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COURT OF APPEALS
DIVISION II

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NO. 36269-4-II

STATE OF WASHINGTON
BY DM
DEPUTY

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

STATE OF WASHINGTON,

Respondent,

vs.

AMBER DEE ROSE,

Petitioner.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR MASON COUNTY
CAUSE NO. 07-1-00123-9

BRIEF OF PETITIONER

Bruce Finlay, WSBA #18799
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A. ASSIGNMENTS OF ERROR

The trial court erred when it ordered Amber Rose to submit to weekly urinalysis testing for drugs as a 'standard' condition of pre-trial release, where the State made no showing that Ms. Rose would either fail to return to court or would be likely to commit a violent crime, and the trial court made no such findings.

B. STATEMENT OF THE CASE

Amber Rose was charged by Information with unlawful manufacture of a controlled substance (marijuana) and unlawful possession of a controlled substance with intent to deliver (marijuana) in Mason County Superior Court. The Information was filed on March 23, 2007. Both charges are alleged to have occurred more than two years before the Information was filed, on or about January 13, 2005, and arise out of an alleged marijuana grow that was found pursuant to a search warrant executed on Ms. Rose's residence on that date. (Information, Appendix A).

Ms. Rose appeared before the court for arraignment and setting of conditions of release on April 11, 2007. The court imposed standard conditions of pre-trial release for drug-related offenses, which conditions

include weekly urinalysis testing. (Verbatim Report of Proceedings, pg. 1-8, Arraignment, April 11, 2007, *hereafter*, *RP*, Appendix B).

There was no evidence presented that Ms. Rose would be a danger to fail to reappear in court as directed, nor was there any evidence presented that Ms. Rose was likely to commit a violent crime. There was no evidence presented that Ms. Rose was a drug user. There was no explanation why the conditions were necessary when there was more than two years between the alleged crimes and the filing of the information. As stated by the court:

The Court does not have a declaration from probation, as this is an add-on matter today, but we did receive information from Mr. Finlay as to her ties to her community and former ties to Mason County. The Court has also briefly reviewed the arresting agency affidavit and will require that she be released today on her personal recognizance, that is, her promise to reappear at all future court hearings. She does not have a history of failing to appear in court. She makes an understandable explanation of her lack of appearance earlier this week and then came in this week to follow up.

This was a case that was initially before the court sometime after the search warrant was executed, and it appears that the address that the notice was mailed to her for appearance last Monday was the address that the alleged crime was committed, and she's advised that she's moved from that address some time ago.

The Court will impose what the Court determines to be standard conditions in a drug-related offense, and that is not to use or possess any controlled substances without a valid prescription, not to use or possess any alcohol, not to go to taverns or bars or other places where alcohol is the principal item of sale. ***The Court will require that she have urinalysis testing on a weekly basis*** with the first test being done next Wednesday between the times of 10:00 a.m. and noon.

Working over in Kitsap County, you may wish to have those tests done at a different facility rather than driving here to the Mason

County Probation Department. That's acceptable. There is a form for you to be able to fill out to accomplish that. It just has to be done at a facility that does monitored UAs so that they know it's your urine; it's not someone else's being brought in, and tested by the same scientific analysis that the probation department uses. In a case that is this old, it is not uncommon for there to be a subsequent request after a number of clean UAs, which we anticipate we'll see from this defendant, that that requirement be no longer required.

The Court will specifically find that the case cited by Mr. Finlay – the Scott case – and has so found in the past – is distinguishable on its facts and the Court will require that those urinalyses be made at least at this point. And again, if there is a series of clean ones, the matter can be brought back before the Court, especially in light of the age of this case.

(RP, pg. 8-9, emphasis added).

C. ARGUMENT

The law allows a court to impose conditions of pre-trial release only upon a showing of a specific need for the condition in an individual case based upon findings that the defendant will either fail to reappear at court as directed or will commit a violent crime; the court cannot impose such a condition as a 'standard' condition of release with no such showing and no such individualized finding. CrR 3.2; Butler v. Kato; _137 Wn.App. 515, 154 P.3d 259 (2007); United States v. Scott, 450 F.3d 863 (9th Cir. 2006).

Weekly urinalysis is a significant impact on the presumption of innocence and the presumption of release on personal recognizance without conditions. Ms. Rose is required to report from her home in

Bremerton to the Mason County Probation office in Shelton, every Wednesday during a two hour window between 10:00 a.m. and noon, to then and there submit a sample of her urine with a probation officer observing, unless she can find some agency closer to Bremerton that has the capacity to collect and process observed urine samples. Ms. Rose is required to pay for the urinalysis. (Appendix B).

If the urinalysis reveals the use of unprescribed drugs, the trial court may hold a hearing to determine what action to take, which could include anything from no action to issuing an immediate order imposing a large amount of bail. The court could also act sua sponte, or on the ex-parte application of the prosecutor, and issue an immediate warrant for the defendant's arrest without notice to the defendant. CrR 3.2(j), (k), and (l). There is no law that would prevent the prosecutor from instituting a new criminal investigation and prosecution based upon evidence obtained from these weekly urinalyses. Thus, the urinalysis requirement has serious and significant consequences to the defendant.

1. Urinalysis is a search in the constitutional sense.

The urinalysis condition is a 'search' for purposes of constitutional analysis. The term 'search' is defined widely as follows, according to Professor LaFave:

[s]ome exploratory investigation, or an invasion and quest, a looking for or seeking out. The quest may be secret, intrusive, or accomplished by force, and it has been held that a search implies some sort of force, either actual or constructive, much or little. A search implies a prying into hidden places for that which is concealed and that the object searched for has been hidden or intentionally put out of the way. While it has been said that ordinarily searching is a function of sight, it is generally held that the mere looking at that which is open to view is not a "search".

W. LaFave, Search and Seizure: A Treatise on the Fourth Amendment, s.2.1(a) Fourth Edition (2004), quoting C.J.S. Searches and Seizures, s.1 (1952). Areas entitled to protection from unlawful search include 'persons', which includes the bodies and clothing of individuals. LaFave, s. 2.1(a), citing Beck v. Ohio, 379 U.S. 89, 85 S.Ct. 223, 13 L.Ed.2d 142 (1964).

Courts of various jurisdictions are in agreement that the collection and analysis of biological samples from individuals, including urine sample analysis, is a search. State v. Surge, 122 Wn.App. 448, 452, 94 P.3d 345 (2004).

The 9th Circuit Court of Appeals has recently held that a requirement for pretrial urinalysis is a search, and therefore, must be supported by probable cause. United States v. Scott, 450 F.3d 863 (9th Cir. 2006).

In Scott, the defendant was arrested and charged with drug charges in a Nevada state court. He was released on his personal recognizance,

subject to certain conditions which included random drug testing. The conditions were not the result of any sort of findings established after a hearing; rather, they were standard conditions of release in that type of case. Scott, at 865.

Based on an informant's tip, state officers went to Scott's house and administered a urine test, which tested positive for methamphetamine. The informant's tip did not establish probable cause for the drug test. Based on the urine test, officers arrested Scott and searched his house, finding evidence of crime. Scott was charged in federal court, and moved to suppress the evidence on the grounds that the drug test was a warrantless search that was not supported by probable cause. Scott, at 865.

The Ninth Circuit held that the pre-trial condition for random urinalysis testing was a warrantless search that required probable cause. Because no probable cause supported the drug test, all evidence that proceeded from that search must be suppressed. Scott, at 875.

In the present case, the defendant was ordered to submit to weekly urinalysis testing. This testing could reveal evidence that could be used against the defendant. There is no probable cause to support these searches; none was alleged by either the prosecutor or the judge. The condition for weekly urine testing was imposed as a standard condition of

release in drug cases. (RP 8). There was no showing that the condition was necessary to serve any purpose of the rule on pre-trial release, CrR 3.2. Furthermore, the Court indicated that it expected that Ms. Rose would provide clean urine samples. (“ . . . a number of clean UAs, which we anticipate we’ll see from this defendant, . . .”) (RP, pg. 9). There was simply no showing or finding as to why the urinalysis condition was needed, particularly when Ms. Rose had been free in the community with no restrictions at all for more than the past two years.

The federal courts’ pronouncements on the protections of the Fourth Amendment are binding on state courts. The states’ constitutions may give their citizens more protections than the Fourth Amendment; however, they may not give them less protection. Mapp v. Ohio, 374 U.S. 643, 655, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961).

As stated by the Supreme Court in Mapp:

There are those who say, as did Justice (then Judge) Cardozo, that under our constitutional exclusionary doctrine ‘(t)he criminal is to go free because the constable has blundered.’ People v. Defore, 242 N.Y. at page 21, 150 N.E. at page 587. In some cases this will undoubtedly be the result. But, as was said in Elkins, ‘there is another consideration-the imperative of judicial integrity.’ 364 U.S. at page 222, 80 S.Ct. at page 1447. The criminal goes free, if he must, but it is the law that sets him free. Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence. As Mr. Justice Brandeis, dissenting, said in Olmstead v. United States, 1928, 277 U.S. 438, 485, 48 S.Ct. 564, 575, 72 L.Ed. 944: ‘Our government is the potent, the omnipresent

teacher. For good or for ill, it teaches the whole people by its example. * * * If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.’ Nor can it lightly be assumed that, as a practical matter, adoption of the exclusionary rule fetters law enforcement. Only last year this Court expressly considered that contention and found that ‘pragmatic evidence of a sort’ to the contrary was not wanting. Elkins v. United States, *supra*, 364 U.S. at page 218, 80 S.Ct. at page 1444.

Mapp v. Ohio, 374 U.S. at 659.

If pre-trial urinalysis is a search under federal law, it certainly is a search under our State’s Constitution. It is well settled that Article I, section 7 of the Washington Constitution provides greater protection for individual privacy than does the Fourth Amendment. State v. Rankin, 151 Wn.2d 689, 694-95, 92 P.3d 202 (2004) (mere request for identification from automobile passenger is a seizure unless there is reasonable suspicion based on specific, articulable facts).

Under article I, section 7 of the Washington Constitution, warrantless searches are per se unreasonable. Article I, section 7 provides that “[n]o person shall be disturbed in his private affairs, or his home invaded, without authority of law.” Under this provision, the warrant requirement is especially important as it is the warrant which provides the requisite “authority of law.” Exceptions to the warrant requirement are to be jealously and carefully drawn. The burden of proof is on the State to show that a warrantless search or seizure falls within one of the exceptions

to the warrant requirement. State v. Morse, 156 Wn.2d 1, 7, 123 P.3d 832 (2005).

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures. It does not prohibit reasonable warrantless searches and seizures. Thus, the analysis under the Fourth Amendment focuses on whether the government has acted reasonably. In contrast, the word 'reasonable' does not appear in Article I, section 7 of the Washington Constitution. Thus, there is no 'good faith' exception to the warrant requirement in Washington. Morse, at 9.

Article I, section 7's language is explicitly broader than that of the Fourth Amendment as it clearly recognizes an individual's right to privacy with no express limitations and places greater emphasis on privacy. While the Fourth Amendment operates on a downward ratcheting mechanism of diminishing expectations of privacy, Article I, section 7 holds the line by pegging the constitutional standard to those privacy interests which citizens of this state have held, and should be entitled to hold, safe from governmental trespass absent a warrant. State v. Ladson, 138 Wn.2d 343, 348-49, 979 P.2d 833 (1999).

When an unconstitutional search or seizure occurs, all subsequently uncovered evidence becomes fruit of the poisonous tree and must be suppressed. Under the Fourth Amendment, courts have asked

whether suppression would serve to deter future police misconduct. However, under Article I, section 7, suppression is constitutionally required. In other words, the exclusionary rule applies in every case where there was an unlawful search or seizure. This constitutionally mandated exclusionary rule saves Article I, section 7 from becoming a meaningless promise. Exclusion provides a remedy for the citizen in question and saves the integrity of the judiciary by not tainting our proceedings by illegally obtained evidence. Ladson, at 359-60 (while pretextual traffic stops may be acceptable under the Fourth Amendment, they are not acceptable under Article I, section 7).

Another significant difference between Fourth Amendment analysis and Article I, section 7 analysis is that under the State Constitution, unlawfully obtained evidence cannot be used for any purpose. State v. Lampman, 45 Wn.App. 228, 724 P.2d 1092 (1986). Thus, a defendant's pretrial urinalysis result, obtained unlawfully, cannot be used to revoke his or her release.

Here, the pre-trial requirement for weekly urine testing is a search. This weekly search is not supported by probable cause; indeed, neither the prosecutor or the court felt that probable cause was necessary.

2. The court rule on release, CrR 3.2, requires a court to find individualized reasons that support a condition of release; the rule does not authorize ‘standard’ conditions of release.

The court rule pertaining to pre-trial release is CrR 3.2. It reads in relevant part as follows:

RULE 3.2 RELEASE OF ACCUSED

(a) Presumption of Release in Noncapital Cases. Any person . . . *shall* at the preliminary appearance or reappearance pursuant to rule 3.2.1 or CrRLJ 3.2.1 *be ordered released on the accused’s personal recognizance pending trial unless:*

- (1) the court determines that such recognizance will not reasonably assure the accused’s appearance, when required, or
- (2) there is *shown a likely danger* that the accused:
 - (a) *will* commit a violent crime; or
 - (b) will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice.

CrR 3.2(a) (emphasis added).

Thus, conditions of pre-trial release cannot be imposed unless the State has shown and the court has found that 1) the accused is not likely to return to court or 2) there is a *likely danger* that the accused *will* commit a violent crime. The rule further directs how these decisions are to be made: “In making the determination herein, the court *shall*, on the *available information*, consider the relevant facts including, but not limited to, those in subsections (c) and (e) of this rule.” CrR 3.2(a)

(emphasis added). Subsection (c) lists those factors relevant to the accused's future appearance. Subsection (e) lists those factors relevant to a showing of substantial danger.

The court rule contains a strong presumption for release on personal recognizance with no conditions. This presumption of release may be overcome, but there must be an individualized showing that conditions are necessary. Butler v. Kato, 137 Wn.App. 515, 154 P.3d 259, (2007); CrR 3.2.

As stated in Butler,

Criminal Rule (CrR) 3.2 and CrRLJ 3.2 govern conditions of pretrial release. Under these rules, release from pretrial detention on personal recognizance is presumed. "Any person, other than a person charged with a capital offense, shall at the preliminary appearance or reappearance pursuant to rule 3.2.1 be ordered released on the accused's personal recognizance pending trial." The presumption of release may be overcome if the court determines that such recognizance will not reasonably assure the accused's appearance when required, or when there is shown a likely danger that the accused will commit a violent crime.

Butler v. Kato, 137 Wn.App. at 521.

The trial court in the Butler case had imposed certain conditions that included that the accused attend at least 3 AA or NA meetings per week and that the accused within 30 days be evaluated by a state-approved alcohol agency and enroll in any recommended treatment. The Court of Appeals ruled that those conditions were beyond the conditions allowed

by the rule. There was no showing by the State that the defendant in that DUI case would either fail to appear or would seek to commit a violent crime. The trial court appeared to have imposed the conditions based on the nature of the charge of DUI and the police reports. The Court of Appeals held that it could not do so based solely on the nature of the charge; DUI is not a charge that shows a propensity to fail to appear or to commit a violent crime. The rules require that the court release the accused on personal recognizance, unless there is a strong showing that the accused will either not appear or will seek to commit a violent crime. Upon such a showing, the court is required to impose the least restrictive conditions possible. Butler, 137 Wn.App. at 522-23.

Here, there was no showing that Amber Rose represented a substantial danger that she would either not appear or would seek to intimidate witnesses or would be likely to commit a violent crime. Moreover, it is clear from the record of the hearing that the Court did not believe that there would be any such problems with Ms. Rose. The fact that a person is charged with a crime such as a drug crime does not constitute a substantial danger to fail to appear or to intimidate witnesses or to the administration of justice. The Scott court stated that such a position would directly contradict the presumption of innocence that an accused, but as yet unconvicted, person enjoys. As stated by the court:

Moreover, the assumption that Scott was more likely to commit crimes than other members of the public, without an individualized determination to that effect, is contradicted by the presumption of innocence: That an individual is charged with a crime cannot, as a constitutional matter, give rise to any inference that he is more likely than any other citizen to commit a crime if he is released from custody. Defendant is, after all, constitutionally presumed to be innocent pending trial, and innocence can only raise an inference of innocence, not of guilt.

Scott, 450 F.3d 863, at 874. Note 15 at the same page states as follows:

Prior convictions and other reliably determined facts relating to dangerousness may be relevant to such a determination, but the mere fact that the defendant is charged with a crime cannot be used as a basis for a determination of dangerousness.

In the present case, the court ordered the condition of pre-trial urine testing as a standard condition of release in a drug case, and for no other reason. There were no individualized allegations or evidence that showed that Ms. Rose would not appear for court. Ms. Rose does not have a criminal history, a history of non-appearance, or a demonstrated disregard for court orders. CrR 3.2(c).¹ There were no allegations that

¹ The factors used to assess accused's likelihood to return to court are: (1) The accused's history of response to legal process, particularly court orders to personally appear; (2) The accused's employment status and history, enrollment in an educational institution or training program, participation in a counseling or treatment program, performance of volunteer work in the community, participation in school or cultural activities or receipt of financial assistance from the government; (3) the accused's family ties and relationships; (4) The accused's reputation, character and mental condition; (5) The length of the accused's residence in the community; (6) The accused's criminal record; (7) The willingness

showed that she would be likely to commit a violent crime if the urinalysis requirement was not imposed. Moreover, Amber Rose lived a law-abiding life for more than two years after the alleged offense was committed.

There was no showing whatsoever that Ms. Rose would be likely to disappear, commit a violent crime, intimidate witnesses or otherwise interfere with the administration of justice. Because of the lack of evidence, the trial court did not have grounds to impose the condition of release that she submit to weekly urinalysis, nor did the court state any such grounds. Amber Rose was entitled by the rule to release on her personal recognizance without the condition to submit to weekly urinalysis.

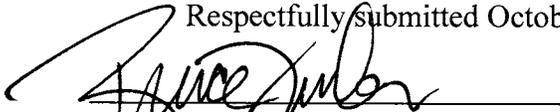
D. CONCLUSION

The trial court erred when it imposed weekly urinalysis testing as a standard condition of pretrial release. In order to overcome the presumption for pretrial release without conditions, the trial court must make an individual determination based upon the available evidence that

of responsible members of the community to vouch for the accused's reliability and assist the accused in complying with the conditions of release; (8) The nature of the charge, *if relevant to the risk of nonappearance*; (9) Any other factors indicating the accused's ties to the community. CrR 3.2(c) (emphasis added).

the defendant is either likely to fail to appear as ordered or to commit a violent crime. There was no such showing and no such finding here; there is no authority to impose 'standard' conditions of release; the pretrial urinalysis condition of release must be reversed.

Respectfully submitted October 17, 2007.

A handwritten signature in black ink, appearing to read "Bruce Finlay", written over a horizontal line.

Bruce Finlay, WSBA #18799
Attorney for Defendant
PO Box 3
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360-432-1778

APPENDIX 'A'

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MASON CO. WA.
PAT SWARTOS, CO. CLERK

BY _____ DEPUTY

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

STATE OF WASHINGTON,)	
)	
Plaintiff,)	NO. 07-1-00123-9
)	
vs.)	INFORMATION
)	
AMBER DEE ROSE,)	
WF101061)	WESTNET #05-005
HT:5'4" WT:190 HAIR:BLO EYES:BRO)	RCW 69.50.401
)	
Defendant.)	
)	

I, Gary P. Burluson, Prosecuting Attorney for the County of Mason, State of Washington, by this Information accuse the above-mentioned defendant: **AMBER DEE ROSE** with the crime of:

COUNT I: UNLAWFUL MANUFACTURE OF A CONTROLLED SUBSTANCE

COUNT II: UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER

committed as follows, to wit:

COUNT I:

In the County of Mason, State of Washington, on or about the 13th day of January 2005, the above-named Defendant, AMBER DEE ROSE, did commit UNLAWFUL MANUFACTURE OF A CONTROLLED SUBSTANCE, a Class C felony, in that said defendant did knowingly manufacture a controlled substance, to-wit: Marijuana; contrary to Revised Code of Washington 69.50.401(1) and against the peace and dignity of the State of Washington.

(Maximum Penalty Five (5) years imprisonment and/or a fine of not less than \$1,000 nor more than \$10,000 pursuant to RCW 69.50.401(2)(c), RCW 9A.20.021(1)(c), and RCW 69.50.430(1), plus restitution and assessments.)

(If the Defendant has previously been convicted under Chapter 69.50 RCW or any statute of the United States or any other state relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the maximum punishment shall be Ten (10) years imprisonment and/or a fine of not less than \$2,000 nor more than \$20,000 pursuant to RCW 69.50.401(2)(c) and RCW 69.50.408 and RCW 69.50.430(2), plus restitution and assessments.)

COUNT II:

In the County of Mason, State of Washington, on or about the 13th day of January, 2005, the above-named Defendant, AMBER DEE ROSE, did commit POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER, a Class B felony, in that said defendant did knowingly and unlawfully possess, with intent to manufacture or deliver a controlled substance, to-wit: Marijuana; contrary to Revised Code of Washington 69.50.401(1) and against the peace and dignity of the State of Washington.

(Maximum Penalty Five (5) years imprisonment and/or a fine of not less than \$1,000 nor more than \$10,000 pursuant to RCW 69.50.401(2)(c), RCW 9A.20.021(1)(c), and RCW 69.50.430(1), plus restitution and assessments.)

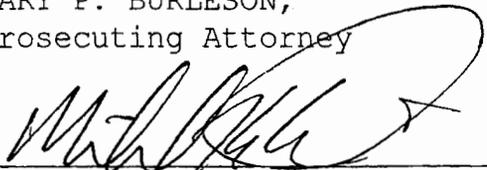
(If the Defendant has previously been convicted under Chapter 69.50 RCW or any statute of the United States or any other state relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, the maximum punishment shall be Ten (10) years imprisonment and/or a fine of not less than \$2,000 nor more than \$20,000 pursuant to RCW 69.50.401(2)(c) and RCW 69.50.408 and RCW 69.50.430(2), plus restitution and assessments.)

Dated:

03/23/07

GARY P. BURLESON,
Prosecuting Attorney

By:


MICHAEL DORCY, #31968
Deputy Prosecuting Attorney

APPENDIX 'B'

SUPERIOR COURT OF WASHINGTON
COUNTY OF MASON

STATE OF WASHINGTON,

Plaintiff,

vs.

Amber Rose

Defendant.

NO.

07-1-0D123-9

ORDER FOR PRETRIAL RELEASE /
ORDER ESTABLISHING CONDITIONS
OF RELEASE

IT IS ORDERED that the above-named defendant be released from custody pending trial on the following conditions:

- 1. On personal recognizance. [] Bail shall be exonerated.
- [] 2. Upon execution of a surety bond or posting of cash for \$_____.
- [] 3. Upon execution of an unsecured appearance bond for \$_____.
- [] 4. Defendant shall be in the custody of: _____.
- 5. Defendant is not to leave Western Washington without prior written approval of the Court.
- 6. During the ^{NW} period of release, defendant shall reside at: 9741 NW Holly Rd Bremerton WA. Such address shall not be changed without prior written permission of the Court.
- [] 7. Other: _____.
- 8. The Court, having determined that there exists a substantial danger that defendant will commit a serious crime, or that defendant's physical condition will jeopardize defendant's personal safety or that of others,

TAS

or that defendant will seek to intimidate the witnesses or otherwise unlawfully interfere with the administration of justice, imposes the following additional conditions of release:

[] (a) Defendant shall not approach, or communicate in any manner with, or go to the property, school, or place of business of:

1. _____
2. _____
3. _____

[] (b) Defendant shall not go to _____.

[] (c) Defendant shall have no contact with children under the age of eighteen (18).

[] (d) Defendant shall not go to or loiter in places where children congregate, such as schools, parks and shopping malls.

[X] (e) Defendant shall not possess any dangerous weapons or firearms.

[X] (f) Defendant shall not drink or possess intoxicating liquors and shall not go to any establishment wherein alcoholic beverages are the chief item of sale.

[X] (g) Defendant shall not use or possess any drugs except those prescribed to defendant by a physician.

[X] (h) Defendant shall submit to weekly urinalysis/breath testing for drug/alcohol screening ^{7th & Miller Streets, Snellton} under the direction of Mason County Probation Services at his/her own expense and shall provide the results each week to the Court and to the Mason County Prosecuting Attorney's Office. **The first urinalysis appointment is the first Wednesday following release between 10:00 a.m. until noon.**

\$1722

[] (i) Defendant shall report regularly to, and remain under the supervision of:

NAME	TITLE	TELEPHONE
------	-------	-----------

[X] 9. Other Conditions:

[V] (a) Commit no crimes.

[V] (b) Defendant shall maintain contact with his/her attorney on a weekly basis.

[X] (c) Defendant shall be available to appear in court on three (3) days notice, except during the jury term when defendant shall be available daily.

TAS

[] (d) _____

[X] 10. Defendant shall appear as directed by the Court:

NEXT APPEARANCE: May 14, 20 07, at 9 a.m./p.m.

[X] 11. Defendant is remanded to the Sheriff for:

- [X] Administrative booking and release; or
- [] Custody pursuant to the above conditions.

12. Unless an Information or Petition for Show Cause is filed, this order shall expire seventy-two (72) hours after defendant's detention in jail or release on conditions, whichever occurs first. Computation of the 72 hours shall not include any part of Saturday, Sunday, or holidays.

Dated: 4/11/2007

Tricia Sheen
JUDGE / COURT COMMISSIONER

DEFENDANT'S ACKNOWLEDGEMENT

1. I have read the above conditions of release and any other conditions of release that may be attached;
2. I agree to follow the conditions of release and understand that any violation may lead to the forfeiture of any bail or bond posted and to the issuance of a warrant for my immediate arrest, and that I may be charged with a separate crime;
3. I understand that a law enforcement officer having probable cause to believe that I am about to leave this state, or that I have violated a condition of my release, may arrest me and bring me immediately before the Court;
4. I understand that failure to appear when required by this Court is a crime; and
5. I have received a copy of this Order and will keep it with me.

Dated: 4/11/2007

[Signature]
DEFENDANT'S SIGNATURE

[Signature]
Defendant's Attorney

Street Telephone

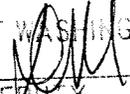
Rebecca Garcia
Prosecuting Attorney #27730

City State Zip

- cc: Original - Court File
- Yellow - Defendant
- Pink - Defense Attorney
- Goldenrod - Prosecuting Attorney

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DIVISION II

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STATE OF WASHINGTON
BY 
DEPUTY

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

STATE OF WASHINGTON,)	
Plaintiff,)	No.36269-4-II
)	
vs.)	DECLARATION OF SERVICE
)	
AMBER D. ROSE,)	
Defendant.)	
_____)	

I, Pat Lewis, on October 18, 2007, at 1:30 p.m., served by hand the following document:

Brief of Petitioner to the Court of Appeals, Division II
to the office of the Prosecuting Attorney for Mason County.

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

DATED: October 18, 2007, at Shelton, Washington.


Pat Lewis, Legal Assistant for
Bruce Finlay

DECLARATION OF SERVICE

Bruce Finlay
Attorney at Law
PO Box 3
Shelton, WA 98584
360-432-1778