

NO. 36505-7-II

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

STATE OF WASHINGTON, Respondent

v.

ERIC ROBERT LEONARD, Petitioner

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DIVISION II
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STATE OF WASHINGTON
BY [Signature]

FROM THE SUPERIOR COURT FOR CLARK COUNTY
CLARK COUNTY SUPERIOR COURT CAUSE NO. 05-1-00339-1

SECOND RESPONSE TO PERSONAL RESTRAINT PETITION

Attorneys for Respondent:

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I. RESPONSE TO ASSAIGNMENTS OF ERROR NO. 1 AND 2

Counsel on Appeal has filed a Brief of Petitioner indicating as claims of error that the prosecutor committed misconduct at trial by eliciting and arguing testimony that the prosecutor knew to be false and further the defendant claims ineffective assistance of counsel at the time of trial and also on the first appeal.

From the briefing by the attorney on appeal and by the defendant, before the attorney was appointed, it is difficult to ascertain exactly what the nature of the false testimony to be.

If the claim is that the false testimony is that the parties had the report from the crime lab then this should fail because clearly all parties had a copy of the report. Prior to trial the defense prepared a Knapstad Motion. A copy of the Motion to Dismiss, Declaration in Support of Motion to Dismiss, and Memorandum in Support of Motion to Dismiss is attached hereto and by this reference incorporated herein. The first attachment to the Motion to Dismiss is a copy of the lab report that is the subject of questioning here. Specifically, it is the lab report dated March 18, 2005, which indicates “no paint chips, particularly green colored paint chips, were found on item 6.” Clearly the defense had access to this report. This is further confirmed by the fact that the trial court in preparing its Memorandum of Decision concerning this matter indicated

that “the officer believed he observed paint chips on the screw driver, but testing failed to disclose anything to be supportive of that conclusion.” A copy of the Memorandum of Decision filed July 22, 2005, by Judge Robert Harris is attached hereto and by this reference incorporated herein.

It is also virtually impossible to determine how this would have had any impact on the defendant’s ability to receive a fair trial. In fact, in closing argument, the defense attorney argued as follows:

(Closing Argument, Suzan Clark, Defense Attorney)... now, the officer contacts Mr. Lenonard and he says he is wearing dark clothing, which, again, not that unusual for February. Wearing like a dark sweatshirt, not sure kind of what else. Clearly, the officer’s gone out probably on a lot of calls since that time.

He finds screw driver’s on him. Now, Ms. Hart would tell you that those screw driver’s match those pry marks, but you heard testimony that both screw drivers and paint chips – “pause; reviewing exhibits.” – were submitted to the lab and there is no match on those.

Now, you look at these tools (indicating), these are pretty common household tools. Exhibit number 16 is a tiny screw driver, and 17 is a slightly larger one.

Again, not illegal to own these items. The paint doesn’t match up, yet they are saying that there is these fresh marks.

I would submit to you that the reason it doesn’t match up is because those tools weren’t used to try to enter that building.”

-(RP 142).

On rebuttal the Prosecuting Attorney did not respond to that particular argument but rather wanted to show the jury the miniscule size of the paint chips. To do this she utilized exhibit 18 which were the paint chips that were taken off the ground and the back door (RP 83-84). She is quoted in the Appellant's brief but the quote's go on longer than set out in Appellant's brief.

(Closing Argument Kathleen Hart, Deputy Prosecutor)... Finally, the paint chip. Clearly there is no crime lab report, but you'll see exhibit 18. It appears to be an empty plastic bag. And the reason that that plastic bag appears to be empty is because there is tiny paint chips in there (indicating).

Now, whether or not in the transfer from the defendant's pocket to the bag or what have you a paint chip fell off or didn't, it's really not that important. What's important is to recognize how small the flakes are, but just that the officer noticed that and said, well, I'm gonna try to see what I can do to preserve what evidence I have.

And that clearly goes to the fact that this was a recent burglary that just happened, or attempted burglary. These paint chips were on the ground, these miniscule ones. But its not there is huge scratch marks, again, these are just in the door jam, so you have to use your common experience in that sometimes you're not always going to get direct evidence when you're on a jury. The circumstantial evidence is going to be enough."

-(RP 146 - 176).

The deputy prosecutor's statement about there is no crime lab report is accurate. No report was put into evidence. Yet, both sides were able to argue correct information concerning it. As the report which has

been attached clearly indicates, it is a neutral finding. There is nothing to indicate that there was anything that would add to guilt or innocence in the lab report itself. And, it is obvious that all parties had it prior to trial. This is in direct contravention to the claims of the defendant on this personal restraint petition.

A defendant who alleges improper conduct on the part of a prosecutor must first establish the prosecutor's improper conduct and, second, its prejudicial effect. State v. Pirtle, 127 Wn.2d 628, 672, 904 P.2d 245 (1995). Any allegedly improper statements should be viewed within the context of the Prosecutor's entire argument, the issues in the case, the evidence discussed in the argument, and the jury instructions. State v. Brown, 132 Wn.2d 529, 561, 940 P.2d 546 (1997). Prejudice on the part of the Prosecutor is established only where there is a substantial likelihood the instances of misconduct affected the jury's verdict." Pirtle, 127 Wn.2d at 672.

Further, concerning ineffective assistance of counsel, this is clearly part of trial tactics in that the defense knew that the results did not favor the State and that they were able to argue this to the jury. The defendant must show that there is a reasonable probability that, but for counsels unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine

confidence in the outcome. State v. Crawford, 159 Wn.2d 86, 99 – 100, 147 P.3d 1288 (2006). Deciding whether and when to object to the admission of evidence is a classic example of trial tactics. State v. Madison, 53 Wn. App. 754, 763, 770 P.2d 662 (1989). Great deference is given to trial counsels' performance and the Appellate Court begins its analysis with a strong presumption that counsel was effective. Strickland v. Washington, 466 U.S. 668, 689, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). The choice of trial tactics, the action to be taken or avoided, and the methodology to be employed must be rest in the attorney's judgment. State v. Piche, 71 Wn.2d 583, 590, 430 P.2d 522 (1967).

As indicated previously, it is difficult to determine from the briefing the nature of the false testimony that is being claimed. If the claim is that the officer has falsely testified in this matter, that is, that he did not observe a paint chip on the screw driver, then the State submits that there is absolutely no evidence to support this type of rash allegation. All the crime lab report indicates is that there was no paint chip found on the screw driver. There is nothing that indicates that the bag was searched or that it had not fallen off before being placed in the bag, etc.

II. CONCLUSION

The lab report, for whatever reason, was not placed into evidence. It was a neutral matter that neither helps nor hinders the defense in the presentation of its case. There has been absolutely no showing of any type of prosecutorial misconduct or ineffective assistance of counsel.

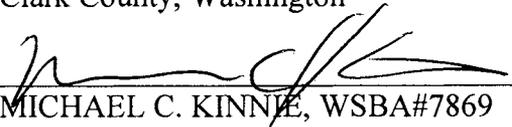
The State submits that the Personal Restraint Petition should be denied.

DATED this 21 day of April, 2008.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By:


MICHAEL C. KINNE, WSBA#7869
Senior Deputy Prosecuting Attorney

APPENDIX "A"

**MOTION TO DISMISS,
DECLARATION IN SUPPORT OF MOTION TO DISMISS,
AND MEMORANDUM IN SUPPORT OF MOTION TO DISMISS**

FILED

ORIGINAL

JUN 27 2005

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

STATE OF WASHINGTON,

Plaintiff,

vs.

ERIC LEONARD,

Defendant.

MOTION TO DISMISS, DECLARATION
IN SUPPORT OF MOTION TO DISMISS,
AND MEMORANDUM IN SUPPORT
OF MOTION TO DISMISS

I. MOTION TO DISMISS

Comes now the Defendant, Eric Leonard, by and through his attorney, Suzan L. Clark, and does hereby move the above-entitled Court for an Order Dismissing the charges of attempted burglary in the second degree, possession of a stolen firearm and possession of burglar tools. This motion is based upon the declaration of Suzan L. Clark which is attached hereto and by reference incorporated herein and upon the underlying police report which forms the basis of the affidavit of counsel. This Motion is further based upon the procedure as outlined in State v. Knapstad, 107 Wash 2d 346, 729 P.2d 48 (1986).

Respectfully Submitted this 27th day of June, 2005.

Suzan L. Clark, WSBA # 17476
Attorney for Defendant

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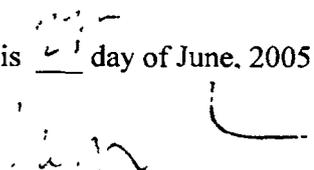
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II. DECLARATION IN SUPPORT OF MOTION TO DISMISS

I, Suzan L. Clark declare under penalty of perjury under the laws of the State of Washington that the attached police reports are the facts relied on by the defendant in support of this motion.

Dated this 21 day of June, 2005


Suzan L. Clark, WSBA # 17476
Attorney for Defendant

III. MEMORANDUM

State v. Knapstad, 107 Wn.2d 346, 729 P.2d 48 (1986) allows a criminal defendant to initiate a motion to dismiss if the undisputed facts fail to establish a prima facie case of guilt. Leonard stands charged with the crimes of attempted burglary in the second degree, unlawful possession of a firearm in the first degree, possession of a stolen firearm and possession of burglar tools.

A trial court may dismiss a criminal charge if the State's pleadings and evidence fail to establish prima facie proof of all elements of the charged crime. State v. Sullivan, 143 Wn.2d 162, 171 n. 32, 19 P.3d 1012 (2001).

Leonard respectfully submits that there is insufficient evidence to convict him of the crimes of attempted burglary in the second degree, possession of a stolen firearm and possession of burglar tools as a principal or as an accomplice. He does not dispute the prima facie evidence of possession of a firearm in the first degree.

The standard for reviewing sufficiency of the evidence is "after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found sufficient

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evidence to justify the affirmative finding beyond a reasonable doubt." State v. Rupe, 108 Wn.2d 734, 765, 743 P.2d 210 (1987), see also, State v. Lord, 117 Wn.2d 829, 752 P.2d 1143 (1991).

The evidence fails to establish Leonard's guilt as either a principal or an accomplice. RCW 9A.08.020 provides that an accomplice is guilty of the crime committed by the principal. RCW 9A.08.010. provides:

(1) A person is guilty of a crime if it is committed by the conduct of another person for which he is legally accountable.

(2) A person is legally accountable for the conduct of another person when:

* * *

© He is an accomplice of such other person in the commission of the crime.

(3) A person is an accomplice of another person in the commission of a crime if:

(a) With knowledge that it will promote or facilitate the commission of the crime, he

(i) solicits, commands, encourages, or requests such other person to commit it; or

(ii) aids or agrees to aid such other person in planning or committing it; or

(b) His conduct is expressly declared by law to establish his complicity."

In determining whether these elements have been proven, the Supreme Court has held that mere presence accompanied by knowledge of criminal activity alone does not establish the requisite intent necessary for accomplice liability. In re Wilson, 91 Wn.2d 487, 492, 588 P.2d 1161 (1979). "Rather, an accomplice must be associated with the venture and participate in it as something he wishes to bring about and by his actions make it succeed." State v. Parker, 60 Wn. App. 719, 725, 806 P.2d 1241 citing to State v. Jennings, 35 Wn. App. 216, 220, 666 P.2d 381, review denied, 100 Wn.2d 1024 (1983).

The elements of possession of stolen property are (1) actual or constructive possession of stolen property, and (2) actual or constructive knowledge that the property was

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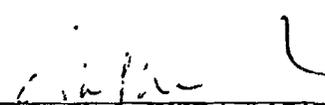
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stolen. Jennings, supra at 219 (1983) (citing RCW 9A.56.140(1)). The State does not have to show the defendant had actual knowledge that the property was stolen. State v. Rockett, 6 Wn. App. 399, 402, 493 P.2d 321 (1972). Rather, it is enough if the defendant had knowledge of facts sufficient to put him on notice that the property was stolen. Supra. Possession of recently stolen property, coupled with slight corroborative evidence, is sufficient to prove guilty knowledge. State v. Womble, 93 Wn. App. 599, 604, 969 P.2d 1097 (1999).

The evidence in the case at bar is insufficient as to all three charges because there is no evidence that Leonard knew the gun was stolen, there is no evidence that he attempted the burglary or that the tools he possessed were used to commit or attempt to commit a burglary.

IV. CONCLUSION

The State has insufficient evidence to sustain a prima facie case against Leonard with respect to attempted burglary in the second degree, possession of a stolen firearm and possession of burglar tools. The motion to dismiss should be granted as to these charges.

Respectfully Submitted this 27th day of June, 2005.


Suzan L. Clark, WSBA # 17476
Attorney for Defendant

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STATE OF WASHINGTON
WASHINGTON STATE PATROL

250.2 117th Street East, Room 273 • Tacoma, Washington 98445-5104 • (253) 536-4280 • FAX (253) 536-4290

CRIME LABORATORY REPORT

AGENCY: Vancouver Police Department
OFFICER: Officer Timothy Huycke
VICTIM: Mills, Dawn Marie
SUSPECT: Leonard, Eric R.

LABORATORY NO.: 305-0277
REQUEST NO.: 0001
AGENCY NO.: V052117

EVIDENCE

- Item 6 One sealed zip-lock bag containing one "Vermont American" brand screwdriver.
- Item 8 One sealed zip-lock bag containing tiny gray-green paint flakes.

PROCEDURES

Stereomicroscopy was used to examine Item 6 for the presence of paint flakes on the tip, particularly green colored paint flakes.

RESULTS

No paint chips, particularly green colored paint chips, were found on Item 6.

Ronald Wojciechowski
Ronald Wojciechowski, Forensic Scientist

3/18/05
Date



DATE: FEBRUARY 7, 2005
TIME:- 1936 HOURS
INTERVIEW WITH ERIC LEONARD
CASE NUMBER: V05-2117

JA This is Detective Jay Alie. It's February the 7th, 2005. 1936 hours. I'm in the Clark County Jail with Eric Leonard. Eric's mother contacted me to come and talk to him about an issue related to what he's in jail for. Eric and I previously had a taped interview regarding a separate incident, uh, involving him and Louis Sourjohn. Eric, do you agree to have your voice taped?

EL Uh, yes, I do.

JA And you can see that that's running?

EL Yep.

JA Okay, and you are currently represented on this case that you're in jail for, right?

EL Currently represented, yeah.

JA And your attorney's name is?

EL Is Jay Trumble.

JA Okay, I'm going to read you some stuff. You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and to have him present with you while you're being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you at no expense. Do you understand all of those?

EL Uh, yes, I do.

JA Okay. You understand that you are being represented by an attorney at this time and that attorney would more than likely tell you not to speak to the police?

EL Yeah.

JA Has he told you not to speak to the police?

EL No, he has not.

JA Okay. With all that in mind, you still want to talk to me without your attorney there?

EL Yes, I do very much so.

DATE: FEBRUARY 7, 2005
TIME: 1936 HOURS
INTERVIEW WITH ERIC LEONARD
CASE NUMBER: V05-2117

- JA Okay, and you had your mom call me?
- EL Yes, I did.
- JA Okay, and prior to your asking me through your mom to come and talk to you, I've made no effort to talk to you about it since you've been in jail.
- EL That is correct.
- JA Okay, and even knowing all that, you still want to talk with me?
- EL Yeah. Yeah.
- JA Okay, and I'm going to be real clear, even knowing that things that we talked about tonight can still be used against you in court?
- EL Oh, yeah. Yeah.
- JA Okay, so I understand that you got arrested, um, what, about five, six weeks ago?
- EL Yep.
- JA Behind a Subway store on Main Street, somewhere in that vicinity, right?
- EL Yeah.
- JA Up Broadway?
- EL Way up the block. No, not Broadway, I got arrested up by Starbucks, actually, walking towards my mother's house which I would coincidentally have to walk past Subway to get to my mother's house.
- JA Okay, and you were found in possession of a firearm, uh, a Ruger revolver of some kind and some other tools, other evidence related to this case. But all we're interested in the firearm.
- EL Yep.
- JA Okay, and you wanted to tell me something about that.
- EL Yeah, you know, it was...a 357, uh, magnum...or sorry, I'm pretty nervous.

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JA That's all right. Take your time.

EL The 357, uh, that was involved in a previous case that, um, I was asked to locate, I happened to stumble upon that evening through an anonymous, uh, person that I know and it was an entirely spur of the moment deal. I went to help him install a stereo in his car, um, further up Main Street up past 29th, and, uh, basically, gave him all the money that I had on me for this weapon and, uh...

JA How much...how much money?

EL I gave him \$40, that's all I had on me and, uh, I told him that if he got caught with the weapon he'd get in serious trouble because, uh, it was wanted for the case that, uh, was involved for...with Louis Sourjohn. And, uh...

JA Does he know Louis?

EL Um, no, he does not.

JA Okay.

EL And, uh...

JA How'd he get the gun?

EL I...I didn't even ask him that. I knew you extended me a favor, man, to have me be out for Christmas, in my opinion, it was extending me a favor to have me out for Christmas for my son.

JA Okay, so we talked before Christmas.

EL Yeah.

JA And at that time we cut you loose with the understanding that you were going to make an effort to find this gun.

EL Yeah.

JA Okay, and what did you do to try to find the gun since...between Christmas and the day you got arrested?

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EL Uh, honestly, very little, I mean, to be honest with you. Like I said, it was a spur of the moment thing, I just accidentally stumbled upon, uh, the weapon that he had and, uh, told him that I needed to take it and get it off the streets, man, before...

JA Okay, so the gun that you've got is the gun that was used in that shooting?

EL I'm pretty...I'm almost 150 percent positive. Cause it was...

JA What makes you think that?

EL It was wrapped up in the same...uh, same bandana that I had seen it in last time that, uh, was basically Louis Sourjohn's and, uh...

JA Bandana? Still wrapped in it? How did...I mean, so how did you come to see that this guy had it?

EL (unintelligible) smoking a little bit of herb and he busted it out and said, "Check this out." And, uh, I recognized the bandana and recognized...cause you don't see those very often on the street, a 357, you know.

JA Uh huh.

EL And, uh, (unintelligible)

JA Okay. Go ahead.

EL With hollow tip bullets.

JA It was loaded with the same bullets?

EL Well, hollow tipped, I don't know if they're the same ones but it just...immediately clicked with me, you know, uh...

JA What does the bullets have to do with it? I mean, that's (unintelligible)...

EL Oh, just reminded me of...

JA (unintelligible)

EL Basically the same, last time I saw it, it was at Louis Sourjohn's mom's house, uh, with that rag and with those bullets. So...

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- JA And he, uh, he was trying to sell it to (unintelligible) is that right?
- EL Uh, yeah, it had brought...been brought about, yeah.
- JA But it had been brought up at that time? Okay...
- EL I mean, I don't know if he was going to but I remember that being spoken about.
- JA Okay. So, from the time that I last talked to you before Christmas until the day you got arrested, you didn't do anything to try and find this gun?
- EL I might have poked my head around but not really, I mean, gone out of my way at all. I mean, to be honest with you, I'm not going to lie to you about that, you know.
- JA But...yeah, and see, you never called me, you never gave me an update on how this was going.
- EL Well, I had just moved back into my mother's house, uh...
- JA Well, that's not really true because you've had two incidences since...since the first of the year where you've, correct me if I'm wrong, you kicked the door in (unintelligible) house at some point.
- EL One incident.
- JA Well, you're listed in two separate reports. Um, one which was kicking in the door and there's another one right about that same time that involves you and your mom. I don't know what the details of it are. Uh...
- EL Well, like...since I had, uh, the altercation since I kicked in the door, uh, it's because...man, I know that sounds (unintelligible) but, yeah, she locked me out of the house with no shoes and no shirt on in like 30 degree weather, man, and, uh, I went in and got my sweater. And I didn't mean to kick the door in, I was trying to her attention and didn't realized I had used so much force.
- JA Okay.
- EL Um, but that's (unintelligible) but, uh...
- JA~ (unintelligible) right, but hold on a second, you met this guy, whereabouts was this guy...well, let me cut to the chase with you, this defense that you found

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this guy isn't even going to fly for you without us interviewing the guy. I mean, the prosecutor's not going to let you (unintelligible) this anonymous person defense. I've had a couple other cases like this, okay? We're interested in the gun in the Sourjohn shooting. The fact that this guy had it and gave it up to you is not...I mean, if you had other (unintelligible) house, yeah, that's a problem. Okay, but if you want me to try and confirm your story, I'm going to need to have this guy's name and talk to him.

EL My...my story is I was...man, I was...I understand what you're saying and, I mean, I don't want to be a snitch, man, and give up my...because I...now, I'm recorded and say that he was in possession of an illegal stolen firearm.

JA Yeah, (unintelligible) this recording (unintelligible) for the purposes of covering the legal, you know, (unintelligible)...

EL Yeah.

JA Um, I mean, you've told me straight up you've (unintelligible) this guy with guns...or not catch this guy but you met up with this guy and you bought the gun from him because this guy knew you were interested in it.

EL Well, I wasn't...yeah, it was interested in it from the point that, uh, have you matched it up, is it the same?

JA Uh huh, no, I haven't done that yet but I expect it will.

EL Yeah, um...

JA It's going to be a little hard to do, we have a couple slugs that we can, uh, we're going to try (unintelligible).

EL Okay, well, uh, yeah, basically, I mean, I don't want to give this guy up, I mean, he's...and honestly...but I was...I was asked to locate the weapon, I was in the process of going and I was going to put the weapon somewhere and I was going to call you and say, hey, because I knew that my mother had the business card and say, you know...

JA What time did you get arrested?

EL I don't know, ten...between like 10:30, I would say right around 10:30.

JA It had to be later than that because it was at the same time when everybody was going to a shooting out east.

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EL Yeah, I remember sitting in the back of the cop car, right when they put me in the back of the cop car, I heard it over the radio something about a homicide and they were chasing a gray Ford truck or something.

JA Yeah, and I don't think that happened till around 11:30 or midnight.

EL Yeah.

JA Cause I actually working that night and left at ten. Um...

EL Well, see, my mom says they said that the burglary happened at around ten, my mom said I...told me I didn't even leave the house till after ten and after I got arrested at 10:30 but I know that I spent longer with my buddy than just ten, fifteen minutes. So, that means to me that it had to have been later than 10:30.

JA What part of town?

EL Uh, this was right up, uh, you know where the art school is?

JA Uh huh.

EL Cut over, um, go left about two blocks is where I was by...behind the park.

JA Is this that dude you got to go through the back door, he lives with his mom?
-Is that who you're talking about?

EL Well...

JA Just...is that who we're talking about?

EL No.

JA Okay. Uh, all right, so you walked all the way down Main Street...

EL Oh, you're talking about Taylor Johnson, huh?

JA Uh, no, (unintelligible) this older dude. Here's my concern, obviously you knew I was interested in this gun, we talked with you, um, when I had interviewed you and you said, (unintelligible) you said that jokingly. (unintelligible)

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- EL Yes, but we were going over options of how I could obtain this...
- JA But we talked to you about the fact that you were going to...we didn't want you having this gun.
- EL That's why I was trying to go some place and stash it, man, and the only reason why I had cut over onto Main Street was so I could go to the Minit Mart and pick up some 25 cent little Nutty Buddy bars and then this officer just grabbed me out of nowhere and said, you know, on his radio, "One obtained," or whatever. And I was asking him what the hell was going on and I told him, "Hey, look, I got a..." you know, he asked me if I had any weapons. I said, "I got a knife on the side of me," and hesitated because I didn't know whether or not to...you know. And I was just like, "And a...a fully loaded 357 on the front of me which you're going to want to be careful with, you know."
- JA Was it still wrapped in the...
- EL The bandana, yeah, it came off in my pants and it's now in my personals right now. Uh...
- JA Would you mind if I grabbed that?
- EL Yeah, it's, uh, I tucked it inside my sweater when I took all my clothes off. I tucked it inside my sweater.
- JA What color is it?
- EL It's blue. And, uh, that's how I recognized the weapon. It's...it's...yeah, my personals are downstairs. It's tucked...I got an Adidas sweater, you know, a blue hooded sweater and it's tucked inside of it. Uh...
- JA And so, when the officer stopped you did you say anything about, "That's the gun that Jay Alie needs to..."
- EL I did and he...him and another, uh, officer can tell you that right off the bat I was saying, "Man, this...uh, this gun..." I didn't say Jay Alie, I said a Violent Crimes Unit officer because I didn't remember your name and they told me whatever, "You're picking...you're picked up on a burg." I immediately, right off the bat, said the only reason why I have this firearm on me is because...and I even put gloves on, uh, but some gloves that were too small for me that I took out of my buddy's car, they looked like some batting gloves because I didn't want my fingerprints all over this gun. And it was after I'd already touched it and I tried to wipe it down with that rag and then put these

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gloves so (unintelligible) happen to have my fingerprints all over the gun. Uh, and I was just...and I told them right off the bat, it should say in the police reports that right off the bat I was telling them that the gun...~~the only reason~~ why I have it is because I'm trying to make it back to call the Violent Crimes Unit and tell them that I have this weapon (unintelligible). And they just kept saying, "Whatever. Whatever," and I told the officer whose car that I was in the back in, I said, "Hey, you just go to my mother's house and ask my mother for the business of (you)," that way he can give you a call and I was just trying not to be in the position that I'm in now with this orange suit sitting in jail now when I had...man, I should be working, I should be getting ready to go to bed, watching TV, laying with my son, you know, getting ready to work tomorrow. And because I...I picked up this firearm, you know, my whole life is just fucking shot down the toilet, you know? Um, and it's really lame and now they're trying to stick me with this burglary saying that this screwdriver that I had, that I was installing a stereo with, has scrapings or some shit for some shit that I wasn't even around for. And they...they're sending it to the lab and then...

JA So, you were installing the stereo at the same guy's house?

EL Well, I was in front of his house, yeah. Uh...

JA Who do you install the stereo for?

EL A...a buddy of mine, I...I don't re...I mean...

JA Uh, you know, it's going to hard to help you out without anybody's names.

EL But...if I give...man, I can't give names up, man, I already put myself...you know...

JA (unintelligible) five years...uh, you said you were looking at five years, I don't...

EL That's...that's what...that's what my cellies tell me, man. It's five years, it's five years, but the thing is...

JA (unintelligible) you give people up and say they committed a crime.

EL Yeah.

JA All I'm saying is, you know, to verify your story cause when you go to court and want to tell this story, they're going to say, "Well, unless you have...unless

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you're going to allow the police to investigate this story (unintelligible) you can't even bring it up." You can't make a third...third party defense like that that...

EL Well, I don't know the guy's last name. I know what he drives and...

JA What's his first name?

EL I mean, I guess that's not no big deal, his name's Jeremy, you know.

JA All right, so it's (unintelligible). -----

EL Yeah, yeah, I'm sure you've...I mean...

JA You think these people know who I am?

EL Who, these people?

JA Yeah, the guy that had the gun? I mean, he lives downtown, (unintelligible).

EL He...that's what I'm saying, you might have seen him around, he drives a Jeep Grand Cherokee Sport, it's like a dark green. Uh, I don't know his last name. Really, I mean, that's all the information I can give you. We weren't even at his house.

JA So, he...

EL Um, he lives out in Orchards but he...he frequents downtown more than...more than I do living downtown, you know.

JA Did he tell you how he got the gun?

EL Um, no, he told me he bought it. He said, "You want to see a new toy?" And I know that he's also had an AK47 at one point because he had it in the back of his Jeep maybe a week before that, that I checked out and I know he already sold that. And now I feel like a rat sitting here, you know, in jail.

JA Because you told me the guy named Jeremy drives a Jeep?

EL Yeah. I don't know.

JA (unintelligible)

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EL I'm stressing, man, I feel like I'm getting a lot of time, man, which really, I was just trying to do something real quick, I figured, you know, this will clear my conscience, man, dude, cause I remember my mom said when I wasn't living there, "Hey, this guy called up and left a message for you, uh, Jay Alie, he was looking for you and left a number." And I didn't call you because I didn't have any information and, honestly, I thought you were going to put my ass back in jail. And then so with that sitting in my head thinking, well, maybe at any time I could, you know, get put back in jail.

JA Tell me about this sawed-off shotgun the guy the guy found up...up north.

EL Up north?

JA I got a call from Cowlitz County and he said they...they got a...you got in some kind of tiff with, uh, Dustin Griffin here recently.

EL Yeah, there was no sawed-off shotgun involved.

JA Um, they have a sawed-off shotgun that they said they (unintelligible) that has something to do with that incident.

EL Whoa. When I got arrested in Woodland, um, with Dustin Griffin, but I wasn't arrested, he was.

JA Right.

EL So, I mean, make that clear.

JA Right.

EL There was a sawed-off shotgun that, uh, her parents had that, uh, it came from a long time ago, uh, that they had found and, uh, I thought they had already turned it into the police.

JA Okay, maybe that's what happened, they must have turned it into the po...

EL That same night, maybe that's why they came and were so vicious and mean, man.

JA Who...who was vicious and mean?

EL (unintelligible) the sergeant up there in Woodland.

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JA Hmm.

EL He ca...he came at me and told me, "I never want to see you in Woodland again, I want you to keep your ass out of town. Look, between me and you, you don't fucking know me, I don't fucking like you, I know all about you and I don't ever want to see you in Woodland again."

JA Hmm.

EL And that's what he told me and I was like...

JA (unintelligible)

EL I mean, Dustin's dating my baby's mom, you know.

JA I know. I know the story between you guys.

EL Yeah, and, uh, we squashed the bad and everything's good, we were all up there kicking it because I'm up there spending time with my son, you know. Everything's fine and he just happened to be up there and, uh...

JA But he had warrants or something.

EL Yeah, he had...

JA That's right, he did, he had some warrants.

EL Yeah, he had warrants for not paying his child support while he was in prison, is what it was. And, uh...

JA Okay, so (unintelligible) between the two of you?

EL No, nothing...

JA (unintelligible) okay, all right.

EL Why? Was there something more to that that I should know? Cause I wasn't arrested...

JA I don't know, all I...yeah, you weren't arrested, I'd already talked to you, (unintelligible) um, and that makes sense that her parents must have turned it over to them.

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- EL That same night, probably.
- JA Yeah, totally separate from whatever happened between the two of you.
(unintelligible)
- EL No, they let me stay where I was at cause I wasn't in the wrong at all.
- JA Yeah. Here's some problems, Eric, with the other situation. You made no effort to keep in touch with me...
- EL Because I was basically homeless and I didn't want to go to jail, man. But...
- JA And, you know, (unintelligible) and I can appreciate that you thought maybe (unintelligible) you know, even in the first two weeks when you were still, uh, (unintelligible) being out there. And I'll tell you I...I was never interested in taking you to jail, the same as I told you the night that I arrested you, I was going to forward those charges and I wanted you to get this thing done for me. Uh, you never made any effort to call me. You, according to your story, you know, first of all you've got these anonymous people, that's a huge (unintelligible) that you won't be able to overcome. I mean, without us being able to confirm who these came from, I'm not talking about going and taking these people to jail cause they had it, I'm talking about going and talking to these people and (unintelligible). I had this thing but I sold it to the guy and he's in jail right now looking at prison time, so I've got to come forward about the truth. Um, and I can understand why you might not want to do that but when it's just, you know, some (unintelligible) in court. You get this thing somewhere near 33rd and Main, basically, by your description on 29th and Main.
- EL Yeah.
- JA And you walk by several pay phones at the least.
- EL Well, I didn't have...
- JA Okay, I know...I know what you're going to say, I mean, I see you've got all the excuses.
- EL Excuses, man.
- JA Well, that's what they are, justification where, okay, I got no money, I couldn't...the police stop you. Now, here you are a guy who (unintelligible) thinks that you just paid your last \$40 for this handgun that you, under your,

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um, good Samaritan-ness are going to bring to the police, when the cop asked you if you have any weapons on you, you're not holding up your hands going, "Yeah, yeah, I got this gun that Jay Alie wants." You're going, "Well, I got this knife and (unintelligible) now I got this gun on me, too," and you're not telling the police that until they discover it.

- EL They hadn't discovered it, I came out with it, I said...you know, because they...he stuck his hand in my pocket and he pulled the knife out, threw it on the ground, stuck his hand in my pocket, I said, "There's bullets, um, in the quick loader case that your pulling out," and right as I was saying that he pulled it out. And I said, "They go to the 357 that's in my waist that's fully loaded, you're going to want to be careful with that. The reason why I have this on me is because I'm trying to make it back, um, to my mother's house. That I way I could...she's got the business card for this Violent Crime's officer that I'm..."
- JA Okay, this is, what, at least 30 seconds into the...into the contact?
- EL The con...no, the contact was he came out of nowhere and grabbed me and said we got, um, you know, I'm confused, he said, "We have one obtained." You know, and I'm like, "One obtained for what?" You know, "What the fuck is going on?" I'm thinking I was set up, to be honest with you.
- JA All the more reason for you to be coming out with...well, you know, this is my...of course, your...your (unintelligible) you know, no two people react the same way.
- EL (unintelligible)
- JA I'm just saying I...without...without these other people, without a name for these other people, um, this is...this is not going to fly for you. I mean, I appreciate if you really...and I'll be honest with you, I don't believe that you...I don't believe your story.
- EL Well, I was going to (unintelligible) believe what you want, man. I...ask my mom, I was...I had a job set up, why would I even be fucking around with a 357 the next day that I'm supposed to go to work. You know, uh...
- JA I...I'll tell you, you know, I appreciate that we got it back and I appreciate that you made an effort to call me (unintelligible) and talk to me tonight. But if I were the person sitting on the jury, I gotta look at this story and go, no. Not that a jury will ever hear it because, uh, any decent prosecutor won't allow you to even bring it up without...the same law that makes it illegal for me to just

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say, "Some guy pointed at him and said he's the one who did it," right? You get the right to face your accuser. The state also gives the right to try and verify whatever story and...

EL So, basically, me and you never talked.

JA Tonight?

EL Yeah.

JA Well, we've...we've talked, there's no getting around that, but the information you've given me, um, you know, I'll do a report and I'll transcribe the tape but the prosecutor's going to say the same thing I'm telling you.

EL (unintelligible) good.

JA And your...your defense attorney will probably have the tape suppressed cause he won't want (unintelligible) anything that you've said to be used. So, uh, yeah, I...I'd like to help you if that's really what happened, I'd like to help you.

EL And now everything I've said to you is the same shit that I told to my attorney which is the same shit that I was telling that cop, right out of the get go, man. "Look, just go to my mother's house and get this fucking business card, man, and..."

JA Okay, now, I don't want to talk about the burglary, specifically. You've got some other issues around that which I'll let the officers involved in that (unintelligible) deal with that part of it, okay? What's the story on this guy that had the gun? Does he have (unintelligible) guns or does he have other issues that would be a problem with me going up there and going, "Hey, Eric's in jail, he's stuck with this, you know, everybody thinks he's telling this bullshit story."

EL Uh, if I can get out on bail I can get ahold of his ass, man, and that's what I'm trying to do right now is get out on bail, which is really not looking very fucking feasible for me, you know.

JA I don't think so...

EL Uh, well, I got \$25,000 bail right now.

JA Right, so that happens...

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- EL Which is something I can't pay, you know? Uh, and...fuck.
- JA Well, what can you do from inside to put this guy in touch with me?
- EL I can't even get nobody to answer the fucking phone, man. (unintelligible) my mom answered it one time for me and that was the one time that I can tell her, "Hey, find the fucking business card," which she did for me, "And please put some money on my books so I can eat today," you know.
- JA Yeah.
- EL And, uh, and get ahold of you which is apparently what she did, which is good. And nobody else will answer the fucking phone, man. Um, except I talked to the mother of my child today and I told her, please, you know, they go five hundred dollars up on twenty-five hundred dollars bail, which is lame. You know?
- JA You have a ways to go.
- EL Fuck, yeah, I do and I...it looks like I'm just going to have to bite the bullet, man. I know you don't believe me, you know, and I'm sorry for sitting here wasting my time with you. Apparently, uh, I really...hey, I know you don't believe me but it was a spur of the moment thing, man. Uh...
- JA Well, let me get...let me get this right. I'd like to believe you, okay?
- EL (unintelligible) believe that.
- JA Well, but what I (unintelligible)...
- EL I want to hear you...I want to hear you out. I want to hear you out.
- JA If your story is true you did...you did a solid thing for me. So, yeah, I'd like to think that that's true. Okay? Now, we talk...you know, I'm going to be straight with you, I...
- EL Yeah.
- JA I (unintelligible) right? And I haven't been letting you...I haven't been letting you down.
- EL Yeah.

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JA So, you know, I...I had expectations that, um, that you were going to follow through on what you said. Okay? So, I mean, I want to believe you cause I want to believe that, hey, three or four weeks later you actually did come up with the gun. I'm just telling you that there's problems. I mean, I got to look at it objectively, if you want to give me the information for me to go and prove that I'll...I'll do it, I'll chase it to the end cause I know you can't (unintelligible) in here. But it's going to be...and I'm not looking to jam up whoever the guy was that had it.

EL But it is going to jam him up.

JA Yeah, I can't tell you that it won't.

EL It will, entirely, you know? And I can't...and then I'm going to be...you know, royally screwed, man. If I...you know, if I give somebody up, you know, then not only am I a no good snitch and I'm going to probably get shot or beat down myself, you know, cause for right now I'm probably going to go back to my pod, those are my trustees going out of here, you know, I'm probably going to go back and get my fucking ass beat right now, you know. Uh...

JA Well, you can tell (unintelligible) they don't buy it, that's fine.

EL Yeah, for an hour, you know. Um...

JA People in here (unintelligible).

EL Yeah, but, man...shit. If I give somebody up, dude, I'm really going to be fucking myself, you know, and that's going to be bringing problems to my family and for, you know, and that's...that entire goes from...from what I believe in. You know, I gave up Louis Sourjohn...not giving him up, in my opinion, he did himself in, you know, and tried to fuck me, man. And I'm not into that, you know, um, and I'm not going to go down for nobody else but if I give up somebody, for them to do me a favor them saying, "All right, hey, look, your ass might go to jail, you know, so for \$40 for a fucking \$300 pistol I'm going to extend you this favor, you know, and go ahead and go do your thing." Man, you know, uh, even though them already thinking that I'm basically a fucking rat for doing it, for even helping the police, for working with you guys, you know.

JA So...so this person sold you the gun knowing that you were going to turn it over to the police?

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EL Yeah, cause I told him, man, you know, you get caught with this thing you're going to get fucked. Uh, you know, it's...it's been involved in a crime, you know, and dude extended me a favor letting me be out on Christmas with my son, you know. So, honestly, I poked my head around and I...I didn't look but I kept my ear to the ground to see if I...if I knew where it could be, that way I could call it in. You know, and that's all I did, I didn't go entirely out of my way and go on this fucking (unintelligible) for this pistol, you know. But then when I did find it, I tried to be cool about it, you know, and I was going to go and I was going to place it somewhere in a trash can or fucking behind a bush or something...

JA Let me ask you something...

EL Just like me and you had talked about and...and then I fuck...you know, I end up, I'm sitting in here, man, I'm about to face, in my opinion from what I'm hearing, man, from some prison cats, five fucking years, man, over a pistol that I tried to do a...a good deed with. You know, uh, and that I tried to be cool with, man. And really, I'm...I'm fucking pissed off right now, and I'm really not trying to be irate or, you know...

JA So, hold on a second. So, if I talk to the PA and they say that they will...I'd say...I'll say grant immunity, for lack of a better word, that they're not going to pursue a case against the person who...who you said you bought the gun from...

EL If they grant that immunity?

JA We don't really call it that but, yeah, say if they're...if the prosecutor tells me, uh, "Go investigate that story and we won't pursue any charges against that person for this particular handgun.

EL Yeah, but except he's got warrants and...and other fucking deals, man, and...fu...you know.

JA If they've got some additional (unintelligible) that's the least of my concern. My concern is I got a guy sitting here with a little kid whose looking at what he thinks is five years in prison. I got no idea what you're looking at, okay? And you're telling me...and you...you're telling me you did me a favor.

EL I tried, I...I...apparently, in my opinion, I didn't do nobody a favor, especially myself, you know.

JA Well, yeah, but...

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EL Exactly.

JA There's no getting around that ,but you could have gotten around that, okay, you know when you...if your story is true, you're the one that (unintelligible) I need to get ahold of this guy as soon as possible. All right, and all you had to do is go to a phone and dial 911 and say, "Hey, send somebody from VCU over here."

EL This is where I screwed up, man. I made a lot of mistakes, honestly, I was stoned out of my fucking mind, scared as hell running around with a 357 on my waist, worried that exactly what happened was going to happen. And, uh, this cop came out of nowhere, I didn't even see a fucking cop car, man, before I had a cop grabbing me by the arm saying, "Suspect one, apprehended." And I'm like, "What the fuck is going on?" You know, and now, um, now I'm looking at some time, man, and I fucked up. What I should have done was not a fucking thing, dude, and left the pistol where it was at. In my opinion, honestly, I'm just going to be honest with you, you know, because it seemed to try and just be cool, man, um, I ended up fucking myself, dude. And now, basically, you're telling me because I don't want to snitch off somebody and, you know, end up fucking myself, man, and my family's safety, uh, that...I got to sit in prison, man, I'm pretty pissed off, dude. You know, and, um, I'm not...you know, I'm not trying to take it out on you, man, I don't want you to think I'm getting irate or whatever, but I just don't know what the fuck to do, man. Um, and I'm going to sit...sit and do my time over some shit that really I should have left alone, man. Um, I mean, sorry to say it but that's how it feels. I should have let...let the case solve its fucking self, man, because now I'm sitting here catching another case for some bullshit, you know.

JA Well, uh, well, not for some bullshit. I mean, if your story is true, let us prove it. And I understand all the reasons why you can't do that, okay, that's...that's, um, that 's a choice that you make. I...that's the lifestyle you live, I can't help you out...

EL Lifestyle, but, man, I'm trying to fucking work, I'm trying to take care of my son, what do you mean the lifestyle I live? Just because I know people that, you know...

JA (unintelligible) this is not just a friend, this someone you associate with and you said it, for whatever reason (unintelligible) you can't give the name up (unintelligible)

EL No, I can give the name up (unintelligible).

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JA (unintelligible) a convicted felon (unintelligible)

EL Yeah, (unintelligible)

JA So, if you're hanging out with a convicted felon and (unintelligible)

EL And he knows me as Rob, I mean, to be honest with you, you know, I don't fucking...

JA Okay. But you know, I mean, if you're a straight up guy that's (unintelligible) trying to take of your kid, you don't hang out with people that you got to use a fake name and, uh, you can't...

EL Well, he knows my name but that's what he calls me, you know.

JA (unintelligible)

EL Man, I hate Vancouver, man, just entirety and that's for other reasons, you know. For shit like people like Louis Sourjohn, you know, for fucking drive-by shootings and...

JA Have you seen Louie?

EL Huh?

JA Have you seen Louis?

EL No, I made a point, man, not to see him because he's a bigger dude than me and even though he's...I feel like he snitched on me, I...I did this right here, man, and I'm going to get my fucking face stomped in, dude.

JA He's actually probably going to plead without any court (unintelligible).

EL He's going to what?

JA He's probably going to plea...plead without taking his trial, he's going to plead.

EL Yeah, oh, fuck, yeah.

JA (unintelligible)

EL And he's going to get, what, like 13 months?

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JA Oh, no, no, I hope not. Is that what you heard?

EL Yeah, that's what I heard that that's all they're trying to give him.

JA Well...

EL For a drive-by shooting with an assault II, um, without a license.

JA Uh...

EL Because he...he called my buddy, Dale, you know, the guy we had talked about him before and said that's all he's getting is 13 months, and they're trying to plead him out at 13 months. And, uh, that's what I heard. I...I don't know, I didn't go to his court date, I haven't talked to his attorney.

JA Okay, I have a...I...

EL And I'm going to get my fucking ass beat down, man, just for even saying already what I've said, if I don't get shot because apparently he likes to do shit like that, you know. Um, and I already fucked myself, man. I'm not trying to do that again, you know what I'm saying?

JA Well, I mean, that's another case of he put you in a bad spot, you (unintelligible) blame me for that, you're either going down for doing a shooting or you're going to say your side of the story. Well, all right, I'll tell you what, you talk to (unintelligible) you can and you decide that it's worth me pursuing, and...and I'm talking about pursuing from the aspect of verifying your story, okay? If this other person's got issues beyond that, that's their...that's their own problem.

EL If you could get him on a recorder without a badge, is that the same thing for you?

JA Um, I...

EL Because...

JA I don't really...I don't do things without a badge.

EL Yeah, I know, I know, but...

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JA I'm investigating...I know what you're saying, you know, if he...if I talk to him (unintelligible) ...

EL Cause if he...if there was...if there was like no police threat, man, you know, I'm sure he wouldn't have a problem keeping my ass out of prison, you know, for...for the right deal for him, but he's not just going to go, "Okay, yeah, I'm going to put myself in a position with a police officer that might potentially put my ass in prison," you know. Uh...

JA Do you know if the person would have other guns?

EL I'm not even going to say that even though I already said it, you know.

JA Well, I (unintelligible) but I mean, (unintelligible) show up to interview with felony warrants and a gun on his possession, he...I mean (unintelligible) to arrest him. Okay, I want to interview the person as a witness...

EL But then do they have to stand up in court and say this shit?

JA Uh, if you took...if you took the, uh, issue of the gun to trial, yes, he would have to come to court.

EL I'm not trying to take...I was hoping I could get it dropped b talking to you because I was trying to provide you with...you know what I'm saying, without him even...see, my understanding was if I talked to you, um, this is what I was hoping, I mean, to be honest with you, that because me and you had discussed previously that...to whoever...wherever the gun comes from is anonymous as long as it comes back to you guys, um, you know? As far as...

JA But there was more...

EL Yeah, there's way more to that, I know. Um...

JA There was something about you being within a block of a burglary with tools that matched the scene. Now, that's the...that's the case against you. I don't...

EL I know...

JA I don't want to discuss that but...

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EL It looks so bad for me right now, man, and the thing is though they said they're sending that screwdriver to the...the lab and it's going to come back clean because...unless they take funky metal from the inside of screws...

JA Hold it, we only want to talk to you about...

EL The gun, yeah.

JA Uh...

EL Basically, my feeling, the burglary is dropped. So, the only thing I'm worried about is the fucking...the gun. And...

JA That would depend on what the person has to say. If the person has a story that is cohesive, um, and the prosecutor looks at it and decides, all right, that makes sense, it's possible they'd refuse to drop it. I can't tell you, I'm not the prosecutor, I can't tell you. I can tell you from my experience that I'm doubtful that whoever this person is, is going to be able to tell me...

EL Yes, I...I'd be very...

JA He's not going to tell...even if he...well...

EL I really doubt it, too, that's what I'm saying, you know? And then for me to even get this person up for them to say, "Fuck you," is really going to hurt me, man, and it's really...

JA Well, so help get a message to that person and give them my name and say, hey, this guy needs to talk to you.

EL And he's going to say, "Fuck you, man."

JA Well, then you tell him, "Dude, you're...you're fucking me, you're (unintelligible) for a five year stint." Okay? And you know, I can understand what that person's concerned about, dude, you know, if they've got warrants, if they have other shit that they don't want to talk to the cops, then you're screwed. That's...that's just the way, and I'm...yeah, that's...(unintelligible)

EL So, if my burg gets dropped...

JA That ain't going to happen.

EL Why is that not going to happen?

DATE: FEBRUARY 7, 2005
TIME: 1936 HOURS
INTERVIEW WITH ERIC LEONARD
CASE NUMBER: V05-2117

JA I'm just...I'm just telling you that.

EL So, you're...you're saying that there is...and...and you're not saying anything.

JA Sure, I'll see whatever...I'll answer whatever question you have but I don't see that (unintelligible).

EL My...did my screwdriver come back bad?

JA I don't know.

EL Well, because...

JA I only read the initial report of that (unintelligible).

EL The initial report, just how it looks, the cop (unintelligible) a full block away, me walking towards my mom's house with a 357 and a screwdriver on me. Yeah, that looks bad but why would I be walking towards the scene of the crime?

JA But you weren't, right?

EL What?

JA You weren't, were you?

EL No, I'm saying in the direction of this...this crime that supposedly hap...it was attempted, it wasn't even a...

JA You were...well, I don't know, like I said...

EL That's what they told me, no...no crime even took place, is what they told me.

JA A crime took place but, again, I don't want to talk about the facts with you.

EL Oh, fuck.

JA Because it wouldn't be fair to you.

EL I know.

JA And to tell you the truth, I don't know enough about it to answer your frustrations.

DATE: FEBRUARY 7, 2005
TIME: 1936 HOURS
INTERVIEW WITH ERIC LEONARD
CASE NUMBER: V05-2117

EL Okay.

JA But I know, if I were you, I wouldn't expect to see that get dropped.

EL I'm expecting to see it get dropped.

JA But I wouldn't have expected to see Louis Sourjohn get 13 months either. That's ridiculous. So, you know, (unintelligible).

EL So, basically, I'm fucked.

JA Well, you're kind of (unintelligible) a couple other things, too. Um, Louis's mom and uncle made some statements originally that, uh, screwed you, and I think we talked about that the first time.

EL So, you're saying I'm (unintelligible) with another case?

JA No, no, in regards to Louis' case.

EL Yeah, that's...

JA Now, Louis, in a sense, threatened them and so now they don't want to talk to me, his mom and his uncle. Which I called them back to try and straighten some stuff out with regard to you and they're...they're just saying, "Fuck you," you know, "Louis's calling us from jail and saying this shit (unintelligible) we don't want to have any problems with (unintelligible) in our family." And that's...you know, your family's threatening you from jail...

EL Yeah, that's...

JA ...you've got problems beyond me. So, there's facts around that point to you having the gun since the time that we talked. You know, I'll just come straight out with it.

EL So, that's...that's what you were getting at, that's what you were thinking, you think I've had this gun this whole time.

JA I think you've had it since we talked or had it available to you.

EL Okay.

JA I mean, I'll just be straight up with you.

DATE: FEBRUARY 7, 2005
TIME: 1936 HOURS
INTERVIEW WITH ERIC LEONARD
CASE NUMBER: V05-2117

EL Yeah.

JA And I mean, I might as well...

EL So, you guys...

JA ...throw my cards on the table, I think you had this gun and I think you did the burglary attempt (unintelligible) and you got caught with it.

EL You think...

JA That's what I think. And I don't know the facts but I'll tell you, Eric, (unintelligible) I think you were straight up with me the first time we talked, and I have a little bit of knowledge about your situation. I'd like to think you're telling me the truth.

EL But you can't.

JA You know what, I (unintelligible) that makes sense. I'll be more than happy to talk to anonymous person that you say had the gun without arresting them just to hear their story, just so I can verify what you're saying. (unintelligible) as long as they don't have some kind of felony warrant, they don't show up for the interview carrying a gun or a sack of dope on them or some other stupid shit. If the person wants to meet me somewhere with no contraband on their... on themselves and no felony warrants out for their arrest, I'll be glad to meet them anywhere, talk to them about that situation and verify your story. If I can verify your story, I'll be more than happy to tell the prosecutor. And it's clear, I mean, I... (unintelligible) I don't believe we talked about that on tape but I'll, you know, tell anybody who wants to ask that we told you to go out and find this gun and get it back to us. I didn't tell you to walk around with it at ten o'clock at night a block away from a burg but...

EL (unintelligible)

JA Yeah.

EL No, I understand how you would do that, I understand why you have to do it that way, you know, I really do cause my fucking cellies told me the same thing, they said this officer's not going to help you. Our fucking new...

JA Ah, that's not true. Did you give (unintelligible)

DATE: FEBRUARY 7, 2005
TIME: 1936 HOURS
INTERVIEW WITH ERIC LEONARD
CASE NUMBER: V05-2117

EL Yeah, yeah, no, I know.

JA I can't (unintelligible)

EL No, entirely, entirely.

JA I've already helped you once, I think (unintelligible).

EL No, no, you really did, you know, and, uh, I...I really appreciated that, you know, believe it or not. Um, I understand where you're coming from. I'm just really frustrated right now at this point. I'm having a real hard time thinking and I don't just want to sit here and talk shit and...and ramble on (unintelligible) you know.

JA (unintelligible) I'm going to stop the tape. It's 2021.

Transcribed by S.J. Keeney, Vancouver Police Department, March 1, 2005



STATE OF WASHINGTON
WASHINGTON STATE PATROL

2502 112th Street East, Room 273 • Tacoma, Washington 98445-5104 • (253) 536-4280 • FAX (253) 536-4290

CRIME LABORATORY REPORT

AGENCY: Vancouver Police Department
OFFICER: Detective Jay Alie
VICTIM: Not listed
SUSPECT: Leonard, Eric R.
Sourjohn, Louis

LABORATORY NO.: 305-000396
AGENCY NO.: V0423672
V052117
REQUEST NO.: 0001

Evidence:

- Item 1228-2 (063629): One Ruger GP100 .357 Magnum caliber revolver, serial number 174-39916.
- Item 1228-4 (063631): One HKS Speedloader containing six unfired "PMC" .357 Magnum cartridges.
Four unfired "PMC" .357 Magnum cartridges.
Two unfired "S&W" .357 Magnum cartridges.
- Item 1340-01(061335): One fired jacketed bullet.
- Item 1340-01(061632): One fired lead bullet core.

Examination Results:

The Ruger GP100 .357 Magnum caliber revolver, serial number 174-39916, was test fired and found to be operable. The trigger pull was determined to be approximately 3 3/4 to 4 pounds single action, and 8 3/4 to 9 pounds double action. Test fires from this revolver will not be entered into the WSP computerized database. Revolvers are not routinely entered into the database.

The fired jacketed bullet submitted in Item 1340-01(061335) was visually and microscopically examined and determined to be consistent with a .38/.357 caliber bullet. The fired jacketed bullet was microscopically compared to test fires from the submitted Ruger .357 Magnum caliber revolver, serial number 174-39916, and determined to have been fired from that revolver.

The fired lead bullet core submitted in Item 1340-01(061632) was visually and microscopically examined and determined to be consistent with a .38/.357 caliber bullet core. The lead bullet core exhibited similar class characteristics to the submitted Ruger .357 Magnum caliber revolver, serial number 174-39916, however the core did not exhibit individual characteristics. The lead bullet core could not be identified or eliminated to the submitted Ruger .357 Magnum caliber revolver, serial number 174-39916.

Shanda Robinson
Shanda D. Robinson, Forensic Scientist

3/25/05
Date

Vancouver Police Department

Case No.
04-22039

Individual

Type H	Location 115 W 23RD ST	City VANCOUVER	State WA	Zip Code 98661
Type H	Phone No (360) 694-9092			

Arrest Information

Booking No.	CFN	Arrest Date 02/01/2005	Arrest Time	Type O	Multi Clearance N	Armed With (2) REVOLVER+KNIFE
Juv Disposition						

Miscellaneous						
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Location 2400 MAIN ST	City VANCOUVER	State WA	Zip Code
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Offense 9A.56.310	Offense Category THEFT	CitationNo	Warrant No
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Charge Translation Possession of a Stolen Firearm

Offense 9.41.040	Offense Category WEAPON	CitationNo	Warrant No
----------------------------	-----------------------------------	------------	------------

Charge Translation Unlawful possession of a firearm (ex-con)
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Narrative

ATTACHED DOCUMENTS:

Photos of holster recovered from Leonard's house.
Photos of box and belt from Edwards' house.

RELATED CASES:

V05-2117: 2-1-05 Eric Leonard arrested in the vicinity of an attempted burglary armed with Edwards' stolen firearm.

V04-23672: 11-30-04 Eric Leonard is the driver in a drive-by shooting in which Louis Sourjohn fired a silver colored revolver at four rivals. Leonard admits that he takes the gun from the scene of the shooting, investigation reveals he later attempted to sell the gun. Warrant search of his house finds tooled leather holster and speed loader pouch. Edwards confirms the gun was in this holster when stolen.

SYNOPSIS:

Eric Leonard was involved in a drive-by shooting in November, 2004 in which a silver revolver was used by his associate. During that investigation, Leonard admitted to having the gun in his possession briefly and agreed to locate the firearm. In December, 2004, a holster and speed loader pouch were found at Leonard's house during a search warrant. In February, 2005, Leonard was arrested outside a Subway store that reported an attempted burglary and he was armed with Edwards' stolen, stainless steel Ruger revolver. Leonard claimed this was the same gun used in the drive-by shooting.

INVESTIGATION:

See the listed reports for details of those incidents.....

On 2-1-05, Leonard was arrested in possession of Edwards' stolen firearm. He told the arresting officers that he

Reporting Officer Alie, Jay	PSN 1205	Agency/Case Number VPD 04022039	Report ID 02/08/2005 17:34 1205	Ref Case Number V04-23672
Approving Officer Davis, Mike	PSN 1230			
Report printed by: 0120		Page 2 of 3		

Narrative

found the gun nearby and was returning it to the detectives who were investigating the Louis Sourjohn drive-by shooting. I had arrested and interviewed Leonard in December regarding that shooting. At that time, he admitted that he had possession of the firearm directly after the shooting and might be able to retrieve it. He was given instructions on how to go about doing that and released. Leonard made no efforts to contact me regarding progress on that assignment and later admitted to me that he made no efforts to complete that assignment.

On 2-7-05, Leonard had his mother call me and asked me to speak with him at the jail. She said he was given the assignment to find the gun, had done so, and was now in jail for following those directions. I interviewed Leonard on tape regarding the details of the recovery of the gun. (See V05-2117 for those statements.) Leonard did not have a consistent, corroborable story regarding how he came to have the gun. I advised him that it was my belief that he had the gun all along.

I reviewed the reports from the original theft of the weapon and there was no suspect information. We had done a search warrant on Leonard's house in December and recovered a brown, tooled leather holster for a revolver and a matching speed loader pouch. Also seen in the house were a variety of 30 caliber rifle rounds that were not taken as evidence. I called Edwards and asked if his stolen gun was in any kind of holster. He confirmed that it had been in a brown, tooled leather holster and there were speed loaders missing. On 2-8-05, I showed Edwards photos of the recovered holsters and he confirmed they were his. He showed me the matching belt that he still had and the box for the firearm. Edwards confirmed that 30 caliber rifle ammunition was taken in the original vehicle prowl.

RECOMMENDATIONS:

Forward to PA for consideration of UPF and Poss Stolen Firearm charges against Leonard

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer Alie, Jay	PSN 1205	Ref Case Number V04-23672	Report ID 02/08/2005 17:34 1205	Agency/Case Number VPD 04022039
Approving Officer Davis, Mike	PSN 1230			
Report printed by: 0120		Page 3 of 3		

Vancouver Police Department

Case No.
05-833

Article

Item # 1	Loss/Action DAMAGED	IBR Type SINGL DWEL	NCIC Category	Type	Quantity	Caliber	Drug Type
Drug Quantity	Drug Measure	Loss Value 200	Color	Color			
Description DAMAGED DOOR, DOORJAMB AND LOCK							
Brand							
Model							
Serial No.				Owner Applied No (OAN)			
Miscellaneous							
Rec. Date	By PSN	Rec Agcy	Rec. Value				
Location 115 W 23RD STREET					City VANCOUVER	State WA	Zip Code 98660

Evidence

Item # 1377-001	Loss/Action EVIDENCE	IBR Type RECORDS	Description DIGITAL PHOTOS				
Loss Value	Amount 1	Caliber	Drug Type	Drug Quantity	Drug Measure		
Brand							
Model							
Serial No.				Owner Applied No (OAN)			
Miscellaneous							
Rec. Date	By PSN	Rec Agcy	Rec. Value				
Location					City	State	Zip Code

Officer Notes

Narrative

ATTACHMENTS

Domestic Violence Report/Smith Affidavit
Printouts of photos documenting damage to Quoss's property.

SUMMARY

On January 13, 2005 LouAnna Quoss had her front door kicked open and damaged by her son Eric Leonard after an argument. Leonard was alleged to have damaged Quoss's property, then left the area prior to police arrival on scene.

MENTIONED

Eric Leonard, Suspect. Leonard's current address/phone number is unknown. Quoss is Leonard's mother.

LouAnna Quoss, Victim. Quoss resides at 115 W. 23rd Street. Quoss is Leonard's mother.

DAMAGED

Reporting Officer Calhoun, Jason	PSN 1377	Ref Case Number	Report ID ORIGINAL	Agency/Case Number VPD 05000833
Approving Officer Huberty, Timothy	PSN 1214			
Report printed by: 0120		Page 2 of 4		

Narrative

The front entrance door located at 115 W. 23rd Street is cracked and the locking mechanism is bent and no longer working. In addition, the wood door-jamb is shattered and will need replacement. Estimated damage approximately \$200.

EVIDENCE

One 3.5" disk containing digital photographs documenting the damage to Quoss's property. Photos were taken by myself and later submitted to VPD as evidence.

ACTION TAKEN

On January 13, 2005 at approximately 0110 hours, I responded to 115 W. 23rd Street regarding a domestic disturbance involving a mother and son, where it was reported the front door was damaged and the telephone was broken.

Upon arrival I made contact with LouAnna Quoss. Quoss stated she had been involved in an argument with her son Leonard tonight because she did not feel he was being responsible. Quoss said Leonard has been living at her residence off and on for the past two months, but he does not pay any rent or take other appropriate responsibilities. Quoss said she asked him to move out earlier today and he agreed, taking all of his personal belongings with him (all of which was carried in a back-pack) and then leaving. Quoss said Leonard returned later and knocked at her door requesting to be let back inside the house. Quoss said she spoke with Leonard through the window located next to the door, but she refused to open the door for him and she asked him to leave. Quoss said Leonard had already obtained all of his personal belongings and he had no other reason to enter the premises except to argue and cause problems. Quoss said Leonard became very angry and started kicking on the front door. Quoss said Leonard's kicking on the door caused the door-jamb to shatter and the door flew open. Quoss said she called the police and Leonard left the area on foot. Quoss said she wanted Leonard arrested for damaging her property. Quoss was provided with resource information for victims of domestic violence and was asked to complete a Smith Affidavit. I reviewed the affidavit with Quoss and collected it once it was complete.

115 W. 23rd Street is a two-story residence that faces north. I observed the front entrance door is of aluminum/wood construction with standard Kwikset deadbolt and entrance locks. I noticed the wood door-jamb was shattered thus making it impossible to lock the front door. In addition, the entrance door was cracked and the lower entrance locking mechanism was bent and not working properly any longer. Quoss stated the damage present resulted from Leonard kicking the door. I took digital photographs documenting this damage and later submitted the photos to VPD as evidence.

Based on the statement provided by Quoss, it appears that Leonard knowingly and maliciously caused physical damage to the property of another by kicking the door open and causing property damage. This constitutes a violation of Malicious Mischief III-DV (RCW 9A.48.090).

I was unable to contact Leonard to obtain his statement regarding this incident. A records check shows Leonard's address is 115 W. 23rd Street, and this is listed on his WA identification as being his residence as of 10-2-03. Quoss was unable to provide any possible contact information for him and said she had no idea where he may now be staying.

A check of the area was conducted for Leonard and any potential witnesses; this met with negative results.

RECOMMENDATION

Forward to City Attorney for review.

Reporting Officer Calhoun, Jason	PSN 1377	Ref Case Number 0500833	Agency/Case Number VPD
Approving Officer Huberty, Timothy	PSN 1214		
Report printed by: 0120		Page 3 of 4	

05-1-339-L/KAH
435

Vancouver Police Department				Case No 05-2117					
605 E. Evergreen Vancouver, WA 98661		(360) 696-8292 (360) 696-8176 (FAX)		Report ID 02/07/2005 21:22 1205					
Supplemental Incident Report				RCN V04-23672					
Records Center				DOR 02/07/2005					
707 W 13TH Street Vancouver, WA 98660		(360) 397-2211 (360) 397-6074 (FAX)		Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>					
Distribution PA				Distribution Other					
init	pDis	sDis	dEnt	M C	Cond	Case	F/U	Ret	Let
Status						<input type="checkbox"/> <input type="checkbox"/> IR <input type="checkbox"/> A <input type="checkbox"/> AR <input type="checkbox"/>			

Administrative Information											
Location 700 W 11TH ST				City VANCOUVER			State WA	Zip Code 98661			
Local Geo		State Geo		Precinct V CENT		Geo					
Rep Date 02/07/2005		Rep Time 21:22		From Date 02/07/2005		From Time	To Date	To Time	Category	Class	Premise
Dom Viol <input type="checkbox"/>	DV Card <input type="checkbox"/>	Child Abuse <input type="checkbox"/>	Arson <input type="checkbox"/>	Homicide <input type="checkbox"/>	Gang <input type="checkbox"/>	Weapons <input checked="" type="checkbox"/>	Alcohol <input type="checkbox"/>	Drugs <input type="checkbox"/>	Computer <input type="checkbox"/>		

Evidence										
Item # 1205-001		Loss/Action EVIDENCE		IBR Type RECORDS		Description TAPED INTERVIEW W/LEONARD				
Loss Value	Amount		Caliber	Drug Type	Drug Quantity		Drug Measure			
Brand										
Model										
Serial No			Owner Applied No. (OAN)							
Miscellaneous										
Rec Date 02/07/200		By PSN 1205		Rec Agcy VPD		Rec Value				
5										
Location 700 W 13TH ST				City VANCOUVER			State WA	Zip Code 98661		
Officer Notes										

Narrative

RELATED CASES:

V04-22039: 11-4-04 Veh Prowl in which stainless steel Ruger revolver was taken.
 V04-23672: 11-30-04 Drive by shooting in which Eric Leonard and Louis Sourjohn shot at 4 subjects with a stainless steel revolver.

SYNOPSIS:

I was alerted to this case by the arresting officer as Leonard and the recovered pistol were both mentioned in the drive-by shooting case I was investigating. I interviewed Leonard and reviewed the initial theft of firearm report related to this gun.

Reporting Officer Alie, Jay		PSN 1205		Agency/Case Number VPD 05002117	
Approving Officer Davis, Mike		PSN 1230		Report ID 02/07/2005	
				Ref Case Number V04-23672	
				21:22 1205	

Vancouver Police Department

Case No
05-2117

Narrative

INVESTIGATION:

After Leonard's arrest on this case, I was alerted by Officer Wilken that he was armed with a weapon similar to that used in the drive by shooting investigated under V04-23672. Officer Wilken was the original investigating officer on that case and was aware of the follow up done to this point. Leonard had been detained and interviewed regarding that incident and admitted to his involvement.

In investigating the shooting, I was told that Eric Leonard had attempted to sell the firearm, a silver revolver, in early December. A warrant to search his house for the firearm was obtained but the firearm was not found. A brown, tooled leather holster and matching speed loader pouch were found. Leonard was detained and agreed to an interview.

[REDACTED] the shooting. [REDACTED] with a Ruger [REDACTED] window. At the time, Leonard implied that he knew where the gun was, or could get that information, and he was released with instructions to find out where the gun was and alert the Violent Crime Unit to recover the gun. [REDACTED]. We discussed with him that, due to his status as both a convicted felon and a suspect in this case, we were not asking him to gain possession of the gun himself, but to determine its location and advise us so it could be recovered. This interview took place on 12/22/04. I never received a phone call, message or any other indication from Leonard that he was actually attempting to follow through on his claim that he could find the gun.

Leonard was arrested on this case and found in possession of a stainless steel Ruger revolver. That gun was reported stolen in V04-22039, a vehicle prowl that took place on 11-4-04. There was no suspect information on that report and the location of the incident was nowhere near any place I could affirmatively put either Leonard or Sourjohn.

[REDACTED] H,
[REDACTED] for messages.
[REDACTED] ar.

I contacted Leonard at the jail. He told me that he is represented by counsel on the pending attempted burglary during which he was arrested in possession of the firearm. I told Leonard that his attorney would likely advise him not to speak to the police. On audio tape, I read him his Miranda warnings, I specifically noted that anything he might choose to say would be used against him in Court, and I repeated that he would be told by his assigned attorney not to talk to the police. Leonard said he approached me, through his mother, to be contacted on this matter and despite my repeated advisements, he wanted to talk with me. I agreed to talk with him, noting that his attorney would likely attempt to have any statement he did make suppressed.

Leonard told me that he has done nothing to attempt to find the gun used in the driveby shooting since the day he was released. He agreed that he has made no effort to contact me to advise me on progress to this end and said he feared that he was being sought for arrest due to his lack of effort and progress. He said, on the night he [REDACTED]

[REDACTED] he [REDACTED] asked Leonard if he was referring to the time when the gun was being offered for sale to Sourjohn's uncle. He agreed. (Note, information in the original shooting investigation was that Leonard was the person offering the gun for sale to Sourjohn's uncle. Leonard denied any knowledge or part in this in the first interview with him.)

Leonard said he knew this was the gun from the shooting and he offered his friend \$40 for the gun, telling the friend that he would be in trouble if he got caught with it, because it was involved in a shooting. (Leonard conceded that this anonymous friend is a convicted felon, and knows he's not allowed to possess guns anyway, whether involved in a shooting or not.) The friend sold him the gun and Leonard claimed he was walking to his mother's house to contact me to come get the gun. Leonard also conceded that this was not what he was instructed to do when he and I originally agreed that he would not be booked into jail in return for leading the police to the recovery of the gun.

Leonard originally told me that, when the contacting officer asked him if he was armed, he admitted to having a knife but made no mention of the gun he claims he was en route to give to the police until the officer was at the

Reporting Officer Alie, Jay	PSN 1205	Ref Case Number V04-23672	Report ID 02/07/2005 21:22 1205	Agency/Case Number VPD 05002117
Approving Officer Davis, Mike	PSN 1230			

Narrative

point of imminent discovery of the gun. He said the officer was removing the knife from his pocket when Leonard told him he would also find some ammunition and a speed loader for the gun he was hiding in his waistband. When I asked him about this later, he said that he did talk to the officer about possessing the gun for the purpose of returning it to the police. He said they did not believe his story.

I told Leonard I did not believe his story either. I told him I believed he had possession of the firearm since the shooting. I had witnesses who said he tried to sell it, I had a search warrant for his house based on probable cause that he had it, and, during his initial interview, he made statements confirming that he had direct knowledge of its whereabouts back in December. Since that time I heard nothing from him until the night he gets arrested one block away from an attempted burglary to which he is connected by other evidence in his possession. Leonard, who told me he wanted to clear this up because he's looking at five years for possessing the gun, refused to give any significant information that would identify the person he bought it from. Leonard even conceded that he only paid \$40 for a gun that should have brought \$300.

I advised Leonard that I would be willing to follow up any information he wanted to offer that would verify his version of events. He was unwilling, at the time of the interview, to provide anything of value.

I reviewed the original vehicle prow/theft of firearm report and contacted the complainant, Dean Edwards, and asked if the gun had been in any kind of holster when taken, as the report did not remark on this. Edwards said the gun was in a brown, tooled leather holster, with a matching speed loader pouch. He said he had the matching belt for these items at his house. By the description, this holster and speed loader pouch appear to be the same items recovered from Leonard's house during the search warrant served on 12/22/04. I arranged with Edwards to meet him tomorrow to review photos of the recovered items.

RECOMMENDATIONS:

Attach to original report.

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)			
Reporting Officer Alie, Jay	PSN 1205	Ref. Case Number V04-23672	Agency/Case Number VPPD 05002117
Approving Officer Davis, Mike	PSN 1230		
Report printed by: 0120		Page 3 of 3	

Vancouver Police Department						Case No 05-2117	
605 E. Evergreen Vancouver, WA 98661				(360) 696-8292 (360) 696-8176 (FAX)		Report ID 02/10/2005 00:49 1205	
Supplemental Incident Report						RCN	
Records Center						DOR 02/10/2005	
707 W 13TH Street Vancouver, WA 98660				(360) 397-2211 (360) 397-6074 (FAX)		Officer Assaulted <input type="checkbox"/>	Non Disclosure <input type="checkbox"/>
Distribution PA						Distribution Other:	
mit	pDis	sDis	dEnt	M C	Concl	Case	F/U
							Ret
							Left
						Status <input type="checkbox"/> <input type="checkbox"/> IR <input type="checkbox"/> A <input type="checkbox"/> AR <input type="checkbox"/>	
Administrative Information							
Location 2400 MAIN ST				City VANCOUVER		State WA	Zip Code 98661
Local Geo	State Geo	Precinct V CENT	Geo				
Rep Date 02/10/2005	Rep Time	From Date 01/08/2005	From Time	To Date	To Time	Category	Class
Premise	Dom Viol <input type="checkbox"/>	DV Card <input type="checkbox"/>	Child Abuse <input type="checkbox"/>	Arson <input type="checkbox"/>	Homicide <input type="checkbox"/>	Gang <input type="checkbox"/>	Weapons <input checked="" type="checkbox"/>
Alcohol <input type="checkbox"/>	Drugs <input type="checkbox"/>	Computer <input type="checkbox"/>					
Individual							
Role W	Seq 1	Type I	Last Name QUOSS		First Name LOUANNA	Middle Name	Sex F
Race W	Birthdate						
							Eth
Age Low 0	Age High	Hgt	Wgt	Hair	Eyes	Residence F	Employment/Occupation
Driver's License Number		Driver's License Issuer		Social Security No.		State ID No.	FBI No.
PCN		Custody Status	Gang Affiliation		Tnbe Affiliation		Identifiers
Comments							
Type H	Location 115 W 23RD ST				City VANCOUVER		State WA
Zip Code 98661	Type H	Phone No (360) 694-9092					
Narrative							

SYNOPSIS:

Interview with Louanna Quoss, Leonard's mother. Her statements do not match Leonard's statements with regard to his activity on the night he was arrested.

INVESTIGATION:

On 1-7-05, I received a phone message from Louanna Quoss, Eric Leonard's mother, requesting that I contact him at the jail to discuss the firearm he was arrested with. Quoss knew me from a 12/22/04 search warrant served at her house. I did contact Leonard and he made a statement about how he came to have the firearm. (See other supp for details.) His basic version of events was that he went to an unidentified friend's house, installed a stereo, smoked some marijuana, and the friend was showing off the gun which Leonard recognized from a shooting he was involved in late last year. Leonard had been instructed by me to attempt to locate that weapon, which I believed he possessed or had knowledge of its whereabouts. He said he paid \$40 for the gun and was on his way to call me when he got stopped. During this interview, which was taped, Leonard made specific reference to the

Reporting Officer Alie, Jay		PSN 1205		Agency/Case Number VPD 05002117
Approving Officer Creager, Scott		PSN 1163		
Report ID 02/10/2005		Ref Case Number 00:49 1205		
Report printed by: 0400				Page 1 of 2

Vancouver, WA 98661		(360) 696-0292 (360) 696-8176 (FAX)	Report ID ORIGINAL
Incident Report			RCN V05-833
Records Center			DOR 02/02/2005
707 W 13TH Street Vancouver, WA 98660		(360) 397-2211 (360) 397-6074 (FAX)	Officer Assaulted <input type="checkbox"/> Non Disclosure <input type="checkbox"/>
Distribution PA+ST PROBATE+VCU+VCA			Distribution Other
init	pDis	sDis	dEnt
			MC
			Cond
			Case
			F/U
			Ret
			Let
Status <input type="checkbox"/> IR <input type="checkbox"/> A <input type="checkbox"/> AR <input type="checkbox"/>			

Administrative Information			
Location 2400 MAIN ST		City VANCOUVER	State Zip Code WA 98660
Local Geo	State Geo	Precinct V CENT	Geo
Rep Date 02/01/2005	Rep Time 22:10	From Date 02/01/2005	From Time 22:10
To Date 02/01/2005	To Time 22:11	Category	Class CO
Dom Viol <input type="checkbox"/>	DV Card <input type="checkbox"/>	Child Abuse <input type="checkbox"/>	Arson <input type="checkbox"/>
Homocide <input type="checkbox"/>	Gang <input type="checkbox"/>	Weapons <input checked="" type="checkbox"/>	Alcohol <input type="checkbox"/>
			Drugs <input type="checkbox"/>
			Computer <input type="checkbox"/>

Offense Information			
Off # 1	Offense 9A.52.020	Offense Category BURGLARY	Offense Translation Burglary I
Location Type RESTAURANT			Attempted or Completed A
Off # 2	Offense 9A.56.310	Offense Category THEFT	Offense Translation Possession of a Stolen Firearm
Location Type STREET			Attempted or Completed C
Off # 3	Offense 9.41.040	Offense Category WEAPON	Offense Translation Unlawful possession of a firearm (ex-con)
Location Type STREET			Attempted or Completed C

Weapon (or Force) Used in Commision of Offense						
Wpn # 1	Weapon/Force REVOLV	Caliber 357	Finish	Length	Gnps	Other Description RUGER

Weapon (or Force) Used in Commision of Offense						
Wpn # 2	Weapon/Force KNIFE	Caliber	Finish	Length 4	Gnps	Other Description

Reporting Officer Huycke, Timothy	PSN 1228	Ref Case Number V05-833	Report ID ORIGINAL	Agency/Case Number VPD 05002117
Approving Officer	PSN			
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Individual

Role B	Seq 1	Type I	Last Name LEONARD	First Name ERIC	Middle Name ROBERT	Sex M	Race W
Birthdate 08/04/1985		Eth N					
Age Low	Age High	Hgt 511	Wgt 200	Hair BLN	Eyes GRN	Residence F	Employment/Occupation
Driver's License Number		Driver's License Issuer		Social Security No 537989342	State ID No	FBI No	PCN
Custody Status PROBATION	Gang Affiliation		Tribe Affiliation		Identifiers TAT ON L SHOULDER		
Comments							
Hair Length SHORT		Hair Type WIRY		Hair Style (3 allowed) DIRTY		Complexion MEDIUM	
Facial Shape OVAL		Facial Hair (3 allowed) UNSHAVEN					
Facial Oddities (5 allowed)							
Glasses NONE		Teeth	Handed	Speech (3 allowed)			
Distinctive Features (3 allowed)				Significant Trademarks			
Appearance (5 allowed) ANGRY+DIRTY+DISORGANIZ+NERVOUS+VIOLENT							
Type H	Location 115 W 23RD ST				City VANCOUVER	State WA	Zip Code 98660
Type H	Phone No (360) 694-9092						

Arrest Information

Booking No	CFN	Arrest Date 02/01/2005	Arrest Time 22:12	Type O	Mult Clearance C	Armed With (2) KNIFE+REVOLVER
Juv Disposition						
Miscellaneous						
Location 2400 MAIN ST				City VANCOUVER	State WA	Zip Code 98660
Offense 9.41.040	Offense Category WEAPON	CitationNo		Warrant No		
Charge Translation Unlawful possession of a firearm (ex-con)						
Offense 9A.52.020	Offense Category BURGLARY	CitationNo		Warrant No		
Charge Translation Burglary I						
Offense 9A.56.310	Offense Category THEFT	CitationNo		Warrant No		
Charge Translation Possession of a Stolen Firearm						

Reporting Officer Huycke, Timothy	PSN 1228	Rel Case Number V05-833	Report ID ORIGINAL	Agency/Case Number VPD 05002117
Approving Officer	PSN			

Individual

Role C	Seq 1	Type I	Last Name MILLS	First Name DAWN	Middle Name MARIE	Sex F	Race W	
Birthdate 02/23/1970		Eth N						
Age Low	Age High	Hgt 508	Wgt 110	Hair BLK	Eyes HAZ	Residence F	Employment/Occupation SUBWAY/CLERK	
Driver's License Number MILLSDM306C3			Driver's License Issuer WA		Social Security No.	State ID No.	FBI No.	PCN
Custody Status NON OFFNDR		Gang Affiliation		Tnbe Affiliation		Identifiers		

Comments

Type H	Location 1718 SW 6TH AV	City CAMAS	State WA	Zip Code 98607
Type W	Location 2400 MAIN ST	City VANCOUVER	State WA	Zip Code 98660
Type H	Phone No (360) 834-6572			
Type C	Phone No (360) 910-6571			
Type W	Phone No (360) 695-1870			

Article

Item # 1	Loss/Action DAMAGED	IBR Type COM STRUCT	NCIC Category Y	Type 1	Quantity 1	Caliber	Drug Type
Drug Quantity	Drug Measure	Loss Value	Color GRN	Color GRN			
Description BACK DOOR OF BUSINESS							
Brand							
Model							
Serial No		Owner Applied No (OAN)					
Miscellaneous							
Rec Date	By PSN	Rec Agcy	Rec Value				
Location				City	State	Zip Code	

Evidence

Item # 1228-001	Loss/Action EVIDENCE	IBR Type RECORDS	Description DISC CONTAINING PHOTOGRAPHS				
Loss Value	Amount	Caliber	Drug Type	Drug Quantity	Drug Measure		
Brand							
Model							
Serial No		Owner Applied No (OAN)					
Miscellaneous PHOTOGRAPHS OF CRIME SCENE							
Rec Date 02/01/200	By PSN 1228	Rec Agcy VPD	Rec Value				
Location 2400 MAIN ST				City VANCOUVER	State WA	Zip Code 98660	
Officer Notes SHOWS GUN, KNIFE, BURGLAR TOOLS							

Reporting Officer Huycke, Timothy	PSN 1228	Ref Case Number V05-833	Report ID ORIGINAL	Agency/Case Number VPD 05002117
Approving Officer	PSN			

Evidence

Item # 1228-002	Loss/Action EVIDENCE	IBR Type FIREARMS	Description REVOLVER
Loss Value	Amount	Caliber 357	Drug Type
Brand RUGER			
Model CP100			
Serial No. 174-39916		Owner Applied No (OAN)	
Miscellaneous			
Rec Date 02/01/200	By PSN 1228	Rec Agcy VPD	Rec Value
5			
Location 2400 MAIN ST		City VANCOUVER	State Zip Code WA 98660
Officer Notes			

Evidence

Item # 1228-003	Loss/Action EVIDENCE	IBR Type WEAPONS	Description KNIFE IN SHEATH
Loss Value	Amount	Caliber	Drug Type
Brand			
Model			
Serial No.		Owner Applied No (OAN)	
Miscellaneous			
Rec Date 02/01/200	By PSN 1228	Rec Agcy VPD	Rec Value
5			
Location 2400 MAIN ST		City VANCOUVER	State Zip Code WA 98660
Officer Notes			

Involvement OWNER	Role B	Last Name LEONARD	First Name ERIC	Middle Name ROBERT
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Evidence

Item # 1228-004	Loss/Action EVIDENCE	IBR Type OTHER	Description SPEEDLOADER & 12 ROUNDS
Loss Value	Amount	Caliber 357	Drug Type
Brand			
Model			
Serial No.		Owner Applied No (OAN)	
Miscellaneous			
Rec Date 02/01/200	By PSN 1228	Rec Agcy VPD	Rec Value
5			
Location 2400 MAIN ST		City VANCOUVER	State Zip Code WA 98660
Officer Notes			

Reporting Officer Huycke, Timothy	PSN 1228	Ref Case Number V05-833	Report ID 05002117	Agency/Case Number VPD 05002117
Approving Officer	PSN			

Evidence				
Involvement OWNER	Role B	Last Name LEONARD	First Name ERIC	Middle Name ROBERT

Evidence				
Item # 1228-005	Loss/Action EVIDENCE	IBR Type TOOLS	Description SCREWDRIVER & FLASHLIGHT	
Loss Value	Amount	Caliber	Drug Type	Drug Quantity
Brand				
Model				
Serial No		Owner Applied No (OAN)		
Miscellaneous BURGLARY TOOLS				
Rec Date 02/01/200	By PSN 1228	Rec Agcy VPD	Rec Value	
5				
Location 2400 MAIN ST			City VANCOUVER	State Zip Code WA 98660
Officer Notes				

Involvement OWNER	Role B	Last Name LEONARD	First Name ERIC	Middle Name ROBERT
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Evidence				
Item # 1228-006	Loss/Action EVIDENCE	IBR Type TOOLS	Description SCREWDRIVER W/ PAINT CHIP	
Loss Value	Amount	Caliber	Drug Type	Drug Quantity
Brand				
Model				
Serial No		Owner Applied No (OAN)		
Miscellaneous				
Rec Date 02/01/200	By PSN 1228	Rec Agcy VPD	Rec Value	
5				
Location 2400 MAIN ST			City VANCOUVER	State Zip Code WA 98660
Officer Notes				

Involvement OWNER	Role B	Last Name LEONARD	First Name ERIC	Middle Name ROBERT
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Reporting Officer Huycke, Timothy	PSN 1228	Ref Case Number V05-833	Report ID 05002117	Agency/Case Number VPD
Approving Officer	PSN			
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Evidence						
Item #	Loss/Action	IBR Type	Description			
1228-007	EVIDENCE	CLOTHES	1 PAIR OF GLOVES			
Loss Value	Amount	Caliber	Drug Type	Drug Quantity	Drug Measure	
Brand						
Model						
Serial No.		Owner Applied No (OAN)				
Miscellaneous						
Rec Date	By PSN	Rec Agcy	Rec Value			
02/01/200	1228	VPD	5			
Location			City	State	Zip Code	
2400 MAIN ST			VANCOUVER	WA	98660	
Officer Notes						
Involvement	Role	Last Name	First Name	Middle Name		
OWNER	B	LEONARD	ERIC	ROBERT		

Evidence						
Item #	Loss/Action	IBR Type	Description			
1228-008	EVIDENCE	OTHER	PAINT CHIP			
Loss Value	Amount	Caliber	Drug Type	Drug Quantity	Drug Measure	
Brand						
Model						
Serial No.		Owner Applied No (OAN)				
Miscellaneous						
FROM BUSINESS' BACK DOOR						
Rec Date	By PSN	Rec Agcy	Rec Value			
02/01/200	1228	VPD	5			
Location			City	State	Zip Code	
2400 MAIN ST			VANCOUVER	WA	98660	
Officer Notes						
Involvement	Role	Last Name	First Name	Middle Name		
CLAIMANT	C	MILLS	DAWN	MARIE		

Narrative

ORPHAN DOCUMENTS

- Pre-book sheet
- Waiver of probable cause hearing
- Criminal history
- Photo-copy of knife
- Printout of digital camera disc photographs

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Narrative
SUMMARY

On 02/01/2005 at approximately 2210 hours, Eric Leonard attempted to break into Subway, 2400 Main St., while armed with a stolen gun after being convicted of a felony while the business was closed but occupied.

MENTIONED

Eric Robert LEONARD, booked, resided at 115 W. 23rd St. His home telephone number was 360-694-9092.

Dawn Marie MILLS, complainant, resided at 1718 S.W. 6th Av., Camas. Her home telephone number was 360-834-6572. She worked at the Subway at 2400 Main St. Her work telephone number was 360-695-1870. Her cellular telephone number was 360-910-6571.

ACTION TAKEN

On 02/01/2005 at approximately 2210 hours, I was dispatched to Subway, 2400 Main St., reference an employee inside the store there reporting to 911 that someone was trying to break into the business' back door. I arrived on 02/01/2005 at approximately 2211 hours, approaching from the north.

Upon arrival, I observed an adult male walking on the sidewalk in front of the business. He was wearing black gloves and dark blue clothing, including a hooded sweatshirt. I did not observe anyone else there at the time. He appeared to be nervous by ignoring me as I approached him. Because he was the only person in the area of this reported crime, his nervousness, and what he was wearing, I made contact with him.

I asked him if he had any weapons, at which time he said "yes, I have this" as he reached behind his back, lifted his sweatshirt, and started to pull something out. As soon as he started to reach for the item, I told him not to grab anything as I looked at what he was reaching for. I then observed that what he was reaching for was a knife. I then grabbed his arm as he was pulling the knife out to keep control of the knife. I then took the knife from his hand and placed it on the ground so that it was away from him. I observed that the knife's blade was obviously definitely more than 3 1/2 inches in length.

I then handcuffed him and searched him incident to arrest (possession of a knife more than 3 1/2 inches long concealed on his person). I advised him of the Miranda warnings, which he advised he understood. He told me that he was 19 years old. When I started to search him, I felt a hard object in his front right pants pocket. When I pulled the object out, I discovered that it was a speed-loader containing 6 rounds. I now suspected that he had a gun.

When he saw me pull out the speed-loader, he told me that he had a gun in his front waistband. I then observed a silver in color Ruger .357 magnum revolver stuffed down the front of his pants. The gun was concealed under his sweatshirt but easily accessible. The gun was fully loaded (6 rounds). I emptied the gun for safety.

Searching the rest of his person, I found a black in color wallet containing identification identifying him as Eric Leonard as well as 2 screwdrivers and a flashlight. Upon conducting a computer check on him, dispatch advised me that he was a convicted felon. I then asked records (via telephone) to fax a copy of his criminal history to me at central precinct (attached). Mr. Leonard advised me that he had been previously convicted of burglary and auto theft. Upon conducting a computer check on the gun, dispatch advised that it was confirmed as stolen (V04-22039). I recognized Mr. Leonard's name as being the suspect of a burglary I assisted Off. Calhoun on recently (V05-833).

After I secured Mr. Leonard in my squad car (#1151), I made contact with the complainant, who told me that she

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Narrative

was inside the business when she heard noise coming from the business' back door. She said she first thought the noise was caused by the wind, but then realized that it was not caused by the wind. She said she then believed the noise was someone prying the door. She said someone then tried to open the locked door. She said she then said "who's there?", at which time the noise stopped.

I then looked at the outside of the door the complainant said was pried on, observing pry marks in the area of the door handle. The marks looked fresh and I observed a paint chip on the ground below the door handle, confirming that it was fresh. I observed flakes that appeared to be of the same color as the door on the end of the smaller screwdriver Mr. Leonard had on his person when I arrested and then searched him.

I then photographed the scene, including Mr. Leonard wearing the gloves, the gun/ammunition and knife, the screwdrivers and flashlight, and the business' back door. I placed the disc containing the photographs into evidence. I placed the gun, ammunition, knife, screwdrivers, gloves, and flashlight into evidence. I placed a paint chip from the business' back door to send it to the crime lab for comparison with the flakes on the end of the smaller screwdriver.

I obtained a statement from Mr. Leonard. I then transported him to jail, where he was booked on attempt burglary 1st degree (trying to break into the business while armed with a loaded gun), possession of stolen firearm (previously reported stolen gun concealed on his person), and felon in possession of a firearm (possessing a gun after being convicted of a felony). I attached the pre-book and waiver to this report. Mr. Leonard told me that he was currently on probation and that this would be a violation of his probation.

STATEMENTS

Eric Robert LEONARD, booked, advised me that he understood the Miranda warnings I advised him of. He then said that he was walking home (115 W. 23rd St.) from a "dude's" house near the intersection of 29th St. and Main St. He said he did not want to give me any further information as to the "dude" because he didn't want him involved. He said that he recovered the gun at that house just prior to me stopping him. He said he had been looking for the gun because it was used in a shooting in 2004 in Vancouver that he witnessed. He said an unknown Violent Crime Unit Detective told him to try to find the gun and turn it in. He said he was just about to call 911 to turn the gun over to police when I arrived (however, he did not mention the gun until after I found a speed-loader on him when I started to search him incident to arrest).

Mr. Leonard advised me that he had been previously convicted of felonies, which he knew meant that he could not possess a gun. He said he knew absolutely nothing about the burglary. He said he had the larger screwdriver because that was how he gained access to his vehicle's trunk. He said he had the smaller screwdriver because he used it to install a radio in a car at "the dude's" house he just came from. He said he had the flashlight to help him see while installing the radio. He said he had the knife for protection. He said he was wearing gloves because it was cold (it was above freezing and the gloves did not match the rest of what he was wearing, which was light if he was so cold).

When I asked him about the previous burglary I assisted Off. Calhoun on, Mr. Leonard told me that he and his mother got into an argument. He said that she was intoxicated and refused to let him inside the house. He said "I then let myself in." He refused to clarify how he got inside the residence.

EVIDENCE

Item #1-1228 - digital camera disc containing photographs of the crime scene. I placed the disc into evidence.

Item #2-1228 -

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Narrative

ACTIONS RECOMMENDED

Case cleared by arrest.

I certify or declare under penalty of perjury under the law of the state of Washington, that to the best of my knowledge the attached report(s), documents, and information contained therein are true, correct, and accurate. (RCW 9A.72.085)

Reporting Officer

Huycke, Timothy

PSN

1228

Approving Officer

PSN

Rel Case Number
V05-833

Report ID
ORIGINAL

Agency/Case Number
05002117

Agency/Case Number
VPD

APPENDIX "B"

MEMORANDUM OF DECISION

2

FILED
JUL 22 2005
JoAnne McBride, Clerk, Clark Co.

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

STATE OF WASHINGTON,)	
)	
Plaintiff,)	Cause No. 05-1-000339-1
)	
vs.)	MEMORANDUM OF DECISION
)	
ERIC LEONARD,)	
)	
Defendant.)	

Knapstad motions have been filed as to two of the counts claiming that there is insufficient evidence to support Possession of Stolen Property and/or Attempted Burglary in the Second Degree. After submitting the photographs which outline the location of the door in relation to the area in which the defendant was found, and having considered he was the only individual in that general area after the officer's rapid response to the request for assistance, it is clearly a jury issue to determine whether or not the reporting person that heard someone attempting to gain entry through the rear door was in fact the defendant. The officer believed he observed paint chips on the screwdriver, but testing failed to disclose anything to be supportive of that conclusion.

45
[Handwritten signature]

The second issue after filing of the search warrant would indicate

that the affidavit sets forth this defendant was in possession of the weapon used in a drive-by shooting several months prior to the allegations. The defendant is banned from possessing firearms having been previously convicted of a felony. Therefore, he could not lawfully purchase the same. The search of his mother's residence where he lived failed to disclose the weapon, but items that would be consistent with the possession of the firearm were found. The defendant's version that he recently acquired the weapon and was going to surrender it to law enforcement again puts in issue for a jury to determine the credibility of the defendant in the manner by which it was being maintained and the lawfulness for it to be in his possession.

Having determined that the jury is the proper fact finder as there is substantial evidence in the State's possession, *Knapstad* is denied.

Dated this 22nd day of July, 2005.



ROBERT L. HARRIS
Superior Court Judge, Dept. 5

RLH:lmk

