

COURT OF APPEALS
DIVISION II

OCT 31 PM 1:54

STATE OF WASHINGTON

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

Chance Rivers,
Petitioner,

vs.

State of Washington,
Respondent

Case No.: 36036-5-II

STATEMENT OF ADDITIONAL
GROUNDS, PURSUANT TO RAP
10.10

STATEMENT

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

ADDITIONAL GROUND 1

The Court abused its discretion when it failed to show that I knowingly, intelligently, and voluntarily waived my Constitutional Rights Violating my 5th Amendment right to counsel, right to remain silent, Self-incrimination and Due Process and 14th Amendment Due Process

~ See Attached ~

ADDITIONAL GROUND 2

The Court Abused its discretion when it allowed the inadequacy, insufficient, indispensable and impeachment evidence to show that I was mirandized at the time of the arrest thereafter using the self-incriminating statements to establish me having knowledge of the firearm. The findings of fact doesn't support the conclusion of law.

~ See Attached ~

ADDITIONAL GROUND 3

I received ineffective assistance of Counsel when my attorney failed to propose an unwitting possession instruction in support of my theory of the case.

~ See Attached ~

ADDITIONAL GROUND 4

The Court abused its discretion allowing the insufficient evidence and a informant (prostitute) who was no credible to establish a probable cause to make a traffic stop. The findings of fact does not support the trial courts conclusion that the law enforcement had a probable cause to make a traffic stop. The traffic stop violated my rights under Washington Constitution Article I, Section 7.

~ See Attached ~

If there are any additional grounds that I believe are necessary for this court to review, which were not adequately briefed by my attorney, a brief summary is attached to this statement.

DATED this 29 day of October, 2007.



(Appellant Signature)

Chance Rivers

(Appellant's Printed Name)

Stafford Creek Corrections Center
191 Constantine Way, Unit # H2A954
Aberdeen, Washington 98520

Additional Ground 5

The trial Court abused its discretion violating my Constitutional rights 6th Amendment right to confrontation when it allowed inadmissible hearsay testimony, it further erred in allowing out of Court statements made by the informant who's reliability had not been establish. This materially affected the outcome of the trial in violation of my Constitutional Right.

SUBSTANTIVE FACTS OF ERROR 1

ON AUGUST 26, 2006 AT 0158 HOURS, DETECTIVE JORDAN DURING THE 3.5 HEARING STATES THAT HE WROTE A INCIDENT REPORT KNOWN AS EXHIBIT 1 (3.5 HEARING PAGE 11)

DETECTIVE JORDAN STATES THAT HE NEVER INDICATED IN HIS REPORT THAT HE READ ME MY MIRANDA RIGHTS. (3.5 HEARING PAGE 12-13)
ON CROSS EXAMINATION DETECTIVE JORDAN WAS HANDED HIS INCIDENT REPORT KNOWN AS EXHIBIT 1.

DETECTIVE JORDAN ADMITS THAT OUT OF A 3 PAGE INCIDENT REPORT, THE LAST STATEMENT HE PUT DOWN WAS THAT HE TOOK NO FURTHER ACTIONS. (3.5 HEARING PAGE 17)

DETECTIVE JORDAN STATES THAT IT WAS IMPORTANT TO LIST IMPORTANT THINGS, SUCH AS THE FACTS, IN HIS INCIDENT REPORT AND THAT HE DID SO.

DETECTIVE JORDAN, STATING THAT HE WROTE AT LEAST A THOUSAND INCIDENT REPORTS, DIDN'T FIND IT IMPORTANT TO INDICATE IN HIS INCIDENT REPORT THAT HE ADVISED ME OF MY MIRANDA RIGHTS.

DETECTIVE JORDAN STATES THAT THEY CHANGED A POLICY(WHICH HE NEVER PRESENTED IN COURT) WITHIN THEIR DEPARTMENT (UNIT) THAT THEY WERE GOING TO START ADDING THE FACTS THAT THEY ADVISED WHOMEVER OF THEIR MIRANDA RIGHTS. (3.5 HEARING PAGE 30)

DETECTIVE JORDAN STATES THAT THE THINGS HE WROTE DOWN WAS THE THINGS THAT TOOK PLACE AND THAT HE LEFT THE MIRANDA WARNING OUT.

DETECTIVE JORDAN STATES THAT HE NEVER ASKED ME ANY QUESTIONS AFTER HE ALLEGEDLY ADVISED ME OF MY MIRANDA RIGHTS. (3.5 HEARING PAGE 19-20)

ON DIRECT EXAMINATION FOR OFFICER CONLON, HE WAS GIVEN HIS INCIDENT REPORT KNOWN AS EXHIBIT 2. (3.5 HEARING PAGE 22)
OFFICER CONLON STATES HE BELIEVE THAT DETECTIVE JORDAN READ ME MY MIRANDA RIGHTS.

THE COURT OVERRULED THE HEARSAY STATEMENTS MADE BY OFFICER CONLON (3.5 HEARING PAGE 22).

OFFICER CONLON STATES THAT BEFORE HE QUESTIONED ME, HE DIDN'T ASKED IF I WAS MIRANDIZED. OFFICER CONLON ALSO STATES THAT HE DIDN'T HAVE A WAIVER OF CONSTITUTION AND HE DIDN'T MIRANDIZE ME. (3.3 HEARING PAGE 30)

IN REDIRECT EXAMINATION, OFFICER CONLON AGAIN STATES THAT HE DIDN'T MIRANDIZE ME. THERE WERE NO OTHER OFFICER(S) OR WITNESSES TO TESTIFY. (3.5 HEARING PAGE 31)

DURING MY DIRECT EXAMINATION I STATED THAT NO ONE TOLD ME I HAD I HAD THE RIGHT TO REMAIN SILENT AND NO ONE READ ME MY MIRANDA RIGHTS..(3.5 HEARING PAGE 35)

I STATED THAT I DIDN'T KNOW THAT I HAD THE RIGHT TO REMAIN SILENT AND THAT I NEVER KNEW THAT WHAT I SAY COULD BE USED AGAINST ME AT TRIAL. I STATED THAT I NEVER SIGNED A WAIVER OF CONSTITUTION RIGHTS. I ALSO STATED THAT I DON'T REMEMBER ANYONE STANDING IN FRONT OF ME WITH A CARD READING FROM IT.

(3.5 HEARING PAGE 36)

DURING THE COLLOQUY, MY TRIAL ATTORNEY ARGUED THAT MY MIRANDA RIGHTS WASN'T READ AND THE ONLY PROOF THAT THE STATE WAS RELYING ON WAS DETECTIVE JORDAN STATEMENTS THAT THAT WAS THEIR STANDARD TO NOT INDICATE THE FACTS IN THEIR INCIDENT REPORT AND THE HEARSAY STATEMENT MADE BY OFFICER CONLON. (3.5 HEARING PAGE 40-41)

THE COURT EVEN AGREE THAT IT FIND THAT INEXCUSABLE NOT TO HAVE
THAT I WAS MIRANDIZED IN EITHER OF THE OFFICERS INCIDENT REPORT
POLICY OR NO POLICY.(3.5 HEARING PAGE 41)

ARGUMENT & AUTHORITIES

THE STATE FAILED TO MEET IT'S HEAVY BURDEN OF PROOF IN IT'S EFFORT AND BEYOND A REASONABLE DOUBT THAT I KNOWINGLY, INTELLINDENTLY, AND VOLUNTARILY WAIVED MY CONSTITUTIONAL RIGHTS TO COUNSEL, TO AVOID SELF-INCRIMINATING STATEMENTS, TO REMAIN SILENT, AND DUE PROCESS UNDER THE FIFTH AMENDMENT AND DUE PROCESS UNDER THE FOURTEENTH AMENDMENT. BOTH OF THESE AMENDMENTS OF THE CONSTITUTIONAL RIGHTS WERE VIOLATED.

MIRANDA V. ARIZONA 384 U.S. 436 16 L. ED 2d 694, 86 S. CT. 1602 (1966)

STATE V. DAVIS 73 WASH. 2d 271, 438 P2d 185 (1968)

AN APPELLANT MUST PRESENT ARGUMENT TO THE COURT WHY SPECIFIC FINDINGS OF FACTS ARE NOT SUPPORTED BY THE EVIDENCE AND MUST CITE TO THE RECORD THAT ARGUMENT.

IN RE ESTATE OF LINT 135 WN 2d 518, 957 P2d 755 (1998)

CONCLUSION

THE EVIDENCE WAS INSUFFICIENT AND INDISPENSABLE TO SUPPORT THE FINDING OF FACT AND CONCLUSION OF LAW.

THE COURT SHOULD'VE ADOPTED THE RULE OF LENITY.

THE SELF-INCRIMINATING STATEMENTS THAT WAS MADE, IN RESPECT TO **MIRANDA V. ARIZONA** SHOULD BE SUPPRESSED DUE TO THE FAILURE OF THE LAW ENFORCEMENT TO PROPERLY ADVISE ME OF MY RIGHTS TO REMAIN SILENT, RIGHTS TO COUNSEL AND OTHER RIGHTS BY **MIRANDA V. ARIZONA**.

(SEE ARGUMENT AND AUTHORITIES)

SUBSTANTIVE FACTS OF ERROR 2

THE STATE ARGUES THAT I MADE THE SELF-INCRIMINATING STATEMENTS TO OFFICER CONLON. DUE TO THE INADEQUACY OF THE MIRANDA WARNING AT THE TIME OF THE ARREST AND THE STATES IMPEACHMENT EVIDENCE, THIS PREJUDICE THE JURY TO BELIEVE THAT I HAD KNOWLEDGE OF THE FIREARM BEING IN THE VEHICLE. (CLOSING ARGUMENTS FOR THE STATE PAGE 44)

THE COURT THEN ARGUES THAT IF ANYONE WAS CONVICTED OF A CRIME, KNOW THEY CAN'T POSSESS GUNS, YOU KNOW THERE'S A GUN IN THE CAR AND YOU'RE IN A BAD WAY AND YOU REALIZE THAT THERE'S A GUN IN THE CAR, YOU WOULD THROW IT OUT OF THE CAR IF YOU KNEW IT WAS THERE. (CLOSING ARGUMENTS FOR THE STATE PAGE 58)

ARGUMENT & AUTHORITIES

IN THE ABSENCE OF SUFFICIENT AND CORROBORATING EVIDENCE. THE IMPROPERLY ADMISSION OF THE SELF-INCRIMINATING STATEMENTS PREJUDICED THE JURY TO ESTABLISH ME HAVING KNOWLEDGE OF THE FIREARM.

STATE V. SPRUELL 57 WN APP 383, 385, 788 P.2d 21 (1990)

PREJUDICE IS ESTABLISH WHERE "THERE IS A SUBSTANTIAL LIKELIHOOD THE INSTANCES OF MISCONDUCT AFFECTED THE JURY'S VERDICT."

STATE V. DHALIWAL 150 WN 2d @ 578 (QUOTING STATE V. PIRTLE 127 WN 2d 628, 672, 904 P2d 245 (1995), CERT. DENIED, 518 U.S. 1026 (1996))

"HOWEVER A PROSECUTOR MAY NOT MAKE STATEMENTS THAT ARE UNSUPPORTED BY THE EVIDENCE AND PREJUDICE THE DEFENDANT."

STATE V. JONES 71 WN APP 798, 808, 863 P2d 85 (1993) REVIEW DENIED, 124 WN 2d 1018 (1994)

I TESTIFIED DURING TRIAL THAT I DIDN'T KNOW THE GUN WAS IN THE CAR THAT DAY. (SEE VERBATIM REPORTS OF PROCEEDINGS PAGES 18-19)

CONCLUSION

THE SELF-INCRIMINATING STATEMENTS THAT WAS OBTAINED IMPROPERLY TO ESTABLISH I HAD KNOWLEDGE OF A FIREARM SHOULD BE SUPPRESSED AND THE UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE SHOULD BE REVERSED AND REMAND FOR RESENTECING.

SUBSTANTIVE FACTS OF ERROR #3

Officer Ryan Hamilton, the primary case worker in this case, as well as the other officers and detectives never testified that that the informant informed them of a weapon being brandished, displayed, or used in any way during the alleged crimes.

Officer Ryan Hamilton testifies that he collected the evidence found from the other officers to maintain one single property, sheet booking all the evidence into th propety lockers. (Verbatim Transcript of Proceedings Direct Examination by Mr. Nelson page 19)

Officer Ryan Hamilton and the other officers and detectives, having full capability to request for any type of examination on all of the evidence, never requested for any examination (such as fingerprints) to help determine me knowingly possessed and handled the weapon in any way.

Officer Todd Jordan testifies that after I was handcuffed and placed in the back of the patrol car, there was activity still going on in the PT Cruiser so the rest of the officers moved up and cleared the rest of the vehicle. (Officer Todd Jordan Direct Examination by Mr. Nelson page 36)

Officer Sean Conlon testifies that he collects the evidence in a manner so as to preserve any fingerprints by wearing latex gloves. He also testfies that he could have requested for a fingerprint examination but he didn't. He testifies that the reason why he didn't touch the firearm with his bare hands was because of fingerprints. (Officer Sean Conlon Cross Examination by Mr. Jordan pages 54-56)

Officer Reynaldo Punzalan, even though he never seen the weapon (page 72), testifies that he collects the evidence in a

SUBSTANTIVE FACTS OF ERROR #3

manner to prevent cross contamination of fingerprints because it may obliterate some prints that may be of some evidentiary value. (Cross Examination by Mr. Jordan pages 71-72)

Brenda Lawrence testifies that she is a firearms and tool mark examiner and that she does everything that goes along with firearms. She testifies that she was only requested to do an operability examination. (Direct Examination by Mr. Nelson pages 103-105)

The State argues that there is no way the gun could've got to the floor from the center console without somebody touching it. Proceeding to say that I put it there. (Closing argument for the State page 40)

My trial attorney argues how obtaining the fingerprints would've helped determined me knowingly possessed and handled the firearm in any way. (Closing Argument for the defendant pages 50-52)

Officer Gustavo Ceron testifies about ~~lunge~~ areas. saying the it's possible for someone to throw something from the driver side to the passenger side. (Verbatim Transcript of Proceedings pages 81-82)

ARGUMENT & AUTHORITIES

Fingerprint identification evidence has been generally accepted in Washington since 1927. (*State v. Bolen* 142 Wash. 653, 254 P. 445 (1927))

(*State v. Johnson* 194 Wash. 438, 442, 78 P.2d 561 (1938))

(*State v. Witzell* 175 Wash. 146, 26 P.2d 1049 (1933))

"Fingerprint identification evidence is the same in its degree of reliability and acceptance as toolmarks, ballistics, handwriting, and other diverse form of impression evidence.

(*State v. Kunze* 97 Wn. App. 832, 854-55, 988 P.2d 977 (1999))

(Quoting from *State v. Thomas* No. 56540-1-I (Wash. App. Div.1 07/23/2007)

(*State v. May* No. 17856-1-III (Wash. App. Div.3 04/20/2000))

Here, Mr. May testified that the gun belonged to his mother, she visited him the previous night, and she had the gun with her at that time. He presumed that she left the gun at his house by mistake, and that Ms. Baron had picked it up sometime later and placed it in the bag by his desk. This testimony was sufficient to support an instruction on unwitting possession.

In general, the court must instruct on the party's theory of the case, if the law and the evidence support it, and its failure to do so is reversible error. (*State v. Birdwell* 6 Wn. App. 284, 297, 492 P.2d 249 (1972))

In evaluating whether the evidence is sufficient to support a jury instruction on an affirmative defense, the court must interpret it most strongly in favor of the defendant and must not weigh the proof or judge the witnesses' credibility, which are exclusive function of the jury. (*State v. Williams* 93 Wn. App. 340, 348 968 P.2d 26 (1998), Review Denied, 138 Wn. 2d 1002 (1999))

ARGUMENT & AUTHORITIES

(1999)

Here, the charge is mere possession. the courts' instruction on the Unlawful Possession Of a Firearm advised the jury that the state had to prove that I knowingly had a firearm in my possession or control; that I previously been convicted of a No-Contact order. The court further instructed that possession may be actual or constructive and that constructive possession occurs when there is no actual physical possession but there is dominion and control over the item, and such dominion and control may be immediately exercised. These instructions permitted the jury to convict me even if it believed I was unaware of the firearm presence in the vehicle after Mr. Jenkins left.

According to Officer Gustavo Ceron, someone could throw something from the driver side to the passenger side. if I am out of the PT Cruiser and tyrone is still in the PT Cruiser, I'm in the back of the patrol car handcuffed then the something applies someone can throw something from the passenger side to the driver side (the gun)

CONCLUSION

Due to ineffectiv assistance of counsel by my trial attorney to propose an unwitting possession instruction in support of my theory of the case and the insufficient evidence to show that I knowingly possessed and controlled the firearm, the Unlawful Possession of a Firearm in the second degree should be reversed and remand for resentencing.

SUBSTANTIVE FACTS OF ERROR #4

Officer Ryan Hamilton, the primary case worker, testifies that he wasn't there when the PT Cruiser was stopped. (Verbatim Transcript of Proceedings page 19)

Officer Ryan Hamilton was the only officer that contacted the informant (prostitute). He never testified that the informant informed him of any weapon being in the PT Cruiser.

Officer Todd Jordan, a narcotics detective, testifies that he was assisting in a felony traffic stop. (Verbatim Transcript of Proceedings page 33-34)

Officer, narcotic k-9 handler, testifies that he assisted in the traffic stop. He testifies that he had no reason to believe that a gun was in the PT Cruiser and that he was also doing surveillance. He testifies that a high risk felony traffic stop is when there is potential that a gun is in the car so instead of going up to the car and taking the driver out of the car, you would talk him back. (Verbatim Transcript of Proceedings pages 44,50,51,52)

Reynaldo Punzalan, who was doing surveillance, assisted in the felony traffic stop. He testifies that information was developed by the informant that a weapon was in the car. He never found a weapon. (Verbatim Transcript of Proceedings pages 70-71)

Officer Gustavo Ceron, who is a surveillance officer, assisted in conducting a high risk felony traffic stop because they recieved information that a gun was in the car. He never found a weapon. (Verbatim Transcript of Proceedings page 76)

ARGUMENT & AUTHORITIES

When the existence of probable cause is based upon the tip of a confidential informant, Washington Courts employ the two-part Aguilar-Spinelli test. (*State v Jackson* 102 Wash. 2d 432 688 P.2d 136 (1984))

State v Cole 128 Wn. 2d 262, 906 P.2d 925

Probable cause exist when a supporting affidavit sets' forth sufficient facts for a reasonable person to conclude that the defendant is probably involved in a criminal activity. (*State v Cole* 128 Wash. at 286)

Discrete facts which, standing alone are insufficient, may, when viewed together, support the existence of probable cause. (*State v Cole* 128 Wash. 2d at 286)

Under the test, a CI tip will support probable cause where the supporting affidavit sets' forth facts establishing: (1) the basis of the CI knowledge; and (2) the CI reliability. (*State v Cole* 128 Wash. 2d at 287)

CONCLUSION

Due to Officer Ryan Hamilton being the only officer that contacted the informant, He never testified that the informant informed him of a weapon being in the vehicle. So therefore Officer Ryan Hamilton, the primary case worker, never gave any information to the rest of the special ops., officers, or detectives that there was believed to be a weapon in the car. The insufficient evidence to support that the informant was searched prior to the alleged crimes, no supporting affidavit or corroborating evidence to help with a probable cause, all the evidence that was obtained should be suppressed. Because the findings of fact doesn't support the conclusion of law and there was no evidence to support the traffic stop or high risk felony traffic stop, all three convictions must be reversed.

SUBSTANTIVE FACTS OF ERROR 5

Officer Ryan Hamilton testifies that he used a testimonial informant. They're called testimonial informant because they haven't done the reliability buys. He testifies that a female officer strip searched the informant. The female officer, Darcey Olsen, didn't write a report because he wanted to eliminate the subject finding out the informant was a male or female. He testifies that the informant was picked up for prostitution (Verbatim Transcript of proceedings pages 10-11).

Officer Ryan Hamilton made a hearsay statement, that was sustained, that the informant agreed to buy crack cocaine. Officer Ryan Hamilton made another hearsay statement, that was sustained, that the informant and I make an agreement to meet. Officer Ryan Hamilton says the informant informed him where the deal was set up to go and the informant had already been search. (Verbatim Transcript of proceedings pages 13-14).

My attorney makes an objection that the informant reliability has not been established. This was overruled to be taken up out side the jury's presence. (Verbatim Transcripts of proceedings page 16).

Officer Ryan Hamilton testifies that he gave the informant the titles Testimonial Informant because this person hasn't been through any reliability events. A Confidential Informant, he gives that titled because they are reliable. He didn't charge the informant with prostitution. He testifies that he believes he did, they check to see if she had any crimes of deception in her past. He didn't write anything down in his report about the informant to keep her identity. (Verbatim Transcript of proceedings pages 20-21).

Officer Ryan Hamilton testifies that it would have been easy to do a criminal history check on her and bring it into court. He testifies that he didn't know if she had crimes of deception. (Verbatim Transcript of proceedings page 22).

My attorney Mr. Jordan argues: I won't yell. I want to make a record of my objection of the introduction of any evidence that was obtained by the use of the confidential informant, whether it be the confidential informant's statements they're going to try to get in one way or the other or any evidence that the confidential informant brought from the car to this officer, which of course then led to the rest of the events. My argument is simply under the Sixth Amendment, we have a confrontational right. We have been informed by the State that the informant won't be brought in. That's one argument, but more importantly, I think more important, there's been no establishment of reliability of this confidential informant.

There's a lot of settled law on that. I could give you a litany of cases. I'm sure the court is familiar with them. I pulled just -- it's one of those statements of the law that people summarize every once in a while. The court of appeals recently ran over the law in that area in a case called State v. Hopkins 128 855. There's one that goes the whole way back to 1981, State v. Fisher, 28 Wn.App. 890 from 1981. And so just for the record, Your Honor, there hasn't been any establishment of reliability.

By analogy, if this was a situation where they were asking for a search warrant to hit that car, they wouldn't have got one because they didn't go through the reliability. Even the officer's testimony tells us that there is something going on with the officers where they've decided sometimes they'll use a CI.

We know they have to be -- they have to be deemed reliable. Sometimes we'll give them a title called a TI, and we won't go through the reliability. My argument is, you can call them whatever you want, but I think the reliability law still applies. Thank you.

THE COURT: Mr. Nelson, do you want to respond? Mr. Jordan: Well, not so much strike the testimony, Your Honor, but we have the officer saying that, "here's some drugs that came from this informant," and this informant is saying "I got it from the car." I'm saying none of the testimony about the drugs should come in, nor should the drugs because the informant has not been deemed reliable. If you don't get the drugs in, then the rest of the case is going to go wherever it goes. It's not so much the testimony should be suppressed here, but the evidence about the drugs themselves should be suppressed.

THE COURT: I'll overrule your objection. I think your record was made. There was one attempt at a hearsay statement. There was an objection. That was sustained. This officer testified about his observations and the operation, not anything about what the TI said. You were right in terms of the reliability buys. The case law is very clear that there needs to be two reliability buys at a minimum for a search warrant. That's not what we have here. We have this officer's direct observations. (Verbatim Transcript of proceedings pages 28, 29, 31)

ARGUMENT & AUTHORITIES

A magistrate cannot be said to have properly discharged his constitutional duty if he relies on an informer's tip - even when partially corroborated - is not as reliable as one which passes Aguilar requirements when standing alone. (*Spinelli v United States* 393 U.S. 410,416 (1969))

The informant's tip, an essential part of the case, was not sufficient (even as corroborated by other allegations) to provide the basis for a finding of a probable cause that a crime was being committed. (*Spinelli v United States* 393 U.S. 412-420 (1969))

The tip was inadequate under the standards of Aguilar supra, since it did not set forth any reason to support the conclusion that the informant was "reliable" and did not sufficiently state the underlying circumstances from which the informant had concluded that the petitioner was running a bookmaking operation or sufficiently detail his activities to enable the commissioner to know that he was relying on more than casual rumor or general reputation. cf. *Draper v United States* 358 U.S. 307. *Spinelli v United States* 393 U.S. 415-417

The Aguilar-Spinelli two-prong test: (1) the basis of the informant knowledge; and (2) the informant reliability. (*State v Cole* 128 Wash. 2d at 287) (*Aguilar v Texas* 378 U.S. 108 (1964) (*Spinelli v United States* 393 U.S. 410 (1969))

CONCLUSION

There was no affidavit to provide any information concerning either the undisclosed informant or the reliability of the information, the female officer who supposedly searched the informant (Darcy Olsen) didn't come to court to testify about her contact with the informant, the informant was found to be not credible and the informant didn't come to court to testify to how she played a role in this case. The court overruled making a detrimental error. The insufficient evidence does not support the findings of fact and conclusion of law. All the evidence that was obtained should be suppressed and all three convictions should be reversed.

DECLARATION OF SERVICE BY MAIL
GR 3.1(c)

RECEIVED
OCT 31 2007

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON
declare that, on this

I, Chance Rivers

29th day of October, 2007, I deposited

the foregoing documents:

RAP 10.10 Statement of Additional Ground
(Name of document(s))

or a copy thereof, in the internal legal mail system of:

Stafford Creek Corrections Center H2A954
(Name of institution)

and made arrangements for postage, addressed to:

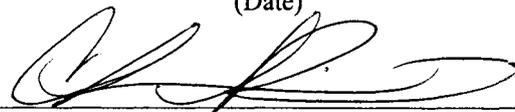
Stephane Cunningham 4616 25th Ave NE, No. 552 Seattle, WA 98105
(Name & Address of court or other party)

Kathleen Proctor 930 Tacoma Ave. S., Rm 946 Tacoma, WA 98401

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

DATED at Aberdeen, WA on
(City & State)

29 Oct. 2007
(Date)

/s/ 

303979