preserved by sampling and/or by photographs and the balance should be and is hereby ordered destroyed by appropriate means.

DATED this 19<sup>th</sup> day of Feb., 2004.

  
Honorable District Court Judge

By: \_\_\_\_\_  
Officer Neil T. Martin  
Vancouver Police Department

# EXHIBIT

## E

DECLARATIONS FROM PERSONS THAT WERE AT STORAGE  
FACILITY AND RECEIVED PRINT OUT OF ALL THE DAYS  
AND TIMES THE UNIT WAS OPENED.

3

RECEIVED

APR 07 2005

Prosecutor's Office



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS  
DIVISION OF COMMUNITY CORRECTIONS

REPORT TO: The Honorable Bennett, Roger  
Clark County Superior Court

DATE: 04/05/2005

NAME: Siclovan, Ashley

NUMBER: 745567

CAUSE: 001007108

CRIME: Drug Possession

SENTENCE: Unknown

DATE OF SENTENCE: 05/19/00

TERMINATION DATE: Tolling

PRESENT LOCATION: Clark County Jail

STATUS: Active

CLASSIFICATION: RMB

**SPECIAL**

This is to notify the Court that I received documents from Beverly Bates who was the manager of a storage unit where Siclovan had been frequenting. I placed the documents on top of Siclovan's file, however, in the transfer of the file to Elizabeth Campbell, another Officer in the Department of Corrections, the paperwork was lost. I do not at this time have any idea where the paperwork is nor does the supervising officer. I have attempted to locate the paperwork but have been unsuccessful.

Submitted by:

Rees Campbell  
Community Corrections Officer II  
8008 NE Fourth Plain Blvd.  
Vancouver WA. 98662  
Telephone: (360) 260-6353

Distribution: Original: Court  
cc: Prosecuting Attorney

4

**RECEIVED**

APR 07 2005

Prosecutor's Office



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

**COURT - SPECIAL**

**REPORT TO:** The Honorable Roger A. Bennett  
Clark County Superior Court

**DATE:** 4/6/2005

**NAME:** SICLOVAN, Ashley W.  
**Also Known As:** Meadows, Ashley Wade  
Meadows, Ashle

**DOC NUMBER:** 745567  
**CAUSE:** 00-1-00710-8  
(AE)

**CRIME:** Drug Possession

**SENTENCE:** 12 months  
supervision

**DATE OF SENTENCE:** 05/19/00

**TERMINATION DATE:** Tolling

**PRESENT LOCATION:** Clark County Jail

**STATUS:** Active

**Last Known Address:** 9517 NE Gurtz  
Dalkena, OR 97211

**CLASSIFICATION:** RMB

This special is being submitted to notify the Court that documents from Beverly Bates, who was the manager of a storage unit where Ashley Siclovan had been frequenting, cannot be located. Community Corrections Officer Rees Campbell placed the documents on top of Siclovan's file, however, in the process of transferring the file to me, the paperwork was lost. Efforts to located the paperwork have been unsuccessful.

*I certify or declare under penalty of perjury of the laws of the State of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.*

**Submitted By:**

*Elizabeth Campbell*  
Elizabeth Campbell  
Community Corrections Officer II  
8008 NE Fourth Plain Rd., # 360  
Vancouver, WA 98662  
(360) 260-6200

Distribution: **ORIGINAL** - Court **COPY** - Prosecuting Attorney, Defense Attorney, File

# EXHIBIT

## F

EXHIBIT LIST OF THE ITEMS SICLOVAN TURNED OVER  
TO THE COURT ON 5-06-05 THAT THE COURT MADE RULING  
WITHOUT KNOWING HE HAD EXHIBITS TO USE IN THE  
DETERMINATION.



# CERTIFICATE OF SERVICE OF MAILING

I certify that I have turned over the original(s) and/or copie(s) of the foregoing documents to correctional authorities, for the Washington State Department of Corrections at the Clallam Bay Corrections Center, to be deposited in the US Postal Service:

STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

---

---

---

---

---

---

---

---

To the following entity(s):

COURT OF APPEALS DIV II

---

LISA TABBUT

---

---

---

---

BY  
STATE OF WASHINGTON  
ENTITY  
06 APR 27 PM 2:33

FILED  
COURT OF APPEALS

Postage prepaid.

If checked, this legal document was mailed as:

- CERTIFIED MAIL
- RETURN RECEIPT REQUESTED MAIL

I declare under penalty of perjury under the laws of the State of Washington, pursuant to RCW 9A.72.085, and the laws of the United States, pursuant to Title 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on this 25 day of April, 2006.  
Osley W. Butler