

IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON
DIVISION II

STATE OF WASHINGTON,

Respondent,

Vs.

Michael w. Williams,

Appellant.

CASE NO: 34246-4-II

**STATEMENT OF
ADDITIONAL GROUNDS
PURSUANT TO
RAP 10.10**

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SUMMARY OF ADDITIONAL GROUNDS

In addition to the issues raised by appellate counsel the appellant would like to bring to the court's attention the following grounds for review.

Additional Ground #1

The prosecution participated in impermissible vouching in its closing arguments. It made statements not supported by the record, placed the prestige of the government behind witnesses, and stated personal beliefs as to credibility and guilt. The prosecution also made false statements when vouching for the witnesses. This denied the defendant his right to a fair trial and due process of law under the 5th and 14th Amendments of the United States Constitution.

Additional Ground #2

The state violated Mr. Williams right to due process when then police destroyed impeachment evidence.

Additional Ground #3

The burden of proof was improperly shifted to the defendant at trial. This was done by the prosecution misrepresenting the law to the jury. The jury was indoctrinated to a false standard of viewing the evidence at trial. Mr. Williams right to a presumption of innocence and due process were further undermined by repeated offenses by the prosecution with no corrective action by the trial court.

Additional Ground #4

There was a fatal variance between indictment and proof offered by the State. Mr. Williams was charged with having committed certain crimes during a specific timeframe. The indictment presented a timeframe providing for a 2 1/2 to 3 hour window of opportunity for the crimes to have happened. However they provided testimonial evidence which describe a sequence of acts which require a minimum of 5 1/2 hours to accomplish.

Mr. Williams's substantive rights at trial were affected. The purpose of an indictment is so that a defendant can prepare for a defense and not be surprised at trial. Mr. Williams is now placed in a position to be prosecuted a second time for the same offense. It also implicates a due process violation by the prosecution for failing to meet its Constitutional level duty to verify the veracity of its evidence prior to bringing it to court.

Additional Ground #5

The Trial Court erred when it admitted physical evidence that was not shown to be "in the same or substantially the same condition as when the crime occurred." This is not the standard of identification the State offered its physical evidence under. Nor did the court require them to meet the standard.

Additional Ground #6

The prosecutors' failure to investigate the veracity of its witnesses after becoming alerted to the strong possibility their witnesses had agreed to testify falsely violated the defendant's right to due process.

Following is a list of the issues this defendant wishes to raise before this Court;

Additional Ground #1

The prosecution participated in impermissible vouching in its closing arguments. It made statements not supported by the record, placed the prestige of the government behind witnesses, and stated personal beliefs as to credibility and guilt. The prosecution also made false statements when vouching for the witnesses. This denied the defendant his right to a fair trial and due process of law under the 5th and 14th Amendments of the United States Constitution.

Several impermissible statements were made by the State during closing arguments. “ As we have frequently observed, **‘the government may not vouch for the credibility of its witnesses,** either by putting its own prestige behind a witness, or by indicating that extrinsic information not presented in court supports the witness’ testimony.’” United States v. Garcia-Guziar, 160 F.3d 511, 520 (9th Cir 1998) citing United States v. Rudberg, 122 F.3d 1199, 1200 (9th Cir. 1997) (citing United States v. Roberts, 618 F.2d 530, 533 (9th Cir. 1980)). **Neither may a prosecutor “express his opinion of the defendant’s guilt.”** United States v. Molina, 934 F.2d 1440, 1444 (9th Cir. 1991); see also State v. Reed, 102 Wn2d 140, 145 (1984).

The prosecution led the jury into several false impressions designed to prejudice them against Mr. Williams. The prosecution led the jury to believe Ms. Dabson had never changed her story and was consistent (VRP 633, 600, 601 607-08). That nobody remembers Mr. Williams being at the house because he had been forcibly moved out in May (VRP 628, 579, 585, 586, 594). He doesn’t have the power, Lynda has the power. Lynda puts a roof over his head; she’s the

breadwinner. (VRP 587-88). They even went so far as to say that, “Ms. Dabson is telling you the truth and Mr. Williams is a liar.” (VRP 625, 608). All of these statements by the prosecution would indicate to the jury that the testimony given was unaltered and consistent with the investigation (VRP 598, 601). These false impressions were enhanced by the prosecution selectively withholding from the jury some of Ms. Dabson’s “excited utterance” statements given to the police, then vouching for the credibility of the States witnesses.

“In order to hold that there was reversible error from prosecutorial misconduct, we must find that the prosecutor’s comments were both improper and that there is a substantial likelihood that they impacted the jury.’ [Defendant] ‘bears the burden of establishing the impropriety and prejudicial when considering the entire context of the record and circumstances at trial.’ [The Court] has a responsibility to insist upon and enforce minimum standards of professionalism in the conduct of our system of criminal justice. The highly inflammatory comments utilized by the prosecutor in this case fall well below the standards appropriate to the conduct of the State’s case. **[The Court] cannot countenance such tactics, which were clearly intended to inflame the jury’s passion and prejudice.** The error was not harmless. The State’s burden to prove harmless error is heavier the more egregious the conduct is. The burden here is heavy indeed *State v. Rivers*, 96 Wn. App. 672, 674-75 (1999); see, *State v. Dhaliwal*, 150 Wn.2d 559 (2003); *State v. Pirtle* 127 Wn2d, 628 672 (1995); *State v. Furman* 122 Wn2d 440, 445 (1993); *State v. Brown* 132 Wn2d 559, 567 (1997). “To prevail on a claim based on Mooney-Napue, the petitioner must show that (1) the testimony (or evidence) was actually false, (2) the prosecution knew or should have known that the testimony was actually false, and (3) that the false testimony was material.” *U.S. v. Zuno-Arce* 339, F.3d 886, 889 (9th Cir. 2003); See *Napue* 360 US at 269-71, 79 S.Ct. 1173.

It is a well established principle that the prosecution is prohibited from misrepresenting the truth to the jury. See *Miller v. Pate*, 87 S.Ct. 785 (1967); *Mooney v. Holohan*, 294 US. 103, 55 S.Ct. 340, 79; *Napue v. People of State of Illinois*, 360 U.S. 264, 79 S.Ct. 1173; *Pyle v. State of Kansas*, 317 U.S. 213, 63 S.Ct. 177; *Alcorta v. State of Texas*, 355 U.S. 28, 78 S.Ct. 103. **“Misrepresenting facts in evidence can amount to substantial error because doing so, may profoundly impress a jury and may have a significant impact on the jury’s deliberations.”** *Donally v. DeChristoforo*, 94 S.Ct. 1868 (1974). For similar reasons, asserting facts that were never admitted into evidence may mislead a jury in a prejudicial way. **This is particularly true when a prosecutor misrepresents evidence because a jury generally has confidence that a prosecuting attorney is faithfully observing his obligation as a representative of sovereignty.** *Berger*, 55 S.Ct.629.

When prosecution reached outside the record to bolster the credibility of its witnesses it opened the door and invited review of their statements using materials outside the trial record. The prosecution stated that “nobody remembered Mr. Williams being there because he had been forced to move out in May” (VRP 628). The y also led the jury to believe Ms. Dabson’s story never changed (VRP 633) and was consistent with the details (VRP 607-608). The standard of review makes are first question, “Were the prosecution’s statements true?”

To verify this we must first look to the statements given to Det. Dana Hubbard BLPD. Statements that qualify as an “excited utterance” having been given to Det. Hubbard within an hour of the alleged crimes. Ms. Dabson clearly stated that I had only moved out of the house about a month ago. This was the end of September 2003 apparently Ms. Dabson remembered me having still been living at the house in the end of August 2003 (see statements of Bryce Williams and Rachel McCloud). This is a major inconsistency! Especially since in light of the entirety of the case it would mean that all the

nonprofessional witnesses against Mr. Williams conspired to commit perjury to obtain a conviction. It also means that the prosecution failed to meet its freestanding Constitutional level duty to verify the veracity of its witnesses prior to bringing them to trial and placing them on the stand under oath. Commonwealth of the Northern Mariana Islands v. Bowie 243 F3d 1109 (2001).

Let's turn our attention to the prosecutors statement that, "He doesn't have the power, Lynda has the power. Lynda puts a roof over his head: she's the breadwinner." Nothing in the record supports these statements. The prosecution solely made them to inflame the passions of the jury. Similar to the "**power, revenge and control**" statements made in opening and on pages 578 and 593 of the verbatim report. These statements were not only untrue but designed to prejudice the jury to the truth.

Had the prosecutor investigated he would have found; Lynda had been 3 months behind on her mortgage and 2 years on her property taxes when we got together. The bank and state were both in a position to have taken possession of her property. She and Mr. Williams got together and suddenly she was no longer about to lose the property. An investigation would also show the Mr. Williams put substantial time and money into improvements to the property including new plumbing, water heater, and electrical service. Most courts would construe Mr. Williams as having an equity interest in the property.

A review of Ms. Dabson's bank records at the Bonney Lake Key Bank would show a series of cash deposits to her account up to the end of August 2003. The deposit slips would be in Mr. Williams writing and have his fingerprints on them. If video was still available they would show him actually making the deposits. If Ms. Dabson had been supporting him and if he had been forcibly moved out by Ms. Dabson in May why would Mr. Williams be making deposits into her bank account in June, July, and August?

Additionally why did Mr. Williams and Ms. Dabson go to Lakewood Foreign Car in the summer of 2003 together? Why did they

test drive a Q-45 together? Why did Mr. Williams put money down on it for her? Is it more reasonable to believe that either Mr. Williams had been forcibly moved out in May or that the prosecution failed in its responsibilities and brought perjured testimony?

Were the prosecutions statements true? Absolutely not! Did they know or should they have known the statements were false. Not only did the prosecution have the discovery they had a Constitutional duty to provide for a fair trial not just to win. Thus they had a duty to investigate the veracity of their argument not just to win at all cost. Finally

Additional Ground #2

The state violated Mr. Williams right to due process when then police destroyed impeachment evidence.

While being held at the Pierce County Jail the defendant Michael Williams was informed by a guard that he may want to review his phone records. This yielded some extremely interesting information. When you cross reference them with the police reports some very important information comes out.

At 17:31 on September 29, 2003 Detective Hubbard and Officer (now Detective) Byerly searched the Toyota mini pickup at the impound yard for the second time. This time they had a warrant. Both officers report that each other as being there during the search. The truck is a mini size so they can never more then about 10 feet away from each other at any given time.

A strange thing happens during the search. Mr. Williams' cell phone turns on and makes a call. It's strange because the phone has several features to insure that accidental calls don't happen. The

process requires that a person first flip the phone open. Next the user must press the power button and hold it down for 5 seconds to turn the phone on. This keeps the phone from being accidentally used. The phone will next clear a signal and is now ready for use. At which time you can now make a call.

The cellular bill shows a call to Mr. Williams' voice mail was made from his handset at 17:31. (See Sprint PCS bill page 5 line 46). To do this the user had to have held down the voicemail key for 5 continuous seconds to make the call. **This call had to be either Detective Hubbard or Detective Byerly but, neither reported it.** The voicemail was only accessed for 1 minute. This is not long enough to listen to the messages but is long enough to delete them.

Messages that would have demonstrated to the jury the prosecution's witnesses committed perjury. Messages which could have been presented to the jury to impeach the prosecution's key witnesses in their own voices. This call never made it into the police reports. The voice mails were never transcribed. The phone was never turned over to the prosecution or defense. There's no chain of custody on the phone and it simply disappeared from sight into the hands of the police. Worse still is the prosecution never investigated after finding out the police and forged witness statement forms in November 2004.

“In Brady and Agurs, the prosecutor failed to disclose exculpatory evidence. In the present case, the prosecutor failed to disclose evidence that the defense might have used to impeach the Government's witnesses by showing bias or interest. Impeachment evidence, however, as well as exculpatory evidence, falls within the Brady rule. See Giglio v. United States, 405 US 150, 154, 92 S.Ct. 763, 766 (1972). Such evidence is “evidence favorable to an accused,” Brady, 373 US at 87, 83 S.Ct. at 1196, so that, if disclosed and used effectively, it may make the difference between conviction and acquittal. Cf. Napue v. Illinois, 360 US 264, 269, 79 S.Ct. 1173, 1177

(1959) (“The jury’s estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant’s life or liberty may depend”).

The Court of appeals treated impeachment evidence as constitutionally different from exculpatory evidence. According to that court, failure to disclose impeachment evidence is “even more egregious” than failure to disclose exculpatory evidence “because it threatens the defendant’s right to confront adverse witnesses.” *Davis v. Alaska*, 415 US 308, 94 S.Ct.1105 (1974), the Court of Appeals held that the Government’s failure to disclose requested impeachment evidence that the defense could use to conduct an effective cross-examination of important prosecution witnesses constitutes “constitutional error of the first magnitude” requiring automatic reversal. 719 F2d at 1464, (quoting *Davis v. Alaska*, supra, 415 US at 318, 94 S.Ct. at 1111).

This Court has rejected any such distinction between impeachment evidence and exculpatory evidence. In *Giglio v. United States*, supra, the Government failed to disclose impeachment evidence similar to the evidence at issue in the present case, that is, a promise made to the key Government witness that he would not be prosecuted if he testified for the Government.

This Court said:

“When the ‘reliability of a given witness may well be determinative of guilt or innocence,’ nondisclosure of evidence affecting credibility falls within th[e] general rule [of Brady]. We do not, however, automatically require a new trial whenever ‘a combing of the prosecutors’ files after the trial has disclosed evidence possibly useful to the defense but not likely to have changed the verdict....’ A finding of materiality is required under Brady... A new trial is required if ‘the false testimony could...in any reasonable likelihood have affected the judgment of the jury....’” 405 US, at 154, 92 S.Ct. at

766 (citations omitted).” United States v. Bagley 105 S.Ct. 3375, 3380 (1985)

In Illinois v. Fisher 124 S.Ct. 100, 1202 (2004) the Supreme Court said: “We have held that when the State suppresses or fails to disclose material exculpatory evidence, the good or bad faith of the prosecution is irrelevant: a due process violation occurs whenever such evidence is withheld. See Brady v. Maryland, 373 US 83, 83 S.Ct. 1194 (1963); United States v. Agurs, 427 US 97, 96 S.Ct. 2392 (1976). Anderson v. Calderon 232 F3d 1053, 1062 (9th Cir. 2000).

Because Brady does not require bad faith on the part of the prosecution for a violation of due process, the rule encompasses evidence “known only to the police and not to the prosecutor.” Kyles 514 US at 458, 115 S.Ct. 1555.

In order to comply with Brady, therefore, “the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case, including the police.” Kyles at 437, 115 S.Ct. 1555.

We use a three-part test to measure whether a failure to disclose amounted to a Brady violation: (1) the evidence at issue must be “favorable” to the accused, either because it is exculpatory, or because it is impeaching; (2) the evidence must have been suppressed by the State, either willfully or inadvertently; and (3) the suppressed evidence must be “material” under state law to the accused’s guilt or punishment- i.e., prejudice must have ensued. See Strickler v. Green, 527 US 263, 281-82, 119 S.Ct. 1936 (1999); see also United States v. Cooper, 173 F3d 1192, 1202 (9th Cir. 1999).

The 9th Circuit said in; SILVA v. BROWN 416 F3d 980, 986, 991-92 (9th Cir 2005). “In applying the materiality standard, the Supreme Court has explained the “[t]he question is not whether the defendant would more likely than not have received a different verdict

with the evidence , but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.” Kyles, 514 US at 434, 115 S.Ct 1555. Thus materiality does not require a showing that the defendant would have been acquitted had the suppressed evidence been disclosed, or that disclosure of the suppressed evidence would have reduced the quantum of inculpatory evidence below that required to convict the defendant. Id at 434-35, 115 S.Ct. 1555 (stressing the materiality “is not a sufficiency of evidence test”). Rather, a Brady violation is established where “the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.” Id. at 435, 115 S.Ct. 1555.

Once the materiality of the suppressed evidence is established, no further harmless error analysis is necessary, even in the context of habeas review: when the government has suppressed material evidence favorable to the defendant, the conviction must be set aside. Kyles, 514 US at 435-36, 115 S.Ct. 1555; Hayes, 399 F3d at 984-85.

...The particularly atrocious nature of the crimes with which Silva was charged cannot diminish the prosecutor’s-and our court’s- duty to [992] ensure that all persons accused of crimes receive due process of law.

“The government violates the Due Process Clause when it fails to disclose material favorable evidence. Brady, 373 US 83, 83 S.Ct. 1194. The Brady rule applies to both exculpatory and impeachment evidence. Bagley, 473 US at 676, 105 S.Ct. 3375. Evidence is material “only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” Id at 682, 105 S.Ct. 3375; see also Kyles v. Whitley, 514 US 419, 433-34, 115 S.Ct. 1555(1995). Thus, the Supreme Court has explained that “[t]here are three components of a true Brady violation: The evidence at issue must have been favorable

to the accused, either because it is exculpatory, or because it is impeaching; that the evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have ensued.” Strickler v. Greene, 527 US 263, 281-82, 119 S.Ct. 1396 (1999). We must determine whether the evidence was material based on the cumulative impact of all the evidence the government suppressed. Kyles, 514 US at 436-38, 115 S.Ct. 1555.”

Additional Ground #3

The burden of proof was improperly shifted to the defendant at trial. This was done by the prosecution misrepresenting the law to the jury. The jury was indoctrinated to a false standard of viewing the evidence at trial. Mr. Williams right to a presumption of innocence and due process were further undermined by repeated offenses by the prosecution with no corrective action by the trial court.

“A jury generally has confidence that a prosecuting attorney is faithfully observing his obligation as a representative of sovereignty.” Washington v. Hofbauer, 228 F3d 689 (6th Cir 2000), citing Berger v. United States 55 S.Ct. 629 (1935).

With great flair the prosecutor got up from his table and strolled across the courtroom. All eyes were watching as he removed a law book from the court’s own bookshelves. He flipped through it, and then replaced it on the shelf taking out another. This book appeared to have what he wanted. Keeping the book he returned to the prosecutor’s table. Once there with book open in hand as if reading this “official legal tome” he said, “The evidence must be viewed in the light most favorable to the prosecution.” He repeated this same

mantra several times during the course of the trial reinforcing this **misrepresentation of law** to the jury.

The jury had just been indoctrinated into a false standard of viewing the evidence presented at trial read from the Court's own official books. I find it interesting that the prosecutor never actually cites the case he's reading from. The jury was intentionally misled by the prosecution. They have no legal training and were easily swayed by the representatives in whom they placed their trust. However, how could all the licensed members of the bar in the courtroom confuse the standard of evidentiary review on appeal with the standard imposed upon the trial court?

“It is fair to say that the average jury, in a greater or less degree, has confidence that these obligations which so plainly rest upon the prosecuting attorney will be faithfully observed. Consequently, improper suggestions... are apt to carry much weight against the accused when properly they should carry none. Perlaza, 439 F3d citing Berger v. United States 295 US 78, 88 (1935). In doing so the prosecutor improperly shifted the burden of proof from a presumption of innocence beyond a reasonable doubt to the defendant having to prove his innocence. No amount of limp, curative instruction could correct this ill-intentioned misrepresentation by the prosecutor.

Over 111 years ago the Supreme Court held, “The principle that there is a presumption of innocence in favor of the accused is undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.” Coffin 156 US 432, 435 (1895). The trial court's ratification of the prosecutor's intentional and improper burden-shifting statements cannot be deemed to be harmless under any standard of harmless error. U.S. v. Perlaza 439 F.3d 1149, 1170-71 (9th Cir 2006). “Criminal defendant's have a constitutional right to the presumption of innocence and to have the government prove guilt beyond a reasonable doubt.” Estelle v.

Williams 425 US 501, 503, 96 S.Ct. 1691 (1976). “The right to a fair trial is a fundamental liberty secured by the Fourteenth Amendment. The presumption of innocence, although not articulated by the Constitution, is a basic right under our system of justice.” In. Re. Winship, 397 US 358, 362, 90 S.Ct. 1068 (1970).

Additional Ground #4

There was a fatal variance between indictment and proof offered by the State. Mr. Williams was charged with having committed certain crimes during a specific timeframe. The indictment presented a timeframe providing for a 2 1/2 to 3 hour window of opportunity for the crimes to have happened. However they provided testimonial evidence which describe a sequence of acts which require a minimum of 5 1/2 hours to accomplish.

Mr. Williams’s substantive rights at trial were affected. The purpose of an indictment is so that a defendant can prepare for a defense and not be surprised at trial. Mr. Williams is now placed in a position to be prosecuted a second time for the same offense. It also implicates a due process violation by the prosecution for failing to meet its Constitutional level duty to verify the veracity of its evidence prior to bringing it to court.

The state charged Williams with committing a series of acts during a specified period of time. It was required to prove that Williams indeed committed the crimes during the period set forth in the indictment. See, e.g., Hart v. Gomez, 174 F.3d 1067, 1069 (9th Cir. 1999); see also, United States v. Whitten, 706 F.2d 1000, 1006 (9th Cir. 1983) (citing United States v Rodriguez, 546 F.2d 302 (9th Cir. 1976)). The State offered testimonial evidence as to the times. It also offered testimonial evidence as to the crimes that occurred between those times. The testimony included a specific driving sequence between specified locations which requires 5 1/2 to 6 hours of total

time to accomplish the alleged crimes when only 2 1/2 to 3 hours are available. **This produced a fatal variance between the information and proof offered.**

Here the State charges acts to have occurred between the times. The prosecution offered testimonial evidence by Ms. Dabson describing in great detail a driving sequence. Starting at 4:00 am at 9409 205th Ave E in Bonney Lake, WA where a series of crimes were alleged to have happened. From there Mr. Williams and Ms. Dabson were to have driven from Bonney Lake to 1512 Richmond Ave in Dupont where more crimes were alleged to have occurred. After leaving Dupont they proceeded past Bonney Lake to the South Prairie residence of Tracy Dunnivan. A return trip to Dupont was testified to where more crimes were alleged to have happened. Finally they returned to Bonney Lake at about 6:30 am. The aspects of the indictment which are material to the outcome are the date and times. The aspects of the proof material to the outcome are the order and sequence of the places traveled and the time required to get there.

Can a reasonable juror conclude that the crimes occurred when they cannot be accomplished within the time limitations available because of the indictment?

The prosecution made numerous references to the times and the drive sequences in the states closing and final closing arguments showing the importance they placed on the events. In doing so the prosecution has asked the Court to believe physically impossible acts to have occurred. The prosecution has asked the court to believe that 5 to 6 hours worth of activities can be done in 2 1/2 to 3 hours. This includes 4 to 4 1/2 hours of verifiable drive time alone (by the shortest route). The prosecution has told the court that Mr. Williams can accomplish the impossible. By stacking inference upon inference the prosecution hopes to maintain a tainted conviction in which the time differential will never be questioned because it can't be accounted for.

Here the prosecution asks the court to do just this by saying Mr. Williams can accomplish 6 hours of activity in 3.

Including an impossible act in the indictment and strenuously arguing it the prosecution has created a fatal variance between the indictment and proof offered. By basing its case on impossibility the prosecution cast doubt on the reliability of the verdict.

There is simply insufficient evidence to prove that Williams could have committed the crimes charged anywhere near the time period charged in the indictment. The test of sufficiency is whether any reasonable juror could have found that the defendant committed the crime charged. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789 (1979); *United States v. Jones* 84 F.3d 1206, 1210 (9th Cir. 1996). There was simply not sufficient evidence for a reasonable juror to conclude that Williams committed the aprox. 6 hours of crimes and travel alleged in the 2 1/2 to 3 hours available. See, *U.S. v. TSINHNAHIJINNIE* 112 F.3d 988, 991 (9th Cir. 1997)

“The reason that the government’s argument is irrelevant is that it overlooks the function of an indictment. A defendant is entitled to know what he is accused of doing in violation of the criminal law, so that he can prepare for his defense, and be protected against another prosecution for the same offense.”

The true inquiry, therefore, is not whether there has been a variance in proof, but whether there has been such a variance as to ‘affect the substantial rights’ of the accused. The general rule that allegations and proof must correspond is based upon the obvious requirements (1) that the accused shall be informed as to the charges against him, so that he may be enabled to present his defense and not be taken by surprise by the evidence offered at the trial; and (2) that he may be protected against another prosecution for the same offense.” *Berger v. United States*, 295 U.S. 78, 82 55 S.Ct. 629, 630-31, 79 L.Ed. 1314 (1935).

Williams' defense was in fact prejudiced by the disparity between the times charged and the evidence. The problem in this case is thus not that the government failed to prove an element of the crime, but that it failed to comply with the requirements of the Constitution. The evidence was not sufficient to prove the crime for which Williams was indicted.

A man indicted for robbing First National Bank in Springfield on January 1 cannot be convicted on the indictment of robbing Second National Bank in Middletown on December 30, even though the elements would be exactly the same. The problem would be exactly the same. The problem would be that the defendant was not indicted for the crime proved, had no fair notice, and would lack double jeopardy protection against an indictment for the December 30 crime if he won acquittal. There was no evidence from which a reasonable jury could reasonably conclude beyond a reasonable doubt that Williams committed the crime charged.

Additional Ground #5

The Trial Court erred when it admitted physical evidence that was not shown to be “in the same or substantially the same condition as when the crime occurred.” This is not the standard of identification the State offered its physical evidence under. Nor did the court require them to meet the standard.

The standard for admission of physical evidence is, “Is it in the same or substantially the same condition as when the crime occurred.”
See:

Brown v. General Motors 67 Wn.2d.278, 285-286 (1965).

The application of rule is succinctly stated in 32 C.J.S. Evidence § 607 at 746-66, as follows:

In order that an article or substance may be introduced for inspection a proper foundation for its admission in evidence must be laid by satisfactorily for its admission in evidence must be laid by satisfactorily identifying it.

.... It must also be shown to the satisfaction of the court that no such substantial change in the article exhibited as to render the evidence misleading has taken place. The determination of whether the article or object, has been that it should not be admitted rests largely in the discretion of the trial court, and it is not necessary that the article be identically the same as at the time in controversy.

An article may be introduced for inspection without negating the possibility that an opportunity existed for tampering with it, and without showing an absence of tampering on the part of every person through whose hands the article has passed. As long as the article can be identified it is immaterial in how many hands it has been. While a direct statement that the article is in the same condition at the time of an occurrence as at a subsequent time is sufficient, such a direct statement is not essential if it sufficiently appears that the article must have been in substantially the same condition.

As indicated, the trial court is necessarily invested with considerable discretion in determining the sufficiency of the identification of proffered exhibits, including photographs, and its ruling will not be disturbed unless there is clear abuse. See *Kessler v. Porter*, 29 Wn.2d. 650, 189 P.2d. 223 (1948); *Kessling v. Northwest Greyhound Lines, Inc.*, 38 Wn.2d 289, 229 P.2d. 335 (1951); and *State v Tatum*, 58 Wn.2d 73, 360 P.2d 754 (1964):

See also, *Gallego v. United States* 276 F2d. 914 (9th Cir 1960).

The prosecution laid a faulty foundation for the admission of the physical evidence. Mr. John Sheeran of the Pierce County prosecutor's office asked: "Is this in the same or substantially the same condition as when you collected the evidence?" His alternate was "Is this in the same or substantially the same condition as the day you collected it?" (VRP pgs 299, 301).

While these questions sound alike they are greatly different. Mr. Sheeran's questions allowed physical evidence known to have been tampered with to be admitted into the trial court corrupting the proceedings and misleading the jury. Since the tampering happened prior to the collection of the evidence Mr. Wilkins could answer "Yes" without committing perjury or having to acknowledge police tampering with the scene.

Mr. Blinn and Mr. Sheeran both actively prosecuted me at trial. They are both among the elite of the Pierce County Prosecutor's office. Both highly educated, experienced, experts in the rules of the court, in discovery and Bar certified. In other words they know the rules and were both equally responsible for each other complying with them and the rules of professional conduct. How then did both these "attorney's" miss that

- 1) Officer Byerly's report shows an extensive interview with Ms. Dabson. In fact the prosecution refers to it in closing. He then turned the residence over to Officer Hopkins and had a long, private meeting with Detective Sergeant Jenkins.
- 2) Officer Hopkins is an ex-detective working part-time as a patrolman for the Bonney Lake P.D. Now what are detectives trained to do at crime scenes? They make note of the location of thing and survey the site. Officer Hopkins does this in his report. In fact he reports the 2 back windows are open but not the doors.
- 3) Detective Sergeant Jenkins, Officer (soon to be detective) Byerly, and Mr. Wilkins go to the house after having their secret meeting. The first thing they do is send Officer Hopkins away. They check the front door for signs of tampering (there's none). Then they report going through the

back door. (This door only opens from the inside and has already been noted as not open.) How do you go through a shut door that opens from the inside? You open it yourself. Then the police photographed it as the point of entry.
Curiously the crime scene now starts to adapt itself to the story given to Officer Byerly just hours before.

Not only did the police violate my 5 and 14 Amendment rights by altering the crime scene and providing false evidence to the jury. The prosecution violated my Fourteenth Amendment rights by not verifying the veracity of its witness's testimony prior to being put on the stand under oath. See *Bowie* 243 F.3d 1109. The prosecution had become aware of police tampering with evidence when Mr. Sheeran did the video deposition of Margaurite Y. Williams in Nov. 2004.

Additional Ground #6

The prosecutors' failure to investigate the veracity of its witnesses after becoming alerted to the strong possibility their witnesses had agreed to testify falsely violated the defendant's right to due process.

“When a prosecutor suspects perjury, the prosecutor must at least investigate. The duty to act is not discharged by attempting to finesse the problem by pressing ahead without a diligent and good faith attempt to resolve it. A prosecutor cannot avoid this obligation by refusing to search for the truth and remaining willfully ignorant of the facts.” *Morris v Ylst* 447 F3d 735, 743-44 (9th Cir 2006) citing, *Northern Mariana Islands v. Bowie*, 243 F3d 1109, 1118 (9th Cir 2001) “The government's duty to correct perjury by its witnesses is not discharged merely because counsel knows, and the jury may figure out, that the testimony is false. Where the prosecutor knows that his witness has lied, he has a constitutional duty to correct the

false impression of the facts.” *U.S. v. Lapage*, 231 F.3d 488 (9th Cir. 2000).

During preparation for trial two groups should have triggered the prosecutor’s free-standing Constitutional level duty to investigate.

Verifying the veracity of its witnesses prior to placing them on the stand under oath by the prosecution is not optional. This is due to the fact that such testimony may constitute a crime. After which the truth cannot be compelled of them due to their right to take shelter under the 5th Amendment. In the *Northern Marianna Islands v. Bowie*, 243 F3d. 1109, 1110 (9th Cir 2001) in which the court unanimously held; “Given the manifest reason to question the veracity of the prosecution’s witnesses, the Constitution required a prompt pretrial investigation of the integrity of the government’s evidence before the witnesses were called to the stand. This requirement is not satisfied by a tardy evidentiary hearing after the fact. Although the prosecution had leverage before the trial to get to the truth with its witnesses, it is not unlikely now that the Fifth Amendment will shield them from the inquiry the prosecution wishes to launch. By committing the witness under oath to a certain story, an admission now of untruthfulness might well unveil a crime.”

The first was the Dabson’s, their family and close associates. This group had both personal and financial reason to conspire to commit perjury. The prosecution acknowledged a problem with its witnesses and let the jury know that there was a “hatred” for the defendant. The prosecution also had in its hands police reports containing “excited utterance” statements that were not supportive of one another (see police report Det. Hubbard). These same witnesses later changed those statements to be virtually identical to each other for their testimony made under oath at trial. On page 601 the prosecution stated “the hallmark of a lie is the details change.” This

would lead a reasonable person to the conclusion that the testimony was either “coached” or that the witnesses had conspired to commit perjury. Both contaminate a trial and violate a defendant’s right to due process and a fair trial.

The prime example of this is the testimony that the defendant had moved out in May of 2003. This is central to the prosecution’s case. The prosecution made a point of obtaining sworn testimony from its witnesses as to Mr. Williams having moved from the 205th Street address in May 2003. See testimony of Lynda Dabson VRP page ,Jessi Dabson VRP page ,Christina Taylor VRP page . The prosecution’s rebuttal witness Josh Walrath’s testimony revolved around the defendant moving out in May 2003 VRP page . In its closing the prosecution refers to the move several times; VRP page 579, “Relationship close, forced to move out in May.”; VRP page 585, “It’s September He’s been out of the house since May.”; page 586, “Forced to leave.”; page 594, “Move out in May 2003 corroborated by Josh Walrath and Lynda Dabson.”; page 628, “Point of moving out of house. Nobody remembers him being there.” The prosecution even went a step further on VRP page 594 they stated “Believe because everything is corroborated.”

The prosecution stated a standard for determining a lie. “The details change” VRP page 601. They knew that their witness statements had changed (see testimony of Jessi Dabson VRP page verses the statement of Jessi Dabson given to Detective Dana Hubbard BLPD). The prosecution knew that its witness hated the defendant (VRP). The prosecutions witnesses were either related or close personal friends. Given all the rational reasons to doubt the veracity of its witnesses did the prosecution actually verify their testimony as is constitutionally required? No, it plowed ahead with the prosecution and vouched for the veracity of its witnesses. If their testimony about Mr. Williams was not true, then all of the prosecution’s non-professional witnesses conspired to commit perjury.

In a case that revolved around the credibility of the witnesses, **what should a prudent prosecutor have done?** The prosecution would have shown a minimum of diligence to check for records and testimony which could be independent and verifiable for the parties of the case. The local U-Haul records would show if the defendant had rented a moving truck. Was there anyone hired to help with the move that could provide independent testimony?

Actually there is.

In August the defendant had closed his office in Sumner. He rented a U-Haul at the local facility on Hwy 410 around the corner from his home on 205th St E. where he had lived since 1998. There were about 12 people assisting in this move. Eight of which would be considered totally independent having absolutely no ties to the defendant or his accusers. He moved about half of his possessions to storage at Edgewood and the rest to his home. Lynda Dabson directed the movers where to place Mr. Williams' possessions throughout the house. This hardly matches the "coached" testimony brought to trial by the prosecution. Would a reasonably prudent prosecutor believe that; "a person who had been 'forced' to move out of a house in May be moving his things into that same house in August?"

Another example of failing to investigate is the timeline. The prosecutor brought to trial a case and testimony which said that Mr. Williams kidnapped Ms. Dabson. Ms. Dabson gave statements to the police regarding a certain amount of driving with specific places having been traveled to. This driving had to be accomplished within a period of 2 1/2 to 3 hours as brought and argued by the prosecution. Did the prosecution ask the simple question; **"Can the distance testified to even be driven in 2 1/2 to 3 hours and allow for additional time to do the crimes charged?"**

The simple fact is that it can't. The driving alone takes over 4 hours much less accomplishing the crimes charged. So why wouldn't the state check out this very essential fact? **It's the easiest thing in the world for people trained in the adversarial ethic to think a prosecutor's job is simply to win.** See, e.g., *United States v. Kojayan* 8 F3d 1315, (9th Cir 1993); see also *United States v. Montgomery* 988 F2d 1468, 1477 (9th Cir. July 13, 1993)

What did the prosecution do?

- 1) Failed to investigate testimony of its witnesses and verify its veracity prior to bringing it to trial under oath.
- 2) Repeatedly vouched for the veracity of its witnesses in closing. Including that the testimony had never changed, was consistent and supported. Even going so far as to state a personal opinion that it was true.
- 3) The prosecution misstated (lied to the jury) facts and law to the court to make its case.

In a case that revolves around the credibility of the witnesses the prosecution's failure to investigate prejudiced the defendant by allowing false testimony. The prosecution undermined the defendant's right to receive a fair trial by making a strategic decision to not meet its 'Constitutionally' mandated obligations. It then further prejudiced the defendant by vouching for its witnesses' false testimony and violating the prohibition against advancing argument it knows to be false without correction. The prosecutorial misconduct deprived Mr. Williams of due process of law. It contaminated the trial and was thus not harmless. See, *United States v. Kerr*, 981 F2d 1050 (9th Cir 1992); see *Brown v. Borg* 951 F2d 1011 (9th Cir 1991); see also, *United States v. Agurs*, 427 US 97, 103, 96 S.Ct. 2392, 2397 (1976) (Where prosecutor knowingly uses perjured testimony, error isn't harmless

unless there's no reasonable likelihood that the misconduct influenced the verdict).

The second group is the police. In November 2004 there was a court compelled video deposition of M.Y. Williams ordered on the motion of the prosecution. At this deposition it came out that the police had forged documents pertaining to the investigation. The prosecution's response was to immediately stop the deposition and canceling the deposition of D.R. Williams. The prosecution also had in its possession police reports containing information which would have led a prudent prosecutor to believe evidence had been tampered with. Especially in the illumination of the well documented actions of Officer Perez, see *Cunningham v. City of Wenatchee* 345 F3d 802 (9th Cir 2003) etc.

The prosecutor's failure to investigate the police investigation after becoming aware of evidence tampering by police violated Mr. Williams's due process rights.

In November 2004 the prosecution forced a preservation deposition of Margarite Y. Williams by court order. At that deposition the prosecution became aware of evidence tampering and false reporting by the police. This and several discrepancies in the police reports triggered a free standing Constitutional level duty by the prosecution. Due Process requires them to verify the veracity of their witnesses prior to bringing them to court and placing them under oath.

The record as it now stands establishes bad faith on the part of the prosecution prior to and during trial. It knowingly violated its ethical obligations to provide for a fair trial. In this case their duty to investigate the police investigation for false reporting and evidence tampering. Any prudent prosecutor could have seen clear pattern of unlawful behavior by the police to obtain a conviction.

1) The staging of the point of entry photograph by Officers of the Bonney Lake Police Dept. and PCSO Wilkins to match previously obtained statements. (See reports Officer. Hopkins, Officer. Byerly, Detective. Sgt. Jenkins, and PCSO Wilkins)

- A) Officer Byerly interviews Ms. Dabson and receives statements. Turns Ms. Dabson over to Detective Hubbard and goes to the Bonney Lake residence.
- B) Officer Byerly turns Bonney Lake address over to Officer Hopkins then leaves to have a private meeting with Detective Sgt Jenkins and others.
- C) Officer. Hopkins is an ex-detective and did what he had been trained to do. He surveyed and reported the condition of the outside of the home. In his report he noted that the back windows were open but says nothing about open doorways.
- D) Officer Byerly, Detective Sgt Jenkins and PCSO Wilkins return/ arrive at the residence Lake residence and send Officer Hopkins away for about 20 minutes.
- E) They check the front door for signs of tampering and find none. Then they go through the back door. First to go through a closed door you must open it. Second this door bolts and opens from the inside. Thirdly it has been closed and the animal door barricaded every night for the previous 2 years do to opossums and raccoons entering the house at night.
- F) The Bonney Lake Police and PCSO Wilkins as the second thing they did at the site was stage of the point of entry photographs. To match the previously obtained statements to Officer Byerly.

G) The staged physical evidence was submitted to the court as true and accurate.

What does the prosecution do? Did they investigate the police investigation as is required by the Fifth and Fourteen Amendments once they had knowledge of evidence tampering and clear reason for perjury by the police officers evolved? (See Bowie, 243 F3d 1109 (9th Cir 2001)).

The prosecution offered the tampered physical evidence to the trial court. Slipping it in as being “In the same or substantially the same condition as when you collected it?”(See admission of physical evidence). Or, “is it in the same or substantially the same condition as the day you collected it?”(See VRP pages 299 and 301). While this sounds a lot like the standard for admission of physical evidence it is not! To admit physical evidence into court it must be shown that “it is in the same or substantially the same condition as when the crime occurred.” (See Brown v. General Motors 67 Wn2d 278, 285-86 (1965); see also Gallego v. United States 276 F2d 914 (9th Cir 1960). While these things seem and sound similar they are not! It allowed the state to offer evidence known to be tampered without causing PCSO Wilkins to have to commit perjury in its introduction but still mislead the jury. Due process protects criminal defendants against the knowing use of false evidence by the State, whether it is by document, testimony, or any other form of admissible evidence. USCA Cont Amend 14. Hayes v. Brown 399 F3d. 972 (9th Cir 2005).

2) The unlawful stop, detention and questioning of Bryce Williams by the Dupont Police.

“A detention of a motorist is reasonable where probable cause exists to believe that a traffic violation has occurred.” Delaware v. Prouse, 440 U.S. 648, 659, 99 S.Ct.1391, 1399; see also, Whren v.

U.S. 116 S.Ct. 1769, 1771 (1996). “Police officers must have reasonable and articulable reasons which are lawful, to stop a vehicle under the Fourth Amendment” U.S. v. Twilley, 222 F.3d 1092, 1095 (9th. Cir.2000). Note also that, “there is no good-faith exception to the exclusionary rule for police who do not act in accordance with governing law” Twilley 222 F3d at 1096; See also, Lopez-Soto 205 F3d at 1106 (9th Cir. 2000); State v. White 97 Wn2d at 109-12; State v. Wallin, 105 P3d 1037, 1044-45 (2005).

In other words if the probable cause articulated by Sgt. Cummings of the Dupont Police Dept. were false, the stop becomes unlawful under the Fourth Amendment. The Supreme Court held; “stopping an automobile and detaining the driver in order to check his driver’s license and registration of the automobile are unreasonable under the Fourth Amendment.” Prouce 99 S.Ct. 1391 at 1393.

The Washington Supreme Court has consistently taken a much dimmer view of pretextual stops. Our Supreme Court has held the Article 1 § 7 of the State Constitution are more protective than the Fourth Amendment of the Federal Constitution. State v. Ladson 138 Wn2d 343 (1999); State v. Young 123 Wn2d 173, 179-80 (1994). “Article 1 § 7 forbids use of pretext as a justification for a warrant less search or seizure because our constitution requires we look beyond the formal justification for the stop to the actual one. In the case of pretext, the actual reason for the stop is inherently unreasonable; otherwise the use of pretext would be unnecessary.” Ladson 138 wn2d at 353. “We begin our evaluation of any explanation of privacy under the state provision.” City of Seattle v. Mesiani 110 Wn2d 454, 456 (1988).

The probable cause articulated by Sgt. Cummings Dupont PD for the stop, detention and questioning of Bryce Williams was a defective exhaust. Please note that Sgt. Cummings is rather vague on how the exhaust was defective. So we have to ask, it is reasonable to believe that a vehicle that had just been tuned up, gone through emissions diagnostics, and had the muffler system professionally worked on then passed the State emissions test just before this

incident, had a defective exhaust? Next the discovery showing the police transmissions fail to show Sgt. Cummings calling in a traffic stop of the Chrysler New Yorker driven by Bryce Williams. The true purpose of Sgt. Cummings stop was to make an unlawful identification of the driver. When this failed he abused his position by intimidating and unlawfully questioning a defenseless teenager “under color of law.” Further evidence this was an unlawful “pretextual stop” is his failure to issue citations for faulty equipment or lack of proof of insurance. (See police report of Sgt. Cummings).

This can only reasonably be deduced to be an unlawful pretextual stop using a false probable cause statement as cover of “legal authority” Making any information or evidence obtained by the unlawful stop “fruit of the poisonous tree.” And subject to the exclusionary rule. See, *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407; USCA Const. Amendment 4; Washington State Constitution Article 1 § 7. The government has the burden to show that the evidence is not “fruit of the poisonous tree.” *United States v. Johns*, 891 F.2d 243, 245 (9th Cir. 1989).

3) The police filed false police reports “under threat of perjury” in an attempt to falsely attenuate the illegally obtained information from the unlawful stop of Bryce Williams.

Sgt. Cummings reported observing Bryce leaving the Dupont residence 1554 hrs. He then followed the car for several blocks and pulled it over. The funny thing is that Bryce had called me on his cell phone from Sumner at 1544 and told me about the traffic stop. (See Sprint PCS bill line 44). In other words, Bryce had already driven 45 minutes to Sumner where he can be documented as having called me 10 minutes before Sgt.Cummings reported the unlawful stop as even having occurred. This is independent and verifiable.

The discrepancies were not happenstance or clerical error but the start of a calculated effort by the Dupont and Bonney Lake Police

Departments to reset the timeline. Why? “Derivative evidence may be admissible if it was obtained by means sufficiently distinguished to be purged of the primary taint.” Wong Sun 371 US at 487-88; Le 103 Wn App at 361-62 (citing attenuation analysis of Brown v. Illinois 95 S.Ct. 2254 (1975). There are three factors in evaluating attenuation; (1) temporal proximity, (2) Presence of intervening circumstances, (3) The purpose and flagrancy of the official misconduct. (Brown 422 US at 603-604).

Sgt. Cummings and Officer Tenny reported that Officer Tenny had viewed a Red Buick in the driveway of the Dupont address. Is this true though? Let’s look and see if a “reasonable man” would believe this story:

- *The Buick had been parked in the garage that morning.
(Statement by Bryce Williams)
- * The van and truck had been used all day.
- * The van, truck, and Chrysler had been viewed in front of the house.
- * Bryce was driving the Chrysler when pulled over.
- * I was driving the truck when stopped.
- * Van was still in front of house.
- * Buick was found in garage and pictures entered into evidence showing it there.
- * The police have already been shown to have lied on this and other reports.

The only rational and logical conclusion that can be drawn is that the police are trying to falsely attenuate the unlawful stop of Bryce Williams to be able to exploit the illegally obtained information they received.

4) The police unlawfully stopped Mr. Williams and filed false reports to cover illegal acts.

At 1547 I'm driving toward the freeway to go to Bellevue to play chess with my friend Greg Proctor. He gives me a call and asks if I coming up now I tell him I'm already headed his way. Bryce beeps in and I switch over to talk to him. He finishes telling me about being pulled over. At that time I get "lit up" by a police car behind me. I tell Bryce I'm getting pulled over and turn off the phone so nobody will bother me while I'm getting a ticket (voicemail can pick up). This is 1551 (see Sprint PCS bill) or three minuets before Sgt. Cummings says he pulled over Bryce. It's also over two hours before all the police officers specifically reported I was pulled over (1806 hrs). It's also hours before the warrants for my arrest and to search the house were signed.

The officer ordered me out of the truck over his loudspeaker. I got out and locked the door behind me. I was ordered not to turn around but to place my hands on my head and walk backwards to a point about 10-15 feet behind the back of the truck. Then I was ordered to stop, get on my knees and finally to lay face down on the ground without taking my hands off my head. The officer ordered me to put my hands behind my back. Then he approached put his knee into the middle of my back and roughly cuffed my followed by a brief pat down bouncing me off the pavement several times.

He wanted to know where my wallet was. I told him that it was in the truck. He went to the truck and found it locked. Then the officer came back pulled me to my knees by my arms and removed the keys from my pocket. He placed his gun to my head and told me "if you even breathe wrong I'll blow your brains all over the street." I believed him. He took my keys without permission and entered the truck without permission, warrant or exigent circumstances. He then rummaged through the truck, rifling though everything. He came back with my wallet and house keys (they were on a separate florescent green key fob clearly marked house keys). He pulled my drivers license out put it up to me and said "yup it's you and you're going to prison for a long, long time." I asked what I was being arrested for

and all the officer would tell me was “you know.” I then asked to be able to speak to an attorney and was afraid for my life.

Two very interesting things happened next. First, another police car pulled up from the other direction and the officer who pulled me over gave him my house keys. That officer speed off in the direction of the house followed by several other police cars. This puts Officer Byerly’s statement that he was “in the area when Mr. Williams was pulled over” in a very interesting light. It conflicts with the reports he filed, provides another example of misconduct by him and eliminates the states ability to argue the evidence should stand because the police were actively pursuing a warrant since he was the officer obtaining the warrant.

Secondly I was roughly thrown into the back of a police car. The car pulled into the entrance of the State Farm Bldg. (Their security cameras might tell a very interesting story). Over the next few hours I was transferred between police cars three or four times. Each new officer attempted to interrogate me in violation of my Fifth and Sixth Amendment rights having asked for an attorney and not being Mirandized. This would definitely confuse the chain of custody, confuse me, and deter subpoenaing the GPS logs for squad cars there being multiple jurisdictions involved.

Then several police vehicles show up. I’m marched into the middle of the street and finally read my Miranda rights. This is at least the second time the police staged a picture for the cameras to cover illegal activity. None of the police’s actions can be justified by any stretch of the law. There were simply no exigent circumstances to allow them a variance in their total disregard of well established state and federal law. The car, house and Mr. Williams were under police control since 1551 or within minutes of that time. So why did the police cover-up and file false reports? “The exclusionary rule reaches not only primary evidence obtained as a direct result of an illegal search or seizure, but also evidence later discovered and found to be

derivative of an illegality or ‘fruit of the poisonous tree.’ “Segura v. United States, 468 U.S. 796, 804, 104 S.Ct. 3380, 82L.Ed.2d 599 (1984).

a) **The time.** The police reports are signed “under threat of perjury” because they are evidentiary in nature and used to obtain convictions. When 6 officers reported the time of Mr. Williams being pulled over and arrested at 1806 they conspired to commit perjury and malicious prosecution (both are crimes in Washington). It could also be construed to be a Federal crime also.

The “government’s knowing use of perjured testimony to obtain a conviction violates a defendant’s right to due process of law” Morales v. Woodford 336 F3d 1136 (9th cir. 2004) citing US v. LaPage 231 F3d 488, 491 (9th Cir 2000). “The due process requirement voids a conviction where the false evidence is, ‘known to be such by representatives of the States.’” Morales v. Woodford (9th Cir. 2004) citing LaPage 231 F3d 488 quoting Napue v. Illinois 360 US 264, 269 (1959). The essence of the due process violation is misconduct by the government, not merely perjury by a witness.” Morales v. Woodford citing LaPage 231 F3d at 491-92.

Were the police officers agents of the government acting under color of law? Absolutely! Did they know the evidence they were providing was false? Absolutely! They needed to redefine the timeline in order to attenuate their unlawful acts and be able to find cover for ex post facto warrants.

How can the truth be determined? Technology is a great thing. People use it all the time but don’t fully understand it. We have several phone records that can be examined (including attached) will validate the times of the calls. The cell tower log can be triangulated to show within 20 feet of where my cell call ended. The Sprint hardware is **independent and verifiable** (it can’t be altered by Mr. Williams). A funny thing will result. You’ll find Mr. Williams was in the exact same spot at 1551 as the police state he was in at 1806. Is it more reasonable to believe this is a clerical error or police fabrication?

B) **The stop and arrest at 1551** was done without the authority of law being the direct result of the unlawful stop and questioning of Bryce Williams. It was accomplished by the exploitation of illegally obtained information “not having been distinguished sufficiently to be purged of the primary taint.” Wong Sun, 371 US at 487-88; Le, 103 Wn App at 361-62 (citing *brown v. Illinois* 95 S.Ct. 2254); See also *Ladson* 138 Wn2d 343, USCA Const. Amend. 4; Washington State Constitution article 1 § 7.

Since “officers are not entitled to qualified immunity for stopping a vehicle without probable cause or reasonable suspicion especially when the stop includes detention and interrogation at gunpoint.” *Price v. Kramer* 200F3d 1237 (9th Cir. 2000) citing *Washington v. Lambert* 98 F3d 1181, 1192-92 (9th Cir. 1996). Article 1 §7 Makes the stop and detention of Michael Williams per se unreasonable and the police needed liability protection for both the crimes they committed and their case.

In *Washington v. Lambert* 98 F3d 1181, 1187 (9th Cir 1996) the court held: “ In this nation, all people have a right to be free from the terrifying and humiliating experience of being pulled from their cars at gunpoint, handcuffed, or made to lie face down on the pavement when insufficient reason for such intrusive conduct exists. The police may not employ such tactics every time they have an ‘articulable basis’ for thinking someone maybe a suspect in a crime. The infringement on personal liberty resulting from so intrusive a type of investigatory stop is simply too great. Under ordinary circumstances, when the police have only reasonable suspicion to make an investigatory stop, drawing weapons and using handcuffs and other restraints will violate the 4th Amendment.”; *DelVizo* 918 F2d at 825; *United States v. Delgadillo-Velasquez* 856 F2d. 1292, 1295 (9th Cir 1988). In fact even markedly less intrusive police action has been held to constitute an arrest when the inherent danger of the situation does not justify the intrusive police action: E.g. *United States v. Ricardo D.* 912 F2d 337, 340-42 (9th Cir. 1990); *Robertson* 833 F2d

at 781, 787; Krauss v County of Pierce 793 F2d 1105, 1109 (9th Cir 1986), cert denied, 107 S.Ct. 1571 91987).”

Both the stop and use of force by the police were unlawful under both Washington State and Federal law.

C) The taking of the keys, entrance and search of vehicle and removal of items without warrant.

“General exploratory rummaging in a person’s belongings” is prohibited by the Fourth Amendment. Anderson v. Maryland 96 S.Ct. 2737 quoting Coolidge v. New Hampshire 91 S. Ct. 2022 (1971). The unlawful entrance into the Toyota Prerunner and subsequent search without driver’s permission constitute a general exploratory rummaging. This voids the expost facto warrants for the Truck and Dupont home being that entrance was gained by the use of a set of unlawfully obtained keys prior to the issuance (or seeking) of a valid search warrant.

Once again the police tried the false attenuation trick by having Detective Hubbard make a plain view assertion to obtain a belated search warrant. “First plain view requires the initial police intrusion to be lawful... Second, because discovery must be inadvertent and recognition as contraband be immediate, the scope of search cannot be extended from the limited particular purpose of the initial intrusion to a general rummaging.” Washington v. Bell 108 Wn2d 193 (1987); Washington v. Johnson 17 Wa App 153 (1977); State v. Parker 139 Wn2d 486 (1999); State v Bustamante-Davila 138 Wn2d 964 (1999); Coolidge v. New Hampshire 403 US 443 at 468 (1971).

The corollary is also true. There can be no Plainview after a general rummaging. Here the initial police intrusion was unlawful. There was no recognition prior to the general rummaging and a warrant was only sought to legitimize the governmental misconduct.

D) As for the extended questioning without counsel. It’s well established that the questioning without counsel violates a defendant’s Fifth, Sixth, and Fourteenth Amendment rights. Miranda violations require dismissal without retrieval. That’s why they posed

Mr. Williams in the middle of the street after the warrant for his arrest had been issued.

5) **The entrance into the house at 1512 Richmond Ave was done without warrant using keys unlawfully obtained through the unlawful stop, arrest and search of Michael Williams** and the Toyota truck he was driving. The police violated Mr. Williams Fourth Amendment rights along with Article 1 § 7 of the Washington State Constitution. This also violated his due process rights being a continuation of the lawless behavior by the Dupont PD and BLPD. It also accounts for some of the key discrepancies in the physical evidence.

The police used the illegally obtained keys to gain entrance to the residence prior to seeking the issuance of a warrant. In fact they were caught by a neighbor. Lt. Col. Tina G. Open US Army Ret. Saw the police in the house. She came by to see if Michael W. Williams was alright. She was told by the police Mr. Williams was under arrest, that they had a warrant for his arrest and they had the keys to the house. She was told by the police they would leave the keys on the table when they left the residence.

Several interesting things happened here. First, the neighbor was told the police had a warrant but was not shown one. Second, the police reported going to other neighbors and interviewing them but the conversation with Col. Gopen never made its way into the police reports. Third, the keys weren't left behind and remained in the possession of the police to this day. Fourth the Williams returned from Georgia about a week later and had to have a locksmith come out and replace the locks.

Now, Detective Byerly was so good as to let us know in his testimony that he was "in the area" when Mr. Williams was pulled over and arrested. Remember that it happened at 1551 hours. There is no exemption for the police actively pursuing a warrant during the time of the illegal search. Officer Byerly received the stolen keys,

entered the house and took a turn at questioning Mr. Williams prior to going to Judge Cushkoff to get a warrant. This pattern of behavior accounts for several of the problems with the physical evidence. It also means that all of the evidence from the house, car, truck and Mr. Williams person must be suppressed.

The Red Buick was found in the garage where it's been since the morning. Note the DPD and BLPD were already in the house long before PCSO Wilkins showed up on the scene. (See report and testimony of PCSO Wilkins). He found a clump of brown hair in the trunk in one sport. This doesn't match any of the "consistent" statements given to any of the police by Ms. Dabson. PCSO Wilkins after a complete examination of the Buick's trunk found no DNA, No tampered taillights, no signs of forcing the trunk lock, no hair scattered all around the trunk.

The examination of the trunk didn't match any of the detailed statements given by Ms. Dabson to the police. Statements also neglected to mention the extensive, built-in cargo netting that would have become immediately apparent to anyone who had been in the trunk. However Officer Byerly did have access to hair samples from the Bonney Lake address and systematically massaged the evidence throughout the whole investigation.

There was a lot police activity at the Dupont residence. The police did a through job of going through and searching virtually everything in the house that belonged to Mr. Williams as potential evidence. However somehow they missed going through a shirt. Hanging in plain sight on the back of a chair. Ms. Dabson's ATM card in its pocket. How did the police miss it? Did the missing keys come into play? It had fingerprints on it but not Mr. Williams who prints were they? Why weren't the police's prints checked out?

They were also caught by the neighbors at the house. Lt.Col. Tina Gopen US Army (ret) saw the activity at the house and came over to see if I was alright. The police told her I was under arrest and they had a warrant to search the house using my keys to gain entrance. The officers said they would leave the keys on the counter when they

left. I find it very interesting that no record of this conversation or the keys made it into any police report. The keys were not left, resulting in my parents having to change the locks on the house. (See statement of Donald R. Williams and affidavit of Tina G. Gopen).

Did the prosecution show the required prudence and diligence of it by the Constitution? Of course not. Why pursue their duty to investigate unlawful police activity and corruption when you could get an easy conviction? (See Bowie 243F3d 1109 (9th Cir 2001)).

6) **The police make several calls to each other on private cell phones and pagers.** Would a prudent prosecutor ask why the police started using cell phones to talk to one another when they had a inter-departmental radio system. Is it because they needed to reset the timeline and the radio logs what they say. After all the prosecution already had proof of police forging documents at this time.

7) **24 hour after Mr. Williams is in the Pierce County Jail the police destroy impeachment evidence and cover it up.**

At 17:31 on September 29, 2003 Detective Hubbard and Officer (now Detective) Byerly searched the Toyota mini pickup at the impound yard for the second time. This time they had a warrant. Both officers report that each other as being there during the search. The truck is a mini size so they can never more then about 10 feet away from each other at any given time.

A strange thing happens during the search. Mr. Williams' cell phone turns on and makes a call. It's strange because the phone has several features to insure that accidental calls don't happen. The process requires that a person first flip the phone open. Next the user must press the power button and hold it down for 5 seconds to turn the phone on. This keeps the phone from being accidentally used. The

phone will next clear a signal and is now ready for use. At which time you can now make a call.

The cellular bill shows a call to Mr. Williams' voice mail was made from his handset at 17:31. (See Sprint PCS bill page 5 line 46). To do this the user had to have held down the voicemail key for 5 continuous seconds to make the call. **This call had to be either Detective Hubbard or Detective Byerly but, neither reported it.** The voicemail was only accessed for 1 minute. This is not long enough to listen to the messages but is long enough to delete them.

Messages that would have demonstrated to the jury the prosecution's witnesses committed perjury. Messages which could have been presented to the jury to impeach the prosecution's key witnesses in their own voices. This call never made it into the police reports. The voice mails were never transcribed. The phone was never turned over to the prosecution or defense. There's no chain of custody on the phone and it simply disappeared from sight into the hands of the police. Worse still is the prosecution never investigated after finding out the police and forged witness statement forms in November 2004.

"In Brady and Agurs, the prosecutor failed to disclose exculpatory evidence. In the present case, the prosecutor failed to disclose evidence that the defense might have used to impeach the Government's witnesses by showing bias or interest. Impeachment evidence, however, as well as exculpatory evidence, falls within the Brady rule. See Giglio v. United States, 405 US 150, 154, 92 S.Ct. 763, 766 (1972). Such evidence is "evidence favorable to an accused," Brady, 373 US at 87, 83 S.Ct. at 1196, so that, if disclosed and used effectively, it may make the difference between conviction and acquittal. Cf. Napue v. Illinois, 360 US 264, 269, 79 S.Ct. 1173, 1177 (1959) ("The jury's estimate of the truthfulness and reliability of a given witness may well be determinative of guilt or innocence, and it

is upon such subtle factors as the possible interest of the witness in testifying falsely that a defendant's life or liberty may depend").

The Court of appeals treated impeachment evidence as constitutionally different from exculpatory evidence. According to that court, failure to disclose impeachment evidence is "even more egregious" than failure to disclose exculpatory evidence "because it threatens the defendant's right to confront adverse witnesses." *Davis v. Alaska*, 415 US 308, 94 S.Ct.1105 (1974), the Court of Appeals held that the Government's failure to disclose requested impeachment evidence that the defense could use to conduct an effective cross-examination of important prosecution witnesses constitutes "constitutional error of the first magnitude" requiring automatic reversal. 719 F2d at 1464, (quoting *Davis v. Alaska*, supra, 415 US at 318, 94 S.Ct. at 1111).

This Court has rejected any such distinction between impeachment evidence and exculpatory evidence. In *Giglio v. United States*, supra, the Government failed to disclose impeachment evidence similar to the evidence at issue in the present case, that is, a promise made to the key Government witness that he would not be prosecuted if he testified for the Government.

This Court said:

"When the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility falls within th[e] general rule [of Brady]. We do not, however, automatically require a new trial whenever 'a combing of the prosecutors' files after the trial has disclosed evidence possibly useful to the defense but not likely to have changed the verdict....' A finding of materiality is required under Brady... A new trial is required if 'the false testimony could...in any reasonable likelihood have affected the judgment of the jury....'" 405 US, at 154, 92 S.Ct. at 766 (citations omitted)." *United States v. Bagley* 105 S.Ct. 3375, 3380 (1985)

In *Illinois v. Fisher* 124 S.Ct. 100, 1202 (2004) the Supreme Court said: “We have held that when the State suppresses or fails to disclose material exculpatory evidence, the good or bad faith of the prosecution is irrelevant: a due process violation occurs whenever such evidence is withheld. See *Brady v. Maryland*, 373 US 83, 83 S.Ct. 1194 (1963); *United States v. Agurs*, 427 US 97, 96 S.Ct. 2392 (1976). *Anderson v. Calderon* 232 F3d 1053, 1062 (9th Cir. 2000).

Because Brady does not require bad faith on the part of the prosecution for a violation of due process, the rule encompasses evidence “known only to the police and not to the prosecutor.” *Kyles* 514 US at 458, 115 S.Ct. 1555.

In order to comply with Brady, therefore, “the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case, including the police.” *Kyles* at 437, 115 S.Ct. 1555.

We use a three-part test to measure whether a failure to disclose amounted to a Brady violation: (1) the evidence at issue must be “favorable” to the accused, either because it is exculpatory, or because it is impeaching; (2) the evidence must have been suppressed by the State, either willfully or inadvertently; and (3) the suppressed evidence must be “material” under state law to the accused’s guilt or punishment- i.e., prejudice must have ensued. See *Strickler v. Green*, 527 US 263, 281-82, 119 S.Ct. 1936 (1999); see also *United States v. Cooper*, 173 F3d 1192, 1202 (9th Cir. 1999).

The 9th Circuit said in; *SILVA v. BROWN* 416 F3d 980, 986 (9th Cir 2005). “In applying the materiality standard, the Supreme Court has explained the “[t]he question is not whether the defendant would more likely than not have received a different verdict with the evidence , but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.” *Kyles*, 514 US at 434, 115 S.Ct 1555. Thus materiality does not

require a showing that the defendant would have been acquitted had the suppressed evidence been disclosed, or that disclosure of the suppressed evidence would have reduced the quantum of inculpatory evidence below that required to convict the defendant. *Id.* at 434-35, 115 S.Ct. 1555 (stressing the materiality “is not a sufficiency of evidence test”). Rather, a Brady violation is established where “the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.” *Id.* at 435, 115 S.Ct. 1555.

Once the materiality of the suppressed evidence is established, no further harmless error analysis is necessary, even in the context of habeas review: when the government has suppressed material evidence favorable to the defendant, the conviction must be set aside. *Kyles*, 514 US at 435-36, 115 S.Ct. 1555; *Hayes*, 399 F3d at 984-85.

...The particularly atrocious nature of the crimes with which Silva was charged cannot diminish the prosecutor’s-and our court’s- duty to [992] ensure that all persons accused of crimes receive due process of law.

“The government violates the Due Process Clause when it fails to disclose material favorable evidence. *Brady*, 373 US 83, 83 S.Ct. 1194. The Brady rule applies to both exculpatory and impeachment evidence. *Bagley*, 473 US at 676, 105 S.Ct. 3375. Evidence is material “only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *Id.* at 682, 105 S.Ct. 3375; see also *Kyles v. Whitley*, 514 US 419, 433-34, 115 S.Ct. 1555(1995). Thus, the Supreme Court has explained that “[t]here are three components of a true Brady violation: The evidence at issue must have been favorable to the accused, either because it is exculpatory, or because it is impeaching; that the evidence must have been suppressed by the State, either willfully or inadvertently; and prejudice must have

ensued.” *Strickler v. Greene*, 527 US 263, 281-82, 119 S.Ct. 1396 (1999). We must determine whether the evidence was material based on the cumulative impact of all the evidence the government suppressed. *Kyles*, 514 US at 436-38, 115 S.Ct. 1555.”

CONCLUSION

It is the contention of this defendant that the accumulation of numerous errors by the trial court deprived him of a fair trial. (*U.S. Constitution 5th and 14th Amendments*). This Court has the authority under *RAP 2.5(a) (3)* to review error claims whether they are properly preserved or not if the cumulative effect of all errors denies the defendant the constitutional right to a fair trial. *State v. Alexander 64 Wn App 147, 150-51 (1992)*. Although it is the appellant’s contention that many of the errors listed warrant reversal on their own merit, this appellant would ask this court to also view all of the error in light of, “The total effect of a series of incidents creating a trial atmosphere which threatens to deprive the accused of the fundamentals of due process.” *State v. Swenson 62 Wn2d 259 (1963)*. “The cumulative error doctrine mandates reversal when the cumulative effect of nonreversible errors materially affects the outcome of a trial.” *State v. Newbern 95 Wn App 277, 297 (1999)*; see *Whelchel v Washington 232 F3d 1197 (9th Cir. 2000)*; see also, *Daniels v. Woodford 428 F.3d 1181, 1214 (9th Cir. 2005)*.

The prosecutions failure to meet its duty to provide for a fair trial resulted in numerous errors which are so intertwined as to be inseparable. Undermining the confidence in the verdict and rendering any potential future retrial unreliable. *the 9th Circuit said*, “As we pointed out in *Thomas v. Hubbard, 273 F3d 1164 (9th Cir.2001)*, “[i]n analyzing prejudice in a case in which it is questionable whether any single trial error examined in isolation is sufficiently prejudicial to warrant reverse, this court has recognized the importance of

considering the cumulative effect of multiple errors and not simply conducting a balkanize, issue-by-issue harmless error review.” *Id* at 1178 (internal quotations omitted) (citing *United States v. Fredrick*, 78 F.3d 1370, 1381 (9th Cir.1996); *Matlock v. Rose*, 731 F.2d 1236, 1244 (6th Cir. 1984) (“Errors that might not be so prejudicial as to amount to a deprivation of due process when considered alone, may cumulatively produce a trial setting that is fundamentally unfair.”). The prosecution offered its evidence as being in “the same or substantially the same condition as when it was collected” or “in the same condition as the day you collected it.” While these sound similar they are not the same. It allowed a witness to step forward and identify the physical evidence as not having changed without committing perjury. After all the physical evidence hadn’t changed since the tampering occurred.

In September 2003 the prosecution had evidence in their hands as to police fabrication in the staging of the crime scene. In November 2004 they were aware of the police forging of witness statement forms. Given their knowledge of police misconduct the strategic decision to ignore their Constitutional and ethical duties is appalling and violated Mr. Williams right to due process.

Given the manifest reason to question the veracity of its witnesses, the Constitution required a prompt pretrial investigation of the integrity of the government’s evidence before the witnesses were called to the stand. A tardy evidentiary hearing long after the fact cannot satisfy this Constitutional requirement. Although the prosecution had leverage before the trial to get to the truth with its witnesses it is not unlikely now that the Fifth Amendment will shield them from inquiry.

As it now stands the record establishes bad faith by the prosecution. The state made a strategic decision to commit its witnesses under oath to a certain story. An admission now of untruthfulness might well unveil a crime. The prosecution knowingly violated its ethical obligations and violated Mr. Williams’ right to due process.

Conclusion

As previously stated this appellant would ask this Court to consider the cumulative effect of all the errors that deprived this appellant of due process as guaranteed under the 5th and 14th Amendments to the United States Constitution.

The cumulative effect of all the errors in the present case deprived this appellant of a fair trial. This appellant would respectfully ask this court to dismiss with prejudice against the states right to refile, reverse the conviction against him or similar relief.

Dated this 4th day of October, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael W Williams', written over a horizontal line.

Michael W Williams, Pro se

Customer	Account Number	Invoice Period	Invoice Date	Page
NORTHWEST CIGAR AND COFFEE	0003585175-6	Sep. 25 - Oct. 24	Oct. 25, 2003	4 of 26



Individual Charges for **NORTHWEST CIGAR AND COFFEE (continued)**
253-376-3818

Other Charges

Description	Charges
Cancellation Charge	150.00
	\$150.00

Taxes, and Surcharges & Fees

Description	Charges
Taxes, and Surcharges & Fees	\$24.92

Total Individual Charges for NORTHWEST CIGAR AND COFFEE	\$178.83
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Call Detail

Voice Call Detail

	Date	Time	Phone Number	Call Destination	Rate/Type	Minutes Used	Airtime Charges	LD/Additional Charges	Total Charges
1	9/25	8:20 A M	Incoming			1.0	included	0.00	0.00
2	9/25	10:35 A M	714-899-7111	Westminstr, CA		2.0	included	0.00	0.00
3	9/25	11:06 A M	253-376-3818	Tacoma, WA		3.0	included	0.00	0.00
4	9/25	11:08 A M	714-899-7111	Westminstr, CA		1.0	included	0.00	0.00
5	9/25	12:38 P M	714-899-7111	Westminstr, CA		3.0	included	0.00	0.00
6	9/25	1:44 P M	425-260-7762	Bellevue, WA		2.0	included	0.00	0.00
7	9/25	3:30 P M	Incoming			2.0	included	0.00	0.00
8	9/25	3:42 P M	253-961-4902	Tacoma, WA		1.0	included	0.00	0.00
9	9/25	3:49 P M	253-961-4902	Tacoma, WA		1.0	included	0.00	0.00
10	9/25	4:32 P M	714-899-7111	Westminstr, CA		3.0	included	0.00	0.00
11	9/25	6:47 P M	714-899-7111	Westminstr, CA		1.0	included	0.00	0.00
12	9/25	7:13 P M	714-899-7111	Westminstr, CA		2.0	included	0.00	0.00
13	9/25	8:53 P M	253-376-3818	Tacoma, WA		1.0	included	0.00	0.00
14	9/25	9:26 P M	714-273-9719	Anaheim, CA		3.0	included	0.00	0.00
15	9/26	12:40 A M	714-273-9719	Anaheim, CA		2.0	included	0.00	0.00
16	9/26	12:50 A M	714-899-7111	Westminstr, CA		26.0	included	0.00	0.00
17	9/26	10:49 A M	714-899-7111	Westminstr, CA		1.0	included	0.00	0.00
18	9/26	11:34 A M	714-899-7111	Westminstr, CA		1.0	included	0.00	0.00
19	9/26	11:54 A M	714-899-7111	Westminstr, CA		15.0	included	0.00	0.00
20	9/26	1:57 P M	714-899-7111	Westminstr, CA		6.0	included	0.00	0.00
21	9/26	4:59 P M	714-273-9719	Anaheim, CA		1.0	included	0.00	0.00
22	9/26	5:16 P M	714-899-7111	Westminstr, CA		4.0	included	0.00	0.00
23	9/26	5:39 P M	425-260-7762	Bellevue, WA		1.0	included	0.00	0.00
24	9/26	6:07 P M	253-376-3818	Tacoma, WA		1.0	included	0.00	0.00

Affidavit

While living at 1500 Richmond Ave, DuPont WA, 98327 in September 2003, I noticed police officers in front of the home next door of my neighbors, Don and Marguerite Williams. I became very concerned since I knew that Don and Marguerite were on a Church retreat for a week. I walked over to see if Michael Williams, their adult son who I know was staying alone in the house, was all right. The officer in charge told me that Michael was under arrest and that he had a warrant to search the home. I requested that the officer provide me the phone number to reach Don and Marguerite since they knew nothing of this incident. After a few hours, the officer returned with the information I requested, and told me that he would leave the house keys on the kitchen counter.

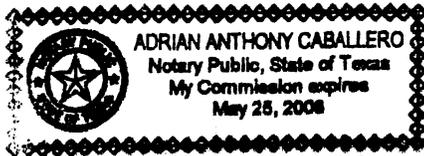
I notified the William family the following day and told them of the arrest of their son, the search of their home and the whereabouts of the house key.

END OF STATEMENT


Tina G. Gopen
LIEUTENANT COLONEL (Retired), US ARMY

ON 11/16/2005, THE ABOVE SIGNED THIS DOCUMENT AND WAS
Date

NOTARIZED by Adrian Caballero.
Name



Nov. 25th 05

On September 28, 2003 I drove over to my grandparents house in DuPont My father Michael Williams and I were going to send the day moving things between there, storage, and my mother's apartment in Sumner. He wasn't there when I arrived, so I called him at Seven Eleven on his cell phone. He was just a few minutes away and arrived shortly. When he arrived dad packed my Grandma's Buick in the garage.

We had some breakfast and left for storage. I drove my dad's van and he took my grandpa's pickup. My Chrysler and dad's Mercedes were parked out front. I went directly to storage and Dad ran some errands showing up in about forty-five minutes after my arrival. We cleaned up the storage unit throwing out a lot of Dad's old industrial samples. We loaded up several of my large pieces of furniture and took them to my Mother's apartment.

I met Dad back at the Grandparents' in DuPont, and we hung out for a while watching TV. About a quarter to three I left the house and was pulled over by a DuPont police officer about two to three blocks from the house. The Officer told me I had a defective exhaust, which I thought was funny. We had just had the car emissions tested and had the car tuned, new PCV, new O-2 sensor, muffler, and tail pipe replaced about two weeks before. I wasn't going to argue with him because I had forgotten my new insurance paperwork and didn't want the ticket if I was only going to get a warning. He was very aggressive, and I didn't want the hassle.

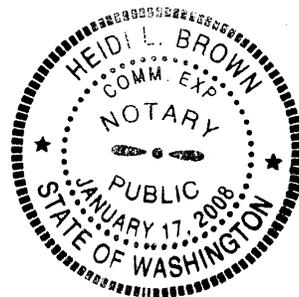
At 3:44 pm I called my dad cell to cell and told him I'd been pulled over. He was mad at me and wanted to know what I'd done and if I was okay. My cell signal broke up, and I called back in a few minute from a landline. Dad was on the phone with one of his friends, but he told me he was now getting pulled over by the police and would call me back in about a half an hour. It was about 3:39 pm at this time. The next time I heard from Dad was that night from jail.

Sincerely,

Bryce M. Williams

State of Washington
County Pierce

On this 25, Day of November, 2005 appeared
Bryce M. Williams.



11-25-05

When my wife and I returned home from Rome, Georgia we were picked up at the airport by our neighbor Tina. She told us there had been a problem that the police had been in the house doing a search. The police had informed her that they had left the house keys on the table and locked the door behind them. The keys were never found requiring us to change the locks.

Sincerely,

A handwritten signature in cursive script that reads "Donald R. Williams". The signature is written in black ink and is positioned above the printed name.

Donald R. Williams

WASHINGTON SHORT-FORM INDIVIDUAL ACKNOWLEDGMENT (RCW 42.44.100)

State of Washington }
County of PIERCE } ss.

I certify that I know or have satisfactory evidence that DONALD R. WILLIAMS
Name of Signer

is the person who appeared before me, and said
person acknowledged that he/she signed this
instrument and acknowledged it to be his/her free
and voluntary act for the uses and purposes
mentioned in the instrument.

Dated: NOVEMBER 25 2005
Month/Day/Year



Sharon M Rupp
Signature of Notarizing Officer

NOTARY PUBLIC
Title (Such as "Notary Public")

My appointment expires
10-10-09
Month/Day/Year of Appointment Expiration

Place Notary Seal Above

OPTIONAL

Although the information in this section is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: TYPED LETTER
Document Date: 11/25/05 Number of Pages: 1
Signer(s) Other Than Named Above: _____

Right Thumbprint of Signer
Top of thumb here

STOLEN * CASE NO: 03-2675

Divorce/Separation in Progress? [] Yes [] No Payments Delinquent [] Yes [] No Car Locked [] Yes [] No
Key In Switch [] Yes [] No Key Needed [] Yes [] No Permission to Drive Given [] Yes [] No

STATEMENT OF PERSON REPORTING
I, the undersigned, declare this to be a true and correct report. I will testify, in court, under oath, to the facts herein. I understand that I may be charged with violation of R.C.W. 9A.76.020 "Obstructing a Public Servant" if filing a false report. If reporting a stolen vehicle, I understand I am liable for all towing and storage costs incurred in the recovery of the vehicle.

Date _____ Time _____ Signature _____

MEDICAL
Type of Injury or Illness: RAPE / ASSAULT
Hospital Taken to: TACOMA GENERAL HOSP.
By: DETECTIVE HUBBARD
Extent of Injuries: MULTIPLE BRUISES / LACERATIONS
Attending Physician: TERI JACOBSEN
Suicide Note: [] Found [] None
Employee: [] Employee [] On Duty
Hold Placed By: _____

PROPERTY
Stolen [] Evidence [x] Recovered [] Theft Inventory Att. [] Total Theft Amount \$ _____ Total Damaged Amount \$ _____
Lost [] Damaged [] Narrative [] Theft Inventory Left []

Damaged and Minor Property Loss
SEE DETECTIVE HUBBARD'S SUPPLEMENT / PIERCE COUNTY FORENSIC INV. WILKINS SUPPLEMENT AND PIERCE COUNTY PROPERTY SHEET

Insurance Company _____

PARENT/GUARDIAN NOTIFICATION
Name and Relationship of Person Notified _____ Date and Time Notified _____ Notified By _____

Narrative:

On September 28, 2003 at approximately 1806 hours, Bonney Lake Police Department Detective Dana Hubbard and I arrested Michael Wayne Cummings charging:

- 1. R.C.W. 9A.36.011 - Assault First Degree
2. R.C.W. 9A.52.020 - Burglary First Degree
3. R.C.W. 9A.40.020 - Kidnapping First Degree
4. R.C.W. 9A.44.040 - Rape First Degree (3 counts).

After he was contacted by the Dupont Police Department in the 1000 block of Wilmington Drive in Dupont, Washington.

On September 28, 2003, at approximately 0839 hours, I contacted [redacted] who reported that her mother's ex-boyfriend had abducted and raped her between the hours of 0400 and 0700. [redacted] told me that the incident started at her residence located at [redacted] Washington at approximately 0400 hours. [redacted] said, while asleep in her bed, she heard a noise inside the home, and awoke to a male subject, whom she recognized as Michael W. Williams, standing in the doorway of her bedroom. (Williams is [redacted] mothers' ex-boyfriend). [redacted] said that she asked him "What are you doing here?" and Williams attacked her. [redacted] said that Williams jumped on top of her, and began choking her. [redacted] said that she noticed that Williams was wearing a turtleneck shirt, navy blue sweat pants, dirty white tennis shoes and surgical type latex gloves at the time. [redacted] said she attempted to phone police, but Williams put a pillow over her face to prevent her from doing so. [redacted] said that Williams punched her several times in the face, [redacted] told me, Williams put her into a "head-lock" and dragged her out the residence, placing her in the trunk of a red newer Buick Lesabre 4-door sedan. [redacted] said that she knows that this vehicle belongs to Williams' parents.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.085.)

SIGNATURE: BRIAN H. BYERLEY [Signature] DATE: 9/29/03 PLACE: Bonney Lake, Washington

2

Narrative Continued

Bonney Lake Police Department Officer John Hopkins contacted [REDACTED], Tracy Dunivan, Sharon Taylor, and Christina Taylor, and requested that they fill-out witness statement forms regarding the incident. (See attached).

CUSTODY OF EVIDENCE

1. Item A-1 – Item A-1 consists of a Kodak disposable camera, which was turned over to Officer Brian Byerley at [REDACTED] by [REDACTED]. Item A-1 was transported to the Bonney Lake Police Department where it was turned over to Bonney Lake Police Department Detective Dana Hubbard. Detective Hubbard turned over the camera to Bonney Lake Police Department Officer John Hopkins for developing. The camera was consumed during the developing process, and was not retained. No identifiable photographs were obtained from item A-1.

OTHER OFFICERS

Bonney Lake Police Department

Detective Sergeant Thomas Jenkins
Detective Dana Hubbard
Officer John Hopkins

Dupont Police Department

Sergeant Michael Cummings
Officer Ross Matheson
Officer T. Tenney

Pierce County Sheriff's Department

Forensic Investigator Steve Wilkins

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.085.)

SIGNATURE: BRIAN H. BYERLEY

B. Byerley DATE: 9/22/03

PLACE: Bonney Lake, Washington

Case Number
03-2675

(5)

DESCRIPTION OF PROPERTY TO BE SEARCHED

1. The residence located at 1512 Richmond Avenue Dupont, Washington. The residence is a one-story, 1630 square foot single family dwelling, with composition roof. The residence is light gray with white trim, the numbers "1512" are posted on the residence. The residence bears Pierce County parcel number 3000200040. A silver

2. Red 2000 Buick Lesabre 4-door bearing Washington license 259-KQO and Vehicle Identification Number 1G4HR54K5YU203015. The vehicle is registered to Don and Marguerite Williams, 1512 Richmond Avenue Dupont, Washington.

Affiant believes that the above evidence is concealed in or about this location based upon the following facts and circumstances:

AFFIANT Officer Brian H. Byerley

Training and Experience

Affiant Byerley has been a fully commissioned law enforcement officer with the Bonney Lake Police Department since March 01, 2002. Prior to that your Affiant was a fully commissioned officer with the Sumner Police Department since 02/01/95. Affiant is currently assigned as a Bonney Lake Police Department patrol officer with additional duties as an investigator and was previously assigned to the Drug Enforcement Administrations Tacoma Regional Task Force, a locally based controlled substance task force for approximately four and one half years. Affiant Byerley has completed the Washington State Criminal Justice 440 hour Basic Law Enforcement Academy; has an Associates of Applied Sciences Degree in Law Enforcement from Green River Community College; Affiant was previously assigned with the Sumner Police Department as a narcotics investigator from October, 1997 to February, 2002, during that time Affiant was assigned to the Tahoma Narcotics Enforcement Team (TNET), a controlled substance task force, and the Department of Justice/Drug Enforcement Administration's Tacoma Regional Task Force. Affiant Byerley has completed in excess of 200 hours of extensive drug investigation related courses including the Department of Justice/Drug Enforcement Administration's 80-hour Basic Drug Investigation course, and numerous courses sponsored and/or approved by the Washington State Criminal Justice Training Commission. Affiant has worked as a police officer for seven (8) years in the past where Affiant has had experience with sexual assault investigations, and has completed a 40-hour basic crime scene investigators course, where sexual assaults, is included in the curriculum.

Affiant Byerley is a certified Clandestine Drug Lab Technician and a member of the Pierce County Sheriff Department's Clandestine Lab Team where Affiant has executed numerous controlled substances search warrants. Affiant has completed numerous hours of search warrant service related training including a 52-hour Counterdrug Special Reaction Team course sponsored by the United States Army Military School. In addition to these duties, Affiant has served numerous search warrants in the past as a Sumner Police Officer, as a member of the Bonney Lake Police Department's Special Response Team and as a member of DEA & TNET task forces.

In addition to formal training, Affiant Byerley has been personally involved in several sexual assault investigations, which have resulted in arrests and convictions of persons for related crimes.

(7)

UPPLEMENTARY REPORT

BONNEY LAKE POLICE DEPARTMENT

1 of 3

VICTIM/SUBJECT OF ORIGINAL REPORT	NAME: Last First Middle WILLIAMS, MICHAEL WAYNE	Report Title/Case Number 03-2675
	ADDRESS: Street City State Zip 1512 RICHMOND AVENUE DUPONT, WASHINGTON 98327	Phone 253-964-9015

CASE STATUS	<input type="checkbox"/> Property Recovered <input type="checkbox"/> Partial Recovery <input type="checkbox"/> No Further Inv. Pending New Leads <input checked="" type="checkbox"/> Investigation To Be Continued <input type="checkbox"/> Cleared Unfounded <input type="checkbox"/> Cleared Exceptional <input type="checkbox"/> Cleared With Arrest
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RELATED CASE NUMBERS: PIERCE COUNTY CASE NUMBER 03-271-0436

Code	O(Offender)	S(Suspect)	W(Witness)	X(Other)	VB(Victim Business)	C(Complainant)
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PERSON No.	Code	NAME: Last First Middle (Maiden)	Home Phone	Business Phone				
	ADDRESS: Street City State Zip	Occupation	Place of employment/school	Relation to Victim				
	DOB	Race	Sex	Height	Weight/Build	Hair	Eyes	Clothing, Scars, Marks, Tattoos, Peculiarities, A.K.A
	<input type="checkbox"/> Booked Number <input type="checkbox"/> Cited	Charge Details (Include Ordinance or R.C.W. Number)						

PERSON No.	Code	NAME: Last First Middle (Maiden)	Home Phone	Business Phone				
	ADDRESS: Street City State Zip	Occupation	Place of employment/school	Relation to Victim				
	DOB	Race	Sex	Height	Weight/Build	Hair	Eyes	Clothing, Scars, Marks, Tattoos, Peculiarities, A.K.A
	<input type="checkbox"/> Booked Number <input type="checkbox"/> Cited	Charge Details (Include Ordinance or R.C.W. Number)						

PERSON No.	Code	NAME: Last First Middle (Maiden)	Home Phone	Business Phone				
	ADDRESS: Street City State Zip	Occupation	Place of employment/school	Relation to Victim				
	DOB	Race	Sex	Height	Weight/Build	Hair	Eyes	Clothing, Scars, Marks, Tattoos, Peculiarities, A.K.A
	<input type="checkbox"/> Booked Number <input type="checkbox"/> Cited	Charge Details (Include Ordinance or R.C.W. Number)						

<input type="checkbox"/> Additional Persons On Report Continuation Sheet
--

Property Recovered - List and indicate disposition Property on Property Report Form
 See "Custody of Evidence" section

EXECUTION OF SEARCH WARRANT AND ACQUISITION OF ITEMS 1 -29.

On September 28, 2003 at approximately 1740 hours, Pierce County Superior Court Judge Bryan Chushcoff issued a search and seizure warrant for the residence located at 1512 Richmond Avenue and a red 2000 Buick LeSabre 4-door bearing Washington license 259-KQO, based on the affidavit of Bonney Lake Police Department Officer Brian Byerley.

On September 28, 2003 at approximately 1850 hours, members of the Bonney Lake Police Department along with members of the Dupont Police Department and Pierce County Sheriff's Department executed the Pierce County Superior Court search and seizure warrant at 1512 Richmond Avenue in Dupont, Washington. Upon entry into the residence, no persons were found.

A systematic and orderly search of the residence was conducted. Pursuant to the search of the residence and vehicle, items 1 - 25 were seized. For complete descriptions of the referenced items see "Custody of Evidence" section of this report.

On September 28, 2003 at approximately 2210 hours, after the search of the residence was complete, a copy of the search warrant, a return of service, and inventory of items taken from the residence were left inside the residence on the kitchen counter. The residence was secured by Bonney Lake Police Department Officer John Hopkins.

Reporting Time & Date 09/29/2003 1041	Officer's Signature & No. <i>Brian H. Byerley</i> BRIAN H. BYERLEY 0560	Approval
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Date Entered	Recommended Action:	Copy To:	Reviewed By
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14

**SUPPLEMENTARY REPORT
NARRATIVE (CON'T)**

CUSTODY OF EVIDENCE

Item 1 – Item 1 consists of a duct tape roll found in the garage by Pierce County Forensic Investigator Steve Wilkins.

Item 2 – Item 2 consists of a pair of turquoise handled scissors found in the garage by Pierce County Forensic Investigator Steve Wilkins. Item 2 was found attached to item 1.

Item 3 – Item 3 consists of duct tape from a cardboard box found in the garage by Pierce County Forensic Investigator Steve Wilkins.

Item 4 – Item 4 consists of a box with duct tape found in the garage by Pierce County Forensic Investigator Steve Wilkins.

Item 5 – Item 5 consists of duct tape found in the master bedroom trashcan by Pierce County Forensic Investigator Steve Wilkins.

Item 6 – Item 6 consists of blue nylon jogging pants found in the master bathroom by Pierce County Forensic Investigator Steve Wilkins.

Item 7 – Item 7 consists of black sweatpants found in the master bathroom by Pierce County Forensic Investigator Steve Wilkins.

Item 8 – Item 8 consists of an ash colored polo shirt found in the master bathroom by Pierce County Forensic Investigator Steve Wilkins.

Item 9 – Item 9 consists of Hanes white brief underwear found in the master bathroom by Pierce County Forensic Investigator Steve Wilkins.

Item 10 – Item 10 consists of blue blanket from master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 11 – Item 11 consists of blue top sheet from master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 12 – Item 12 consists of blue fitted sheet from master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 13 – Item 13 consists of pillowcase from master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 14 – Item 14 consists of pillowcase from the master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 15 – Item 15 consists of a pillowcase from the master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.



Reporting Time & Date
09/29/2003 1110

Officer's Signature & No.
BRIAN H. BYERLEY 0560

Approval

CUSTODY OF EVIDENCE (CONTINUED)

Item 16 – Item 16 consists of a pillowcase from the master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 17 – Item 17 consists of a used condom and wrapper found in the front bedroom wastebasket by Pierce County Forensic Investigator Steve Wilkins.

Item 18 – Item 18 consists of a used tissue found in the front bedroom wastebasket by Pierce County Forensic Investigator Steve Wilkins.

Item 19 – Item 19 consists of a black shirt found on the front bedroom chair by Pierce County Forensic Investigator Steve Wilkins.

Item 20 – Item 20 consists of a pair of white AVIA athletic shoes found in the front bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 21 – Item 21 consists of a hair from the floor on the right side of the master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 22 – Item 22 consists of two (2) photographs from the refrigerator depicting Michael Williams and his daughter "Maggie", found in the kitchen by Pierce County Forensic Investigator Steve Wilkins.

Item 23 – Item 23 consists of hairs from the trunk of red 2000 Buick LeSabre 4-door bearing Washington license 259-KQO by Pierce County Forensic Investigator Steve Wilkins.

Item 24 – Item 24 consists of probable pubic, head and other hairs from master bed, found in the master bedroom by Pierce County Forensic Investigator Steve Wilkins.

Item 25 – Item 25 consists of "Thomas Guide" from front passenger seat of red 2000 Buick LeSabre 4-door bearing Washington license 259-KQO by Pierce County Forensic Investigator Steve Wilkins.

Item 26 – Item 26 consists of a red notepad found underneath item 25 on the front passenger seat of red 2000 Buick LeSabre 4-door bearing Washington license 259-KQO by Pierce County Forensic Investigator Steve Wilkins.

Item 27 – Item 27 consists of duct tape and latex gloves found in the trashcan in the garage by Pierce County Forensic Investigator Steve Wilkins.

Item 28 – Item 28 consists of a nail found in the trunk of red 2000 Buick LeSabre 4-door bearing Washington license 259-KQO by Pierce County Forensic Investigator Steve Wilkins.

Item 29 – Item 29 consists of a piece of paper bearing " 360-897-6665, Tracy Dunivan, 98385" found on the desk in the front bedroom by Officer Brian Byerley.

Items 1 – 28 were seized from the residence by Pierce County Forensic Investigator Steve Wilkins, and transported to the Pierce County Sheriff's Department where they were processed as evidence. Items 1 – 28 were placed into the Pierce County property room pending destruction, trial or return to their rightful owner. Item 29 was seized from the residence by Officer Brian Byerley, and transported to the Bonney Lake Police Department where it was processed as evidence. Item 29 was later turned over to Pierce County Forensic Investigator Steve Wilkins, to be placed in to the Pierce County property room.

Reporting Time & Date

9/29/03 1135

Officer's Signature & No.

Brian Byerley 0810

Approval

16

1 of 2

BONNEY LAKE POLICE DEPARTMENT

SUPPLEMENTARY REPORT

VICTIM/SUBJECT OF ORIGINAL REPORT	NAME: Last First Middle [REDACTED] A	Report Title/Case Number KIDNAP/RAPE 03-2675
	ADDRESS: Street City State Zip [REDACTED]	Phone [REDACTED]

CASE STATUS	<input type="checkbox"/> Property Recovered <input type="checkbox"/> Partial Recovery <input type="checkbox"/> No Further Inv. Pending New Leads <input checked="" type="checkbox"/> Investigation To Be Continued <input type="checkbox"/> Cleared Unfounded <input type="checkbox"/> Cleared Exceptional <input type="checkbox"/> Cleared With Arrest
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RELATED CASE NUMBERS:

Code O(Offender) S(Suspect) W(Witness) X(Other) VB(Victim Business) C(Complainant)

PERSON No.	Code	NAME: Last First Middle (Maiden)	Home Phone	Business Phone
	ADDRESS: Street City State Zip		Occupation	Place of employment/school
	DOB	Race Sex	Height Weight/Build	Hair Eyes Clothing, Scars, Marks, Tattoos, Peculiarities, A.K.A.
	<input type="checkbox"/> Booked Number	<input type="checkbox"/> Cited	Charge Details (Include Ordinance or R.C.W. Number)	

PERSON No.	Code	NAME: Last First Middle (Maiden)	Home Phone	Business Phone
	ADDRESS: Street City State Zip		Occupation	Place of employment/school
	DOB	Race Sex	Height Weight/Build	Hair Eyes Clothing, Scars, Marks, Tattoos, Peculiarities, A.K.A.
	<input type="checkbox"/> Booked Number	<input type="checkbox"/> Cited	Charge Details (Include Ordinance or R.C.W. Number)	

PERSON No.	Code	NAME: Last First Middle (Maiden)	Home Phone	Business Phone
	ADDRESS: Street City State Zip		Occupation	Place of employment/school
	DOB	Race Sex	Height Weight/Build	Hair Eyes Clothing, Scars, Marks, Tattoos, Peculiarities, A.K.A.
	<input type="checkbox"/> Booked Number	<input type="checkbox"/> Cited	Charge Details (Include Ordinance or R.C.W. Number)	

Additional Persons On Report Continuation Sheet

Property Recovered - List and indicate disposition Property on Property Report Form

On 09-28-03 at about 0953 hours, Officer Byerley requested that I secure and standby at the victim's residence, located at 9409 205th Ave. E. Bonney Lake, WA.

Once on scene, I did a walk around of the residence and found two open windows on the south side of the house. I then blocked the driveway and waited for PCSO Ident and Sgt. Jenkins to arrive at the scene. While I waited no one entered or left the residence.

At 10:37 hours, PCSO Ident Investigator Steve Wilkins arrived at the scene and stood by for Sgt. Jenkins.

At 10:55 hours, Sgt. Jenkins arrived at the scene and Sgt. Jenkins relieved me of my duties and I cleared the scene.

At 10:59 hours, Sgt. Jenkins requested that I return to the scene for scene security. I arrived back at the scene at 11:03 hours. I stayed at the scene until released again by Sgt. Jenkins at 11:58 hours.

Nothing further at this time.

20

2072

Reporting Time & Date

9-27-03 12:15

~~Officer's Signature & No.~~

Approval

Date Entered

Recommended Action:

Copy To:

Reviewed By

(21)



BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT

COPY

CASE 03-2675

Page 1 of 6

09-28-03 at 0840hrs

I was called out to respond with Officer Byerley to 20908 93rd St. E. in Bonney Lake, WA in regards to a sexual assault. Approximately thirty minutes later I arrived and contacted Officer Byerley, stated the victim, [redacted] (referred to in this report as [redacted] was inside the residence and told him she was abducted in the early morning hours of 09-28-03 by Michael W. Williams (referred to in this report as Michael), her mother's ex-boyfriend. He related to me that Michael had worn latex gloves while he was inside [redacted] residence. Officer Byerley stated [redacted] was assaulted while in her residence, then brought out to an awaiting vehicle and placed in the trunk. He stated she pulled out some hair and was trying to get to the wiring and disable the taillights. Officer Byerley stated [redacted] was driven to a residence in Dupont, WA where Michael opened the trunk of the car, duct taped her hands behind her back, duct taped her eyes and mouth shut. He reportedly brought her into the house where he sexually assaulted her. Officer Byerley reported that [redacted] was able to take the duct tape off her mouth and eyes which was discarded in the room she was sexually assaulted in. Officer Byerley stated Michael sexually assaulted her again then brought her out to the vehicle located in the garage. She was allowed to ride up front; however her hands were still bound behind her back. Officer Byerley went on to tell me Michael drove her back to the Bonney Lake area to look for [redacted] mother, [redacted] new boyfriend, Tracy Dunivan residence. Under duress, [redacted] showed Michael where Tracy lived. At this point, [redacted] was able to get Michael to cut the duct tape off of her hands by using a green handled "box cutter" type knife. Michael then drove [redacted] back to the Dupont residence where he parked in the garage. Officer Byerley related Michael then took the duct tape that was on her wrists and threw it into an empty box in the garage. [redacted] was then escorted back into the residence where he told her he didn't want to have "sex" with her again he just wanted to lay down with her because he hadn't slept for 17 days. Officer Byerley stated [redacted] told him the refrigerator in the residence has Michael's picture on it as well as his daughter, "Maggie".

At approximately 0700hrs Michael dropped [redacted] back off at her residence in Bonney Lake, WA. [redacted] then made her way over to a friend's house located at 20908 93rd ST. E. Bonney Lake, WA. [redacted] mother, [redacted] was called and after she arrived at the residence, the police were called.

Officer Sainati was requested to secure [redacted] residence located at [redacted] Det. Sgt. Jenkins was en-route along with Officer Hopkins and Pierce County Forensic investigator,

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.045.)

SIGNATURE: Det. D.P. Hubbard

DATE: 09-29-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

[Handwritten signature]

[Handwritten initials]

59



**BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT
CASE 03-2675
Page 3 of 6**

At approximately 1220hrs, RN's, Patsy Pitts and Teri Jacobsen arrived to take [redacted] upstairs to examine her and gather evidence; however they had to wait for the ER doctor to release her. At 1240hrs, Victim Advocate, Alan Trimmings arrived, spoke with [redacted] and gave her plenty of informational pamphlets and began paperwork for victim's medical compensation.

At approximately 1250hrs, [redacted] was release from the ER and went upstairs with Patsy Pitts and Teri Jacobsen for the sexual assault exam. While Teri was interviewing [redacted], [redacted] statements were consistent to what Officer Byerley had relayed to me and what she had told me en-route to the hospital and in the taped statement she had given thus far.

At approximately 1410hrs, I called Dupont Sgt. Cummings to find out what the status was and he stated Officer Tenney had been by the house at approximately 1130hrs and it didn't appear anyone was home. He stated the house was a one story gray with white trim residence. He stated a Mercedes Benz bearing Washington license plate number 582JMX was parked in front of the house, as well as an 85 Chrysler New Yorker bearing Washington license plate, 722NBH and a van (unknown plate) parked in front of the garage.

At approximately 1507hrs, Sergeant Cummings called and stated the vehicle we were looking for, 2000 Buick LeSabre 4-door bearing Washington license 259-KQO was now at the residence. He stated he was parked at one end of the road and he Officer Tenney was sitting at the other entrance.

At approximately 1520hrs, [redacted] was release from the sexual assault examination and we were escorted back to the Emergency Room and placed into room number 8 until the ER doctor could re-examine [redacted] due to her complaint of a sore shoulder. Due to the time delay in the ER, I decided to finish the taped statement with [redacted]. At approximately 1555hrs I began taping her statement where we had left off. I had to stop the tape at 1615hrs and begin again at 1616hrs due to reaching the end of side A. At 1632hrs the taped statement was concluded. Please review the transcribed statement for details of [redacted] account of the incident.

At approximately 1626hrs, Sgt. Cummings paged me to relay they had information that Michael W. Williams was inside the residence. At approximately 1650hrs the Emergency Room cleared Jessi's release from the hospital. We waited for [redacted] mother to arrive at Tacoma General Hospital. [redacted] stated she was worried about her family and I told her that once we took Michael into custody I would call her.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW 9A.72.085.)

SIGNATURE: Det. D. P. Hubbard

DATE: 09-29-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

61



**BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT**

CASE 03-2675

Page 4 of 4

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5
6 I then spoke with Detective Sergeant Jenkins, and he stated he was with
7 Officer Byerley and Officer Hopkins and they were en-route to Tacoma
8 General Hospital. Detective Sergeant Jenkins stated Officer Hopkins and I
9 were to meet up with Dupont Sgt. Cummings while he and Officer Byerley
10 went to the judge's residence to get the search and seizure warrant
11 signed.

12
13 At approximately 1720hrs, [REDACTED] mother arrived at Tacoma General as well
14 as Detective Sergeant Jenkins, Officer Byerley and Officer Hopkins.
15 Officer Hopkins and I left the hospital and contacted Sergeant Cummings at
16 approximately 1755hrs in the parking lot of 1408 Palisades in Dupont, WA.
17 We discussed the case while waiting for Detective Sergeant Jenkins and
18 Officer Byerley to arrive with the signed search and seizure warrant.

19
20 At approximately 1806hrs a silver 2002 Toyota pickup truck passed our
21 location. According to a later statement given by Sergeant Cummings, he
22 believed the driver of the silver 2002 Toyota pickup truck was Michael W.
23 Williams. Sergeant Cummings got into his car and followed the 2002 Toyota
24 pickup truck and performed a high-risk traffic stop near the State Farm
25 Insurance Building in Dupont. Dupont Officer Mathison assisted Sgt.
26 Cummings. As they took Michael W. Williams into custody, Officer Mathison
27 ordered Michael to spit the cigar he was smoking onto the ground in which
28 he complied. Officer Mathison later collected the cigar and transferred
29 the cigar to my custody. I then secured the cigar in my locked police car
30 until I transferred custody of the cigar over to Pierce County Forensic
31 Investigator, Steve Wilkins later that evening during the execution of the
32 search and seizure warrant at 1512 Richmond Ave. Dupont, WA.

33
34 Sergeant Cummings stated he read Michael W. Williams his Miranda rights
35 from a prepared card. He stated he didn't ask Michael W. Williams any
36 question and Michael didn't make any statements.

37
38 I looked into the Toyota pickup truck bearing Washington License plate
39 number A07521L that Michael W. Williams was driving and observed in plain
40 view a latex glove turned inside out laying on the passenger side of the
41 truck. I also observed a cellular phone in the center cup holder between
42 the driver and passenger seat. Due to the potential importance of the
43 evidence viewed in the truck, we did not seize the items until another
44 search and seizure warrant could be obtained. Officer Tenney stayed with
45 the Toyota pickup truck until it was towed to a secured facility at
46 Steilacoom Police Department located at 601 Main St. Steilacoom, WA.
47 Officer Mathison transported Michael W. Williams to Steilacoom Police
48 Department in order for Officer Byerley and I to interview him.

49
50 At approximately 1850hrs, Officer Hopkins and Detective Sergeant Jenkins

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND
CORRECT. (RCW9A.72.065.)

SIGNATURE: Det. D. P. Hubbard

DATE: 09-29-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

62



**BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT**

**CASE 03-2675
Page 5 of 6**

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went to Michael W. Williams residence located at 1512 Richmond Ave in Dupont, WA to execute the signed Pierce County Superior Court search and seizure warrant. For details of the executed search warrant, please see Officer Byerley's supplemental report titled, "Execution of search warrant and acquisition of items 1-29".

Officer Byerley and I met with Officer Mathison at Steilacoom Police Department and took Michael W. Williams into an interview room. At 1850hrs, Officer Byerley read Michael W. Williams his Miranda Rights from Bonney Lake prepared rights form. Michael W. Williams stated he understood and invoked his right to remain silent. Michael stated he wanted an attorney and that he was indigent. I signed the witness portion of the form and Michael W. Williams was let out of his handcuffs in order to initial and sign the form. While we were in the interview room, Michael stated that he hadn't slept in 17 days. It should be noted that during the interview with [REDACTED] she indicated Michael W. Williams told her he hadn't slept in 17 days. I then took photographs of Michael W. Williams prior to having Officer Mathison transport him to Pierce County Jail where he was booked for Kidnapping, Rape, Assault and Burglary charges.

The impounded Toyota pickup truck arrived at Steilacoom Police Department. Officer Byerley sealed the Toyota pickup truck with evidence tape and we left it secured in their facility located at 601 Main St. Steilacoom, WA.

Officer Byerley and I returned to 1512 Richmond Ave in Dupont to assist with the search and seizure warrant service. At approximately 2045hrs, Officer Mathison gave me two photographs and one disk of Michael W. Williams. He stated the two photographs and the photographs on the disk are of Michael W. Williams while he was in jail. Please review Officer Mathison's written report for further.

At approximately 2110hrs Officer Byerley and I went to the following addresses to complete a neighborhood canvas: 1500, 1524, 1525 Richmond Ave, and 1200 Huggins St. in Dupont, WA. We contacted the homeowners and at each residence and no one stated they heard or saw anything over at 1512 Richmond Ave. during the early morning hours of 09-28-03.

09-29-03 at 1529hrs

Officer Byerley and I were en-route to the County City Building in Tacoma to contact a prosecutor regarding the search warrant addendum Officer Byerley wrote earlier to include the Toyota Pickup truck. We contacted Pierce County Prosecutor, Grant Blinn who reviewed the search warrant. He then assisted us by contacting Superior Court Judge, Stephanie A. Arend.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.025)

SIGNATURE: Det. D. P. Hubbard
[Handwritten Signature]

DATE: 09-29-03 PLACE: BONNEY LAKE POLICE DEPARTMENT



**BONNEY LAKE POLICE DEPARTMENT
 INVESTIGATIONS
 SUPPLEMENTAL REPORT
 CASE 03-2675
 Page 2 of 6**

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At approximately 1630hrs Superior Court Judge Stephanie A. Arend signed the search warrant.

At approximately 1715hrs, Officer Byerley and I arrived at Steilacoom Police Department located at 610 Main St. Steilacoom, WA and executed the Pierce County Superior Court search and seizure warrant on the 2002 Toyota Prerun truck bearing Washington license A07521L. Please see Officer Byerley's supplemental report titled, Execution of Search Warrant and Acquisition of items 1B-4B.

CUSTODY OF EVIDENCE LOCATED ON BONNEY LAKE PROPERTY FORM 03-2675

1. Item #1 consists of a sexual assault evidence collection kit obtained from Tacoma General Hospital, RN Patsy Pitts. I secured item #1 in a locked office refrigerator overnight 09-28-03. On 09-29-03, I gave the property to Detective Sergeant Jenkins to take directly to WSP crime lab.
2. Item #2 consists of a Sony Microcassette - MC 90. I secured item # 2 in my locked office overnight 09-28-03. On 09-29-03 I gave the item # 2 to Officer Hopkins to transport to Heidi Crawford at Puyallup PD in order for her to transcribe the tape.
2. Item #3 consists of (3) canisters of developed negative film. I placed item #3 in locker # 8 at the Bonney Lake Police Department Evidence Room. Prints from the (3) canisters of developed negatives were placed in the case file.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.085.)

SIGNATURE: Det. D.P. Hubbard DATE: 09-29-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

D.P. Hubbard

64



**BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT
CASE 03-2675
Page 1 of 1**

1
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CHAIN OF EVIDENCE

Item #2 on Bonney Lake Property Report number 03-2675 consists of one Sony Microcassette MC-90 audiotape. On 10-03-03, I went to Puyallup PD and contacted Heidi Crawford. Heidi transcribed the audiotape statement given by [REDACTED] I took the transcription and audiotape and brought them back to the Bonney Lake Police Department.

I sealed the Sony Microcassette MC-90 audiotape into the original envelope, marked it in accordance with Bonney Lake Police Department policy and procedure, and placed into locker number 6 pending destruction, trial or return to their rightful owner.

It should also be noted that I placed the case number 03-2657 on some of the reports and evidence packages. The actual number should be and is 03-2675.

Nothing further.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.045)

SIGNATURE: Det. D. B. Hubbard DATE: 10-03-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

65

**SUPPLEMENTARY REPORT
NARRATIVE (CON'T)**

2052

CUSTODY OF EVIDENCE

Item 1B – Item 1B consists of a latex glove turned "inside out" found on the passenger side floor of the vehicle bearing Washington license A07521L, by Officer Brian Byerley.

Item 2B – Item 2B consists of a Sprint ® cellular telephone (cellular telephone number 253-376-3818) and car charger found in the center cup holder of the vehicle bearing Washington license A07521L, by Officer Brian Byerley.

Item 3B – Item 3B consists of a Washington State Department of Licensing registration certificate for a Silver 2002 Toyota Prerun truck bearing Washington license A07521L, found in the glove compartment of the vehicle bearing Washington license A07521L, by Officer Brian Byerley.

Item 4B – Item 4B consists of a Garo ® cigar found on the passenger seat of the vehicle bearing Washington license A07521L, by Officer Brian Byerley.

Items 1B – 4B were seized from the vehicle bearing Washington license A07521L, by Officer Brian Byerley. Items 1B – 4B were turned over to Bonney Lake Police Department Detective Dana Hubbard at the scene, who processed them as evidence, as witnessed by Officer Brian Byerley. Items 1B – 4B were transported to the Bonney Lake Police Department by Detective Hubbard, where they were placed into the Bonney Lake Police Department property room pending destruction, trial or return to their rightful owner.



Reporting Time & Date 09/30/2003	Officer's Signature & No. BRIAN H. BYERLEY 0560	Approval
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DH: Okay. So Michael and your mom, and her name is?

[REDACTED]

DH: Okay. Now, they lived together for a period of time?

[REDACTED] They lived, yeah, for a period of time they did. For like, for four years, maybe a little less than, three and a half.

DH: Okay. And you said that they have a child in common?

[REDACTED] Yes. Margaret Jean Williams.

DH: Okay. How old is she?

[REDACTED] She's three.

DH: Okay. When did Michael um, no longer live at your residence?

Move out
→

[REDACTED] About a month ago. Um, he had made a threatening comment towards my older sister, [REDACTED]. My mom said that was enough and kicked him out. Told him he needed to leave.

DH: And did he go without a problem that day?

[REDACTED] Sort of. He kinda was a little angry, but not, not like assaultingly rude or not throwing fists or anything. He was just a little ticked that he got kicked out and that the relationship was over.

DH: Okay. Were there any court paperwork barring visitation from his child?

Custodial
interference
→

[REDACTED] No. Uh, there was no court, nothing happened in court. They didn't battle over custody. My mom uh, was breastfeeding at the time, so it was best to keep Margaret Jean with her. And um, just by Mike's activities, my mom thought it would be best to keep her away from him.

DH: Okay. Okay. So he hasn't been living at your house for about a month?

move out
2nd statement
→

[REDACTED] Yeah.

DH: Okay. What happened, um, you got home after visiting with your friends...

[REDACTED] Talked to my mom. My mom left after the conversation we had about him being harmless. Then she goes, if you, you know, if you really want to, still lock the back door. And I went like yeah, I'm probably going to. And so she left and the phone rang and it was my friend Brad. And so I forgot to lock the back door, and talked to Brad from roughly around midnight till around one or two. And I finally went to sleep and I had the phone next to my bed. And then at four, like three thirty or four o'clock I heard a noise. So I woke up and when I looked, woke, opened my eyes, there was a person in my doorway, in my bedroom. And before I could even say, oh, shoot, what

Victim Offender Relationships

Offender: A1 - Williams, Michael Wayne	Relationship: Victim Was Otherwise Known
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Law Enforcement Officer Killed or Assaulted Information	Type: Assignment: Activity:	Justifiable Homicide Circumstances:
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Victim Notes:

Other Entity O1: Williams, Bryce Michael

PDA:

Aliases:		DOB:		Age: 00	Sex: Male	Race: White	Ethnicity: Non-Hispanic
Height:	Weight:	Hair Color:		Eye Color:		Phone:	
Address:		City, State Zip:		Country:		Business Phone:	
Other Address:		Resident:		Occupation/Grade:		Employer/School:	
SSN:		Driver License No: WILLIMW390CZ		Driver License State: Washington		Place Of Birth:	
Attire:		SMT:		Entity Type: Other Individual		Reporting Statement Obtained:	
Entity Notes:		Complexion:		Facial Hair: -		Facial Shape:	

Investigative Information

Means:	Motive:
Vehicle Activity:	Direction Vehicle Traveling:

Synopsis:

Narrative: I was advised by Ofc. Tenney #11 to call Bonney Lake PD to assist with the investigation / surveillance of a home in DuPont at 1512 Richmond Avenue regarding a kidnapping and rape investigation they are conducting.

Bonney Lake reported that a male, later identified as A/ Williams, Michael Wayne had physically assaulted, abducted and then repeatedly sexually assaulted an [redacted] year old female who is the daughter of Williams former girlfriend. Apparently Williams had transported the victim to this location in the trunk of his parents vehicle and assaulted her in his parents home during the early morning hours of this date.

Det. Dana Hubbard requested that we watch the home and attempt to apprehend the suspect if he leaves as probable cause for his arrest exists. Ofc. Tenney had driven past the home several times to identify the house as a gray, one story house with a red front door and Tenney had identified several vehicles in the front of the home. The primary vehicle that the victim stated was used to transport her (a red 2000 Buick LeSabre Lic# 259KQO) was not visible and was either in the garage or not present at the home.

At approx. 1516 hours, Ofc. Tenney advised me that the red Buick was in front of the house which indicated that Michael Williams was home. At 1554 I observed a young male driving away from the home in a silver Chrysler with defective exhaust. I initiated a traffic stop away from the residence and identified the driver as Williams son Bryce Williams.

I did not inform Bryce why we were in the area, only telling him that he was being stopped for the traffic

120

violation. Bryce did not have proof of insurance so I asked him if there was anyone at the home he just left who could confirm he has insurance. Bryce told me his father "Mike" was there and his grandparents were in Georgia. I let Bryce off with a warning and updated Sgt. Jenkins of Bonney Lake PD.

At 1755 hrs. I met with Det. Hubbard and Glen Hopkins of Bonney Lake at 1408 Palisades where I was surveilling the area. We brought each other up to date on the incident.

At 1806, While we were meeting, a silver 2002 Toyota pickup truck with a driver matching the description of Williams was driving eastbound towards Wilmington. I advised dispatch of our location and conducted a high risk stop of Williams near the State Farm Insurance Building. Williams was taken into custody without incident. During the initial contact with Williams, he was smoking a cigar and it was in his mouth. Ofc. Mathison, who had assisted in taking him into custody had ordered Williams to drop the cigar and Mathison later collected the cigar and transferred it to Det. Hubbard.

At 1808 hrs. I advised Williams of his Miranda rights from a card issued by the WSCJTC for that purpose. When I asked Williams if he understood his rights he said that he wasn't entirely sure so I re-read the card again. I asked Williams if he understood his rights again and he said that he did and did not express any further confusion.

Williams did not make any statements to me nor did I ask him any questions other than his full name in which he identified himself.

I contacted a neighbor of Williams, Carol Smarr of 1200 Huggins as she lives directly across the street from Williams and she did not see anything suspicious but only remembers seeing a male whom she described as young and not wearing a shirt, standing next to a brown Mercedes across the street.

No further information at this time.

 #4

Sgt. Mike Cummings #4/ DU951

Reviewed By:

Reviewed Date:

Synopsis:

Narrative:

On 9-28-2003 at 1806 hours, Sgt. Cummings advised LESA Dispatch that he was behind a vehicle occupied by suspect AWilliams from a Kidnapping/Rape incident that Bonney Lake PD was investigating and had Probable Cause for his arrest.

At this time, Sgt. Cummings was behind the listed vehicle (A07521L) traveling S/B on Wilmington Drive from Palisade Blvd. I arrived in the area to assist conducting a felony stop at the 1000blk of Wilmington Dr.

Williams pulled over and complied with our directives to exit the vehicle. As he did this, he was smoking a cigar. He took the cigar out of his mouth, placed it on the ground, and was taken into custody without incident. I later secured the cigar in an evidence bag and gave it to Bonney Lake Detective Hubbard.

As I was handcuffing Williams, he offered no resistance and didn't even ask why he was being handcuffed. I secured Williams in the backseat of my patrol car and later transported him to the Steilacoom Police Department for BLPD. The vehicle was towed to Steilacoom PD by Auto Transport and secured.

After BLPD interviewed Williams, I transported him to the Pierce County Jail and booked him on the listed charges.

During the booking process, I requested the Correctional Officer to secure Williams' clothing. The Officer informed me that Williams had several scratches just above his left buttocks.

I asked Williams if I could look at the scratches and take pictures. He agreed and lowered his jail smock. I observed numerous marks that appeared like fresh fingernail scratches. I didn't ask any guilt seeking questions and Williams voluntarily stated that he's clumsy and gets bumps and bruises while working on cars.

The photographs and clothing were turned over to BLPD. Nothing further

I certify (declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct (RCW 9A.72.085).

R.J. Mathison
Ofc. R.J. Mathison DU991/DuPont Police Department 9-28-03

Reviewed By:

Reviewed Date:



**BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT
CASE 03-2675
Page 1 of 2**

Recommendation: Booked into Pierce County Jail.

On September 28, 2003 at approximately 0830 hours I was called out from residence regarding an kidnapping that occurred at 9409 205th Ave East in the City of Bonney Lake.

I immediately proceeded to the Bonney Lake Police Department where I contacted Detective Byerly. Detective Byerley then briefed me on the following events. I was advised that the victim [REDACTED] was awoken at her residence by an individual known to her as Michael Williams. Michael Williams is the ex-boyfriend of her mother [REDACTED]. Williams entered the residence via the rear door and confronted victim [REDACTED]. Williams then attacked her. Suspect Williams jumped on top of her and began to choke her. Victim [REDACTED] attempted to call the police, however Williams placed a pillow over her face preventing her from doing so. Williams then struck victim [REDACTED] several times, placed her in a headlock and drug her out of the house and placed her in the trunk of his vehicle. Suspect Williams then drove her to a residence in Dupont, where he parked in the garage. Suspect Williams then took her inside of the residence where he raped Dabson on two occasions. I was also made aware that Williams left the residence in Dupont and made [REDACTED] show him where Tracy Dunivan lives. [REDACTED] complied and showed Williams where Tracy lives. Once he was showed where Tracy lives, Williams returned to the Dupont residence with [REDACTED]. Williams later released [REDACTED] at her residence and told her not to tell anyone.

I then notified Dupont Police Department about the incident and requested that they in act surveillance on the residence. (1512 Richman Avenue) At 1000 hours, I contacted Pierce County Forensic Investigator Steve Wilkins and Bonney Lake Police Officer Vince Sainati at [REDACTED].

The residence is described as a red in color doublewide mobile. There is a cyclone fence surrounding the residence. There is a detached garage with two vehicles parked in the driveway, directly in front of the detached garage. The residence has an elevated porch which borders the front and south side of the residence. There are two exterior doors located on the south side of the residence. The front door leads to the kitchen area and the rear door leads to a hallway. We opened the door and checked for possible damage to the door structure, lock and door jams. I failed to notice any damage to the aforementioned areas. We then entered the residence via the rear side door. As one enters there is a short hallway with a bedroom to the right and one to the left. as you walk down the short hallway, you come another hallway the bathroom is off center to the hallway entry. As you enter the hallway and look to the left is a bedroom. The bedroom door was open. There is a sign on the door which

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.085.)

SIGNATURE: Sergeant Thomas Jenkins #5067 DATE:10-02-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

178



**BONNEY LAKE POLICE DEPARTMENT
INVESTIGATIONS
SUPPLEMENTAL REPORT
CASE 03-2675
Page 2 of 2**

1
2
3
4
5
6
7
8
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15
16
17
18
19
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reads [REDACTED]. I entered the bedroom and noticed duct tape on top of the bed. The duct tape was grey in color and there was a note book binder paper attached to the end of the tape. Investigator Wilkins recorded and processed the tape as evidence. Investigator Wilkins also recorded and removed several hairs from the bed

We then proceeded to the bathroom. I observed a clump of hair of hair on the side of the bathtub. On the bathroom floor I observed several wet towels and clothing. The clothing consisted of a pair of blue and green plaid pajama bottoms, a pair of blue paisley pants, a blue top and a green and white towel. There was also a pink towel sitting on a chair. Investigator Wilkins also collected several latex gloves throughout the residence. All items were collected as evidence by Investigator Wilkins. We cleared the scene at 1230 hours.

At 1854 hours a search warrant was served at 1512 Richmond Ave. in the City of Dupont. Investigator Wilkins, Officer Hopkins, Detectives Hubbard and Byerley assisted in the search. Refer to the search warrant regarding the specifics of the warrant. A systematic search of the residence was conducted. Refer to property sheet and supplemental reports for details.

No further information.

I CERTIFY OR DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. (RCW9A.72.085)

SIGNATURE: Sergeant Thomas Jenkins #5067 DATE:10-02-03 PLACE: BONNEY LAKE POLICE DEPARTMENT

Thomas Jenkins

179



BONNEY LAKE POLICE DEPARTMENT

WITNESS STATEMENT FORM

Incident No.
03-2675

I the undersigned, declare this to be a true and correct statement made of my own free will and accord. No promises have been made to me, nor any duress used against me. I will testify, in court, under oath, to the facts herein. I understand that I may be charged with violation of R.C.W. 9A.76.020 "Obstructing a Public Servant" if making a false statement.

NAME: Last WILLIAMS	First MARGUERITE	Middle (Maiden) Y.	Date of Birth 11-14-22
ADDRESS: Street 1512 RICHMOND	City DUPONT	State WA	Zip 98327
Home Phone (253) 964-9015			Business Phone
Place of Employment			

STATEMENT After returning from Rome, Georgia, I was gathering up the laundry, including a shirt of Michaels and which was hanging on a chair in the dining area, I checked the pocket and discovered a Harborstone Credit Union Visa card belonging to [REDACTED]. It was found on or about Oct 3, 2003.

My husband called Officer Hopkins at Bonney Lk Police Dept & reported the discovery. Officer Hopkins came to our house on Oct 8 and retrieved the card.

DATE 10-8-03 TIME _____

SIGNATURE Marguerite Y. Williams

WITNESS Glen Hopkins

WITNESS Donald Williams

FU...ENSIC INVESTIGATION SECTION

SUPPLEMENTARY REPORT

PCSD

BONNEY LAKE P.D.

Page 1 Of 5

03-271-0436

VICTIM/ SUBJECT OF ORIGINAL REPORT	NAME: (LAST, FIRST, MIDDLE) [REDACTED]	REPORT TITLE KIDNAP/RAPE	
	ADDRESS: [REDACTED]	PHONE	
PERSON CONTACTED	NAME: (LAST, FIRST, MIDDLE) DET. JENKINS	REQUESTED BY: CDO	
WHERE PERFORMED	ADDRESS: S.A.A. AND 1512 RICHMOND AVE., DUPONT	DATE: 09/28/03	TIME ARRIVED-DEPARTED 1042-1230
LATENT SEARCH YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	LATENTS RECOVERED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	ELIMINATION PRINTS YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	SEE NARRATIVE.
PHOTOGRAPHS TAKEN YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	VIDEO TAKEN YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	SEE NARRATIVE.	
TOOL MARKS/SHOE PRINTS/TIRE TRACKS YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
EVIDENCE RECOVERED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	SEE NARRATIVE AND PROPERTY REPORT.		

NARRATIVE:

UPON ARRIVAL I CONTACTED DET. JENKINS OF THE BONNEY LAKE P.D. AT THE VICTIM'S RESIDENCE. I WAS ADVISED OF THE SITUATION AND WALKED THROUGH THE RESIDENCE TO GET A SCOPE OF THE LAYOUT. I OBSERVED A LATEX SURGICAL GLOVE ON THE GROUND NEAR THE BACK STEPS, LATEX GLOVES ON A WOOD FILING CABINET IN THE HALLWAY ASSOCIATED WITH THE BACK DOOR, A LATEX GLOVE ON THE FLOOR NEAR THE EAST BEDROOM IN THE HALLWAY ASSOCIATED WITH THE BACK DOOR, LATEX GLOVES FROM IN FRONT OF THE TELEVISION CABINET IN THE LIVINGROOM, AND THE LATEX GLOVES ON THE FLOOR IN FRONT OF THE COUCH IN THE LIVINGROOM. THERE WAS A SMALL ROLL OF GRAY DUCT TAPE WITH A SMALL NOTEBOOK PIECE OF PAPER ATTACHED TO THE END OF THE TAPE LYING ON THE VICTIM'S BED. THERE WERE SEVERAL WET TOWELS AND SOME CLOTHES ON THE FLOOR IN THE BATHROOM. I OBSERVED A CLUMP OF HAIR ON THE SIDE OF THE BATHTUB IN THE BATHROOM.

I TOOK A VIDEO OF THE SCENE TO INCLUDE THE EXTERIOR AND INTERIOR OF THE RESIDENCE.

I TOOK OVERALL AND CLOSE-UP PHOTOGRAPHS OF THE SCENE TO INCLUDE THE EXTERIOR OF THE RESIDENCE, THE INTERIOR OF THE RESIDENCE, THE VICTIM'S BEDROOM, THE BATHROOM, THE HALLWAY ASSOCIATED WITH THE BACK DOOR, AND THE LIVINGROOM.

I TOOK MEASUREMENTS OF THE RESIDENCE FOR A SKETCH. A FINISHED SKETCH WILL BE PROVIDED UPON REQUEST.

I COLLECTED SEVERAL LATEX GLOVES FROM THE OUTSIDE OF THE RESIDENCE, THE HALLWAY ASSOCIATED WITH THE BACK DOOR, AND THE LIVINGROOM, A ROLL OF DUCT TAPE FROM THE VICTIM'S BED WITH A SMALL NOTE BOOK PIECE OF PAPER ATTACHED TO THE CUT END OF THE TAPE, HAIR FROM THE SHOWER, A PAIR OF BLUE AND GREEN PLAID PAJAMA BOTTOMS FROM THE BATHROOM FLOOR, A PAIR OF BLUE PAISLEY PANTIES FROM THE BATHROOM FLOOR, A BLUE TOP FROM THE BATHROOM FLOOR, A GREEN TOWEL AND A WHITE TOWEL FROM THE BATHROOM FLOOR, AND A PINK TOWEL FROM A CHAIR IN THE BATHROOM AS EVIDENCE.

REPORTING TIME & DATE	OFFICER,S SIGNATURE & # STEVEN WILKINS 92006/951	APPROVAL
REPORT PROCESSING (Records Personnel Only)	DISTRIBUTION: Date _____ By: _____ INDEXED: Date _____ By: _____	MICROFILMED: Date _____ By: _____ COPY TO: _____
		REVIEWED BY:

183

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Declaration

STATE OF WASHINGTON

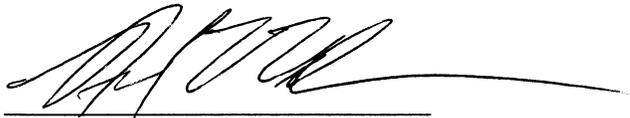
BY *M*
DEPUTY

I, Michael W. Williams, declare that on October 4, 2006, I deposited the foregoing RAP 10.10 Statement of Additional Grounds, or a copy thereof, in the internal mail system of Monroe Correctional Complex – Washington State Reformatory and made arrangements of postage, addressed to:

Washington Courts of Appeals Division II
950 Broadway, Suite. 300
Tacoma, WA. 98402-3094;

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

Date at Monroe, Washington on October 4th, 2006



Michael W. Williams, Pro Se