

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

COURT OF APPEALS
DIVISION II

10 JAN 25 AM 9:43

STATE OF WASHINGTON)
)
Respondent,)
)
v.)
RONALD HOLTZ KEAL)
(your name))
)
Appellant.)

STATE OF WASHINGTON
BY u
No. 38095-1-II DEPUTY

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

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

— Additional Ground 1 —

on or about May 18, 2007, AS MR. KEAL WAS WALKING TO VISIT HIS WIFE HE WAS STOPPED BY DEPUTY KEVIN D. FRIES WHERE FRIES PHYSICALLY PLACED HANDS ON HIM/HI/CE, IN STATE V. LACKSON, 138 Wn.2d 1347, 979 P.2d 833 (1999) STOP OR INVASION W/O AUTHORITY OF LAW FORBIDS USE OF PRETEXT AS A JUSTIFICATION FOR A WARRANTLESS SEARCH OR SEIZURE. PROVISION REQUIRES THE COURT TO LOOK BEYOND THE FORMAL JUSTIFICATION FOR STOP. IT WAS ALLEGED THAT MR. KEAL WAS TRESPASSING BY DEPUTY FRIES WHICH WAS UNFOUNDED. WHEN AN UNCONSTITUTIONAL SEARCH OR SEIZURE OCCURS, ALL SUBSEQUENTLY UNCOVERED EVIDENCE BECOMES FRUIT OF THE POISONOUS TREE AND MUST BE SUPPRESSED. U.S.C.A. CONST. AMEND. 4; WEST'S RCWA CONST. ART. 187. UNLAWFUL STOP. TERRY V. STATE OF OHIO, 392 U.S. 188 S.Ct. 1868 (1968).

IN LIGHT OF THE FACT THAT THE INITIAL PROBABLE CAUSE DOCUMENT WAS INSUFFICIENT DUE TO THERE NOT EVER BEING A VALID TRESPASS NOTICE OR ORDER TO SUBSTANTIATE CHARGES OR PROVE A CONVICTION BEING THAT ON OR ABOUT OCTOBER 8, 2007 TRIAL COURT JUDGE FRANK CUTHBERTSON DISMISSED THE UNDERLYING CHARGE "TRESPASS" YET FAILED TO DEAL W/ RESISTING ARREST AND "3rd ASSAULT" WHEN ALL DERIVED FROM THIS INITIAL CHARGE THAT SET OFF THE CHAIN OF EVENTS. MR. KEAL'S RIGHTS 1st, 4, 8, 14, AND 15 AMEND. CONST. RIGHTS WERE VIOLATED

If there are additional grounds, a brief summary is attached to this statement.
surmounting to a manifest injustice AS IT WAS PLAIN ERROR W/ THE COURT FAILING TO ADHERE TO THE "FRUIT FROM THE POISONOUS TREE DOCTRINE". SEE; STATE V. KNAPSTAD, 41 Wn. App. 781, 706 P.2d 238 (1985).

Date: _____ Signature: _____

Form 23

[NOTE: SEE Pg. 5 FOR DATE & SIGNATURE]

- ADDITIONAL GROUND 2 -

KEVIN D. FRIES WAS NOT A Deputy Sheriff on duty at this time MARCH 30, 2007, when ATTEMPTING to ISSUE A TRESPASS NOTICE NOR MAY 18, 2007, when ASSAULTING MR. KEAL, NEITHER WAS THERE A FELONY in progress.

HE WAS in FULL SHERIFF'S UNIFORM, INSIGNIA, GUN, TASER, SHERIFF'S CAR, VERBALLY STATING "HE IS A SHERIFF" (LAW ENFORCEMENT) AND DID EMPLOY OTHERS TO ASSIST HIM in AN UNLAWFUL ARREST by DECEIT, FRAUD, MALICE 'INTENT, ETC. I.E.' OUTSIDE OF THE CAPACITY OF A LAW ENFORCEMENT OFFICER BUT EVEN AS A SECURITY GUARD, HE DID NOT HAVE THE ABILITY ^[NOR AUTHORITY] TO ARREST MR. KEAL. FURTHER, NOT BEING ABLE TO FUNCTION in A QUASI MUNICIPAL CAPACITY, HE STILL WAS OFF-DUTY acting AS A SECURITY GUARD. THEREFORE MR. KEAL WAS CHARGED FELONIOUSLY ^[AND FOUND GUILTY] PURSUANT TO RCW 9A.36.031(g) SOLELY DUE TO JURORS BELIEVING HIM TO BE A COMMISSIONED PEACE OFFICER AT ALL TIMES. THIS IS NOT TRUE, FOR MR. KEAL WAS ASSAULTED BY A SECURITY GUARD, WHO VIOLATED THE LAW, DEP. KEVIN D. FRIES. SEE ATTACHMENTS [APPENDIX #1 RCW'S 18.170.100, .020 AND #2]

LASTLY, THE WARRANTLESS ARREST AND ENTRY INTO MR. & MRS. KEAL'S APARTMENT CONSTITUTES AUTOMATIC REVERSAL AND DISMISSAL. SEE: STATE V. GREEN, 133 Wn.2d 679, 947 P.2d 240 (1997). THERE IS NO GOOD OR BAD FAITH ELEMENT TO

statutes which impose criminal liability for WARRANTLESS SEARCH OF RESIDENCE. MENTAL ELEMENT, WHETHER OFFICER INTENDED TO VIOLATE, OR KNEW OR SHOULD HAVE KNOWN CONDUCT WAS UNCONSTITUTIONAL, IS IRRELEVANT TO LIABILITY UNDER STATUTE WHICH MAKES WARRANTLESS SEARCH OF RESIDENCE A GROSS MISDEMEANOR. VIOLATIONS OF TITLE 18 § 241 AND § 242. [SEE; APPENDIX #4].

- ADDITIONAL GROUND 3 -

- Ineffective Assistance of Counsel -

ATTORNEY STEVEN BURGESS WAS INEFFECTIVE IN VIOLATION TO RPC 1.7-1.9. FAILING TO INTERVIEW WITNESSES, SUBPOENA WITNESSES AND EVIDENCE, PRESENT EVIDENCE PHOTOS, TASER BOX, CAMERA PHONE, CD OF DEP. FRIES FOR IMPEACHMENT PURPOSES, MOTION TO OVERTURN A GUILTY VERDICT, AS HE ADMITS - VERBATIM REPORT DECEMBER 21, 2007 WHERE HE ADMITS FAILURE TO FILE MOTION Pg. (#9) 4-25. Pg. (#5) 18-24. EVEN FAILURE TO CALL EYEWITNESS "JOANNIE PALMER" WHOM I DISTINCTLY & ADAMANTLY REQUESTED FOR MY DEFENSE. AT Pg. (#10) 13-16 & Pg. (#11) 3-5. BOTH PROSECUTOR AND JUDGE ADDRESS THE OBVIOUS CONCERNING MY REPRESENTATION. FURTHER, VIOLATING U.S.C.A. 6, WASH. ST. CONST. ART. 1 § 21 AND 22. CrR 3.1... [SEE; APPENDIX #3 Mot, NEW TRIAL]

MR. BURGESS, GROSSLY FAILED IN HIS DUTY TO REPRESENT MR. KEAL, ZEALOUSLY AND CRIPPLED THE DEFENSE IMMENSELY BY NOT UPHOLDING HIS OATH OF OFFICE AS WELL AS THE STANDARD OF LAW. [SEE; APPENDIX #4].

- ADDITIONAL GROUND 4 -

Mr. Keal was prejudiced beyond Plain Error when judge Frank Cuthbertson allowed his prior history into proceedings, if he testified, which was over 14-15 years old. This kept Mr. Keal from testifying, depriving defense of a crucial eye witness testimony.

Unfortunately, providing the jury with the presumption of guilt, causing irreparable damage by prejudice.

ER 404 (b) Prohibits a Court From Admitting Evidence of other crimes, wrongs, or acts, "to prove the character of a person in order to show action in conformity therewith". This prohibition encompasses not only prior bad acts and unpopular behavior but any evidence offered to show the character of a person to prove the person acted in "conformity" with that character at the time of a crime.

STATE V. EVERYBODY TALKS ABOUT, 145 Wn.2d 456, 466, 39 P.3d 294 (2002); STATE V. FOXHOVEN, 161 Wn.2d 168, 174-75, 163 P.3d 786 (2007)

Before admitting evidence under an exception to ER 404(b), the trial court must (1) find by a preponderance of the evidence that the misconduct occurred, (2) identify the purpose for which the evidence is sought to be introduced, (3) determine whether the evidence is relevant to prove an element of the crime charged, and (4) weigh the probative value of the evidence against its prejudicial effect."

STATE V. GINN, 128 Wn. App. 872, 878, 117 P.3d 1155 (2005).

The trial court did not conduct a complete ER 404(b)

ANALYSIS ON THE RECORD AND DUE TO THIS FAILURE TO PROVIDE A STATUTORY RIGHT MR. KEAL WAS SEVERELY PREJUDICED CAUSING INSUFFERABLE DAMAGE TO ANY FURTHER PROCEEDINGS THEREAFTER. FOXHOVEN, 161 Wn.2d AT 175. NOR DID IT PROVIDE AN ADEQUATE PURPOSE FOR LIMITING INSTRUCTIONS TO THE JURY SPECIFYING THE PURPOSE OF THE EVIDENCE. THIS, CRIPPLING THE DEFENSE BY NOT INFORMING THE JURY THAT "DEBORAH A. KEAL" WAS ACQUITTED OF "OBSTRUCTING" AND MR. KEAL'S INITIAL CHARGE OF TRESPASS WAS DISMISSED AT FIRST TRIAL PROCEEDING. (STATE V. PIRTHE, 127 Wn.2d 628, 650-51, 904 P.2d 245 (1995)).

ADDITIONAL GROUND 5

CUMULATIVE ERROR - IN LIGHT OF THE NUMEROUS ERRORS; NO INVESTIGATION, INTERVIEWING WITNESSES, FAILURE TO PRESENT CRUCIAL EXCULPATORY EVIDENCE IN DEFENSE, EYEWITNESS TESTIMONY, FAILURE TO FOLLOW FRUIT FROM POISONOUS TREE DOCTRINE, ADMISSION OF CRIMINAL HISTORY, MOTION TO OVERTURN A GUILTY VERDICT, IMPEACH PROSECUTION & DEP. FRIES, DEFENSE BEING PREJUDICED ON MULTIPLE COURTS, FAILURE TO DISMISS DUE TO INSUFFICIENT EVIDENCE, ETC. THE DEFENDANT IS ENTITLED TO RELIEF UNDER THE CUMULATIVE ERROR DOCTRINE. UNDER THIS DOCTRINE, A DEFENDANT MAY BE ENTITLED TO A NEW TRIAL WHEN ERRORS, EVEN THOUGH INDIVIDUALLY NOT PREJUDICIAL, CUMULATIVELY RESULT IN A TRIAL THAT WAS FUNDAMENTALLY UNFAIR. STATE V. GREIFE, 141 Wn.2d 910, 929, 10 P.3d 390 (2000).

DATE: _____

SIGNATURE: _____

- APPENDIX TABLE -
OF
- CONTENT -

- 1) GOVERNING REVISED CODES OF WASHINGTON
DEPT. OF LICENSING
- 2) DEFENDANTS MEMORANDUM IN
SUPPORT OF MOTION TO DISMISS
- 3) MOTION FOR NEW TRIAL
AND DECLARATIONS
 - A) ATTORNEY TRAVIS CURRIE
 - B) CRYSTALLYN B. COLE
 - C) ZEPHRAM COLE
 - D) MECHELLE C. WEST
- 4) AFFIDAVIT OF RONALD KEAL

APPENDIX

- 1 -

Westlaw

West's RCWA 18.170.020

Page 1

C

West's Revised Code of Washington Annotated Currentness

Title 18. Businesses and Professions (Refs & Annos)

Chapter 18.170. Security Guards (Refs & Annos)

→ 18.170.020. Exemptions

The requirements of this chapter do not apply to:

- (1) A person who is employed exclusively or regularly by one employer and performs the functions of a private security guard solely in connection with the affairs of that employer, if the employer is not a private security company;
- (2) A sworn peace officer while engaged in the performance of the officer's official duties;
- (3) A sworn peace officer while employed by any person to engage in off-duty employment as a private security guard, but only if the employment is approved by the chief law enforcement officer of the jurisdiction where the employment takes place and the sworn peace officer does not employ, contract with, or broker for profit other persons to assist him or her in performing the duties related to his or her private employer; or
- (4) A person performing crowd management or guest services including, but not limited to, a person described as a ticket taker, usher, door attendant, parking attendant, crowd monitor, or event staff who:
 - (a) Does not carry a firearm or other dangerous weapon including, but not limited to, a stun gun, taser, pepper mace, or nightstick;
 - (b) Does not wear a uniform or clothing readily identifiable by a member of the public as that worn by a private security officer or law enforcement officer; and
 - (c) Does not have as his or her primary responsibility the detainment of persons or placement of persons under arrest.

The exemption provided in this subsection applies only when a crowd has assembled for the purpose of attending or taking part in an organized event, including preevent assembly, event operation hours, and postevent departure activities.

CREDIT(S)

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West's Revised Code of Washington Annotated Currentness
Title 18. Businesses and Professions (Refs & Annos)
Chapter 18.170. Security Guards (Refs & Annos)
→ **18.170.170. Unprofessional conduct**

In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, or conditions constitute unprofessional conduct:

- (1) Knowingly violating any of the provisions of this chapter or the rules adopted under this chapter;
- (2) Practicing fraud, deceit, or misrepresentation in any of the private security activities covered by this chapter;
- (3) Knowingly making a material misstatement or omission in the application for a firearms certificate;
- (4) Not meeting the qualifications set forth in RCW 18.170.030, 18.170.040, or 18.170.060;
- (5) Failing to return immediately on demand a firearm issued by an employer;
- (6) Carrying a firearm in the performance of his or her duties if not the holder of a valid armed private security guard license, or carrying a firearm not meeting the provisions of this chapter while in the performance of his or her duties;
- (7) Failing to return immediately on demand any uniform, badge, or other item of equipment issued to the private security guard by an employer;
- (8) Making any statement that would reasonably cause another person to believe that the private security guard is a sworn peace officer;
- (9) Divulging confidential information that may compromise the security of any premises, or valuables shipment, or any activity of a client to which he or she was assigned;
- (10) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.170.060;

C

West's Revised Code of Washington Annotated Currentness

Title 18. Businesses and Professions (Refs & Annos)

Chapter 18.170. Security Guards (Refs & Annos)

→ **18.170.160. Licenses required--Use of public law enforcement insignia prohibited--Penalties--Enforcement**

(1) After June 30, 1992, any person who performs the functions and duties of a private security guard in this state without being licensed in accordance with this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) After January 1, 1992, a person is guilty of a gross misdemeanor if he or she owns or operates a private security company in this state without first obtaining a private security company license.

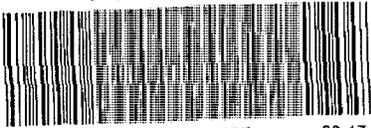
(3) After June 30, 1992, the owner or qualifying agent of a private security company is guilty of a gross misdemeanor if he or she employs an unlicensed person to perform the duties of a private security guard without issuing the employee a valid temporary registration card if the employee does not have in his or her possession a permanent private security guard license issued by the department. This subsection does not preclude a private security company from requiring applicants to attend preassignment training classes or from paying wages for attending the required preassignment training classes.

(4) After June 30, 1992, a person is guilty of a gross misdemeanor if he or she performs the functions and duties of an armed private security guard in this state unless the person holds a valid armed private security guard license issued by the department.

(5) After June 30, 1992, it is a gross misdemeanor for a private security company to hire, contract with, or otherwise engage the services of an unlicensed armed private security guard knowing that he or she does not have a valid armed private security guard license issued by the director.

(6) It is a gross misdemeanor for a person to possess or use any vehicle or equipment displaying the word "police" or "law enforcement officer" or having any sign, shield, marking, accessory, or insignia that indicates that the equipment or vehicle belongs to a public law enforcement agency.

(7) It is a gross misdemeanor for any person who performs the functions and duties of a private security guard to use any name that includes the word "police" or "law enforcement" or that portrays the individual or a business



07-1-02733-7 28254081 MMDF 09-17-07

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IN COUNTY CLERK'S OFFICE

A.M. SEP 14 2007 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

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

STATE OF WASHINGTON,)	
	)	No. 07-1-02733-7
Plaintiff,)	
vs.	)	DEFENDANT'S MEMORANDUM
	)	IN SUPPORT OF MOTION TO
RONALD H. KEAL,	)	DISMISS
)	
Defendant.)	

RELIEF SOUGHT

COMES NOW the defendant, Ronald H. Keal, by and through his attorney of record, Steven F. Burgess, and moves the court for an order dismissal all charges against the defendant. Defendant's motion is based on the court file and the argument of counsel.

FACTS

On March 30, 2007, Pierce County Sheriff's Department Deputy Fries contacted the defendant on the property of the Woodmark Apartments located at 2415 S. 96th Street, Tacoma, WA. At the time of the contact, Fries was not working as an on-duty law enforcement officer for the Pierce County Sheriff's Department but was working in a

1 private capacity as a security guard for the Woodmark Apartments. Fries, however, was
2 still wearing his Pierce County Sheriff's Department issued uniform and was driving his
3 marked patrol vehicle.

4 Just prior to being contacted by Fries, defendant was standing outside his wife's
5 apartment, apt. #A-9, talking with some of his wife's neighbors. Fries erroneously
6 believing that the defendant was loitering, threw a notice of trespass at the defendant
7 informing him that he could not loiter on Woodmark property. Fries further informed the
8 defendant, however, that he was still welcome to visit residents at the complex. The
9 notice of trespass was only signed by Fries, as a witness. The notice of trespass did not
10 have a commencement or termination date, was not signed by any member of the
11 Woodmark's on-site management team nor was it signed by the defendant (exhibit A).
12 At no time prior to this contact had the on-site management team authorized Fries to
13 trespass the defendant.
14

15 On May 18, 2007, the defendant was again attempting to visit his wife at the
16 Woodmark Apartments. As the defendant was walking towards his wife's apartment
17 unit, Fries contacted the defendant and aggressively ordered him off the property.
18 According to Fries, his order to the defendant to leave the property was based on the
19 notice of trespass that he threw at the defendant on March 30, 2007.
20

21 Defendant ignored Fries and continued to walk towards his wife's apartment unit.
22 When the defendant reached his wife's apartment unit he entered the apartment and
23 attempted to close the door behind him. At this time Fries informs defendant that he is
24 under arrest for trespassing and attempts to push his way into the apartment. Fries had

1 called for officer back-up and along with requested officer assistance, proceeded to force
2 their way into the apartment. Both the defendant and his wife repeatedly informed law
3 enforcement that they were not allowed to enter the apartment.

4 Once the officers entered the apartment, the officers repeatedly deployed their
5 department issued taser in attempts to subdue the defendant. Defendant made repeated
6 efforts to try to avoid being tasered by the officers. Defendant was subsequently arrested
7 and charged with (1) Assault in the Third Degree; (2) Resisting Arrest; and (3) Criminal
8 Trespass in the Second Degree.

9
10 Prior to being arrested on May 18, 2007, the defendant had not been informed by
11 the on-site management team, verbally or in writing, that he was not welcome on the
12 property or allowed to visit his wife. Defendant's wife also was never informed by the
13 on-site management team, verbally or in writing, that she could not have visitors. In
14 addition, between March 30, 2007 and May 18, 2007, the defendant had met with
15 members of the on-site management team on numerous occasions, on Woodmark
16 property, regarding becoming resident at the Woodmark Apartments.

17
18 ISSUES

- 19 I. WHETHER THERE WAS PROBABLE CAUSE TO ARREST THE
20 DEFENDANT FOR CRIMINAL TRESPASS.
- 21 II. WHETHER FRIES, WHILE EMPLOYED AS A PRIVATE SECURITY
22 GUARD FOR THE WOODMARK APARTMENTS, WAS ACTING LEGALLY
23 WHEN HE CONTACTED THE DEFENDANT.
- 24 III. WHETHER FRIES WAS PERFORMING HIS OFFICIAL DUTIES AS A LAW
25 ENFORCEMENT OFFICER WHEN HE ATTEMPTED TO ARREST THE
DEFENDANT.

1
2 ARGUMENT

3 i. There was no probable cause to arrest the defendant for criminal trespass because
4 Fries, acting as a private security guard, was never authorized to trespass the
5 defendant from visiting his wife.

6 The Fourteenth Amendment to the United States Constitution provides as follows:

7 The right of the people to be secure in their persons, houses, papers, and effects,
8 against unreasonable searches and seizures, shall not be violated, and no Warrants
9 shall issue, but upon probable cause, supported by Oath or affirmation, and
10 particularly describing the place to be searched, and the persons or things to be
11 seized.

11 The Washington State Constitution, Article 1, section 3, guarantees that “[n]o person
12 shall be deprived of life, liberty, or property, without due process of law.”

13 An arrest is lawful if it satisfies the Fourteenth Amendment requirement of
14 reasonableness. An arrest is reasonable if at the moment of arrest, the officer had
15 probable cause to make it. Probable cause for arrest exists when the arresting officer has
16 within his knowledge reliable and articulable facts to support a reasonable inference that
17 more probably than not a particular person has committed a criminal offense. State v.
18 Gluck, 83 Wn.2d 424 (1974); State v. Scott, 93 Wn.2d 7 (1980). Probable cause for
19 arrest is measured by the particular facts known to the arresting officer at the time of the
20 arrest. Seattle v. Cadigan, 55 Wn.App. 30 (1989).

21
22 When the defendant was contacted by Fries on May 18, 2007, he was not
23 immediately informed that he was under arrest. Due to that fact, the defendant
24

1 continued to walk towards his wife's apartment. It was not until the defendant attempted
2 to enter his wife's apartment did Fries inform him that he was under arrest for trespass.

3 Fries did not have probable to cause to arrest the defendant. The defendant was
4 not engaged in any illegal conduct. Fries knew that he had not been authorized by any
5 member of the on-site management team to trespass the defendant. Fries also knew that
6 he had specifically informed the defendant that he could visit residents at the apartment
7 complex.

8
9 ii. Fries was acting illegally because he was wearing a department issued uniform
10 and driving a marked patrol vehicle, thereby representing to the public that he
11 was an on-duty sheriff's deputy, despite being employed as a private security
12 guard for the Woodmark Apartments.

13 RCW 18.170.160 provides, in pertinent part, as follows:

14 (6) It is a gross misdemeanor for a person to possess or use any vehicle or
15 equipment displaying the word "police" or "law enforcement officer" or having a
16 shield, marking, accessory, or insignia that indicates that the equipment or
17 vehicle belongs to a public law enforcement agency.

18 (7) It is a gross misdemeanor for any person who performs the functions and
19 duties of a private security guard to use any name that includes the word "police"
20 or "law enforcement" or that portrays the individual or a business as public law
21 enforcement agency.

22 Fries was working as a private security guard for the Woodmark Apartments when he
23 made contact with the defendant on March 30, 2007 and May 18, 2007. Both times Fries
24 was dressed in his department issued uniform and driving a marked patrol vehicle around
25 the apartment complex thereby giving the appearance that the Woodmark Apartments
were being patrolled by an on-duty member of the Pierce County Sheriff's Department.

1 Fries, however, was not working as a deputy nor was he engaged in the performance of
2 any official duties of the Pierce County Sheriff's Department.

3
4 iii. The defendant did not resist arrest or assault an law enforcement officer because
5 Fries was working as a private security guard, he had no authority to trespass the
6 defendant and the defendant was not engaged in any criminal conduct.

7 Count II of the Information charges the defendant with Resisting Arrest. RCW
8 9A.76.040(1) states that "A person is guilty of resisting arrest if he intentionally prevents
9 or attempts to prevent a peace officer from lawfully arresting him." Fries' arrest of the
10 defendant was not lawful. There was no probable cause to arrest the defendant for
11 criminal trespass. Fries knew that he had not been authorized to trespass the defendant
12 on March 30, 2007. Fries also knew that the defendant had not been trespassed as of
13 May 18, 2007. When Fries initially contacted the defendant on May 18, 2007, the
14 defendant was not engaged in any criminal conduct be was innocently walking to his
15 wife's apartment.

16 RCW 9A.36.031, provides in pertinent part, as follows:

17 (1) A person is guilty of assault in the third degree if he or she, under
18 circumstances not amounting to assault in the first or second degree:

19 (g) Assaults a law enforcement officer or other employee of a law enforcement
20 agency who was performing his or her official duties at the time of the assault;

21 As previously stated, Fries was working as private security guard for the Woodmark
22 Apartments and not as a deputy for the Pierce County Sheriff's Department. Fries was
23 not performing his official duties as a law enforcement officer when he attempted to
24 contact and arrest the defendant for trespass. Since there was no probable cause to arrest,

1 and Fries knew that fact, there was absolutely no justification for Fries to engage in any
 2 official law enforcement duties. Therefore, any physical aggression on defendant's part
 3 was an attempt to protect himself from the illegal and assaultive actions of Fries, a private
 4 individual.

5 CONCLUSION

6 Fries did not have probable cause to arrest the defendant for criminal trespass. At
 7 the time of the issuance of the alleged trespass order, Fries was employed as a private
 8 security guard and had not been authorized by his employer to trespass the defendant.
 9

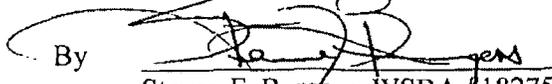
10 Fries was also acting in a illegal capacity by representing himself to the public as
 11 being an on-duty sheriff's deputy when in fact he was employed as a private security
 12 guard. At the time, Fries was not engaged in the performance of any official duties of
 13 the Pierce County Sheriff's Department.

14 Furthermore, the defendant did not commit the crimes of Assault in the Third
 15 Degree or Resisting Arrest because Fries was not on duty with the Pierce County
 16 Sheriff's Department at the time nor was he performing any official duties as a law
 17 enforcement officer with the Pierce County Sheriff's Department.

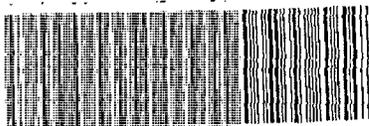
18 Accordingly, all charges filed against the defendant should be dismissed.
 19

20 DATED this 14th day of Aug., 2007.

21
 22 LEGGETT & KRAM

23 By 

24 Steven F. Burgess, WSBA #18275
 Attorney for Defendant



07-1-02733-7 28865900 MTDSM 12-21-07

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A.M. DEC 20 2007 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN SPOCK, County Clerk
BY _____ DEPUTY

SUPERIOR COURT OF WASHINGTON IN PIERCE COUNTY

STATE OF WASHINGTON,
Plaintiff(s),

v.

RONALD HOLTZ KEAL
Defendant(s),

CAUSE NO. 07-1-02733-7

MOTION TO DISMISS

I, Ronald Holtz Keal, move this court in a Motion to Dismiss all proceedings, as I am a Sovereign live individual and not a corporation therefore the courts nor the prosecutor can have a claim against me. I am the holder-in-due-course over my Strawman. See (Affidavit of Truth and UCC 1).

1. Prosecution has failed to respond to Motion to Stay all proceedings
2. Prosecution has failed to respond to Affidavit of Truth within the 10 day time period.
Yick Wo v. Hopkins.
3. Prosecution is in default of # 1 & 2 for he has failed to respond to the above to matters.

This case has been bonded 31 CFR part 203 and accepted for value and consideration and discharged. RCW 6.27.180.

Dated this 20th day of December 2007.



80i. Juris, Ronald Holtz Keal
C/O 3804 S. Wilkeson St.
Tacoma, WA [98418]

MOTION TO DISMISS



IN PARTNERSHIP WITH THE COMMUNITY

TRESPASS NOTIFICATION

I, KEAL, RONALD H. 06/7/66, do hereby acknowledge that I have been
 notified by Deputy [Signature] of PESD for THE Woodmark Apts.
 that from this day I am prohibited from entering or remaining on the premise located 7400 South 96th St
 (Name) (Date of Birth) (Name) (Business Name, if applicable) (Property Address)

TACOMA, Washington. I acknowledge that if I do so, it could result in my arrest for Criminal
 (City of Property)

Trespass 2nd degree in accordance with RCW 9A.52.080.

I have been advised and do hereby acknowledge the above on this _____ day of _____, 20__.

Signed: _____ (Trespasser) _____ (Premise Owner/Agent)
 Witness: [Signature] (Printed Name) _____ (Printed Name)
 _____ (Signature) _____ (Signature)

AGENCY AGREEMENT

Authorization to Remove Trespassers/Unauthorized Vehicles

I, the undersigned, hereby make it known to the Pierce County Sheriff's Department that the premise known as:

_____ located at _____
 (Name of Business if applicable) (Address of Property)

in _____ Washington, is for the exclusive use of my employees/customers/
 (Name of City)
 residents.

I hereby give the Pierce County Sheriff's Department authority to enter upon my property for the purpose of advising and if necessary, removing any and all trespassed persons and their vehicles from my property. I further authorize any unauthorized vehicles parked or abandoned on the above referenced property to be impounded at the request of the Pierce County Sheriff's Department. I will cooperate with the Pierce County Sheriff's Department and the County Prosecutor's Office in the prosecution of any violations occurring on the above referenced property, where a citation was issued or an arrest was made or a vehicle was impounded. I also understand that this authorization places no duty upon the Pierce County Sheriff's Department to enter or remove any trespassers or vehicles.

This license and authorization shall stay in effect until revoked by me. Notice must be delivered to the South Hill Precinct by the owner of the property or their representative.

 (Printed Name of Premise Owner or Agent) (Date and Time)

 (Signature) (Officer Securing Authority/Unit #)

 (Mailing Address)

 (City, State, Zip Code)

APPENDIX

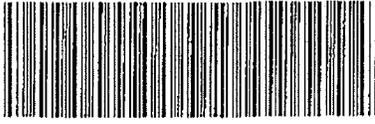
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FILED
IN COUNTY CLERK'S OFFICE

A.M. MAY - 1 2008 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY DEPUTY



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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE**

STATE OF WASHINGTON,
Plaintiff,

CASE NO.: 07-1-02733-7

vs.

DEFENDANT'S MOTION
FOR NEW TRIAL (CrR 7.8)

RONALD H. KEAL,
Defendant.

MOTION

COMES NOW the above-named defendant by and through his attorney of record, Travis R. Currie, and respectfully moves this court under CrR 7.8 for a Motion for New Trial. This motion is based on the following memorandum of counsel, attached affidavits, applicable law, and the interests of justice.

SUMMARY OF LAW AND ARGUMENT

A trial court may grant a new trial if a defendant's substantial right to a fair trial was materially affected. CrR 7.5(a). When the motion is based on matters outside the record, the facts shall be shown by affidavit. Id. A motion for a New Trial must normally be filed within 10 day of the verdict. However, the court on application of the defendant

1 or on its own motion may in its discretion extend the time. CrR 7.5 (b). The prosecution
2 has 10 days after service of affidavits in support of a Motion for New Trial to serve
3 opposing affidavits. The court may extend the period for good cause. CrR 7.5 (c). In
4 this case, the court, on the defense's motion, and without objection from the state, granted
5 an extension of the time to file this motion. The defense has prepared sworn declarations
6 from witnesses Michelle West, Zephram Cole and Crystallyn Cole who were all eye
7 witnesses to this case. The declaration of counsel includes the allegations of Mr. Keal
8 regarding information provided to trial counsel that was either insufficiently followed up
9 on or was ignored.
10

11 Appellate courts will not disturb a trial court's decision to grant or deny a new
12 trial unless its decision constitutes a manifest abuse of discretion, based on untenable
13 grounds or made for untenable reasons, or is based upon a mistake of law. State v.
14 Jackman, 113 Wn.2d 772, 777, 783 P.2d (1989). Because this motion is based on the
15 incomplete preparations for trial of the previous defense counsel, it is the position of the
16 defense that this court is in the best position to evaluate this issue.
17

18 "Washington Courts analyze claims of ineffective assistance of counsel under the
19 two prong test enunciated in Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80
20 L. Ed. 2d 674 (1984)." State v. West, 139 Wn.2d 37, 41-42, 983 P.2d 617 (1999). To
21 prove that he was denied his right to effective assistance of counsel, a defendant must
22 demonstrate both that the trial counsel's conduct fell below a minimum objective
23 standard of reasonable attorney conduct and that the deficient performance prejudiced
24 him. State v. Benn, 120 Wn.2d 631, 663, 845 P.2d 289, cert. Denied, 510 U.S. 944, 126
25 L. Ed. 2d 331, 114 S. Ct. 382 (1993). A reviewing court is not required to address both
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1 prongs of the test if the defendant makes an insufficient showing on either prong. State v.
2 Thomas, 109 Wn.2d 222, 225-26, 742 P.2d 816 (1987) (quoting Strickland, 266 U.S. at
3 687). The prejudice prong of this test requires the defendant to show a reasonable
4 probability that, but for his counsel's errors, the result of the proceeding would have been
5 different. State v. Lord, 117 Wn.2d 829, 883-84, 822 P.2d 177 (1991), cert. denied, 506
6 U.S. 856, 121 L. Ed. 2d 112, 112 S. Ct. 164 (1992).

8 In determining whether counsel's performance was deficient, there is a strong
9 presumption of adequacy. McFarland, 127 Wn.2d at 335. Competency is not measured
10 by the result. State v. Early, 70 Wn. App. 452, 461, 853 P.2d 964 (1993)(citing State v.
11 White, 81 Wn.2d 223, 225, 500 P.2d 1242 (1972), review denied, 123 Wn.2d 1004, 868
12 P.2d 872 (1994)). If defense counsel's trial conduct can be characterized as legitimate
13 trial strategy or tactics, then it cannot serve as a basis for a claim that the defendant did
14 not receive effective assistance of counsel. State v. Adams, 91 Wn.2d 86, 90, 586 P.2d
15 1168 (1978). "[T]he court must make every effort to eliminate the distorting effects of
16 hindsight and must strongly presume that counsel's conduct constituted sound trial
17 strategy." Rice, 118 Wn.2d at 888-89 (citing Strickland, 466 U.S. at 689)). Decisions on
18 whether to call witness and determination of subjects for examination or cross
19 examination generally are not bases for concluding counsel's performance was deficient.
20
21 State v. Piche, 71 Wn.2d 583, 590-91, 430 P.2d 522 (1967), cert. denied, 390 U.S. 912,
22 88 S.Ct. 838, 19 L.Ed2d 882 (1968); State v. Wilkerson, 12 Wn.App. 522, 525-26, 530
23 P.2d 340, review denied, 85 Wn.2d 1006 (1975). In this case, however, there are eye
24 witnesses that were never interviewed. Previous counsel could not be basing decisions
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1 on whether to call witness on sound professional judgment if he made no attempts to
2 discovery what those witnesses might be able to testify about.

3
4 To demonstrate prejudice, a defendant must establish that "counsel's errors were
5 so serious as to deprive [him] of a fair trial, a trial whose result is reliable." Strickland,
6 466 U.S. at 687. "This showing is made when there is a reasonable probability that, but
7 for counsel's errors, the result of the trial would have been different. If either part of the
8 test is not satisfied, the inquiry need go no further." Hendrickson, 129 Wn2d at 78. It is
9 the defense position that it is not an unreasonable probability that the addition of several
10 eye witnesses to the alleged assault might have tipped the balance in favor of acquittal.
11 The testimony of those witnesses may have led the jury to conclude that not only was
12 Deputy Fries the aggressor, but that his testimony relating to the assault was unreliable.

13
14 For failure to call witnesses to amount to ineffective assistance of counsel, that
15 failure must have been unreasonable and must result in prejudice, or create reasonable
16 probability that, had the lawyer presented witnesses, the outcome of trial would be
17 different. Sherwood, 71 Wn. App. at 481. It is the position of the defendant that the
18 failure to interview eyewitnesses should be considered as presumptively unreasonable.
19 Whether the outcome of the trial would have been different is, of course, very difficult to
20 determine. While none of the witnesses that the post trial investigation has so far been
21 able to uncover have presented evidence of any affirmative defense, they could have
22 provided relevant and material testimony on the issue. It is not a stretch to contemplate
23 that the testimony from several more witnesses to the behaviors of Mr. Keal and Deputy
24 Fries might have resulted in a different outcome.
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1 Under Strickland, counsel has a duty to conduct a reasonable investigation under
2 prevailing professional norms. Strickland, 466 U.S. at 691. In Davis, the court explained
3 the standard for reasonable investigation by defense counsel:
4

5 Defense counsel must, "at a minimum, *conduct a reasonable investigation*
6 enabling [counsel] to make informed decisions about how best to represent [the]
7 client." This includes investigating all reasonable lines of defense, especially "the
8 defendant's most important defense." Counsel's "failure to consider alternate
9 defenses constitutes deficient performance when the attorney neither conduct[s] a
10 reasonable investigation nor ma[kes] a showing of strategic reasons for failing to
11 do so." Once counsel reasonably selects a defense, however, "it is not deficient
12 performance to fail to pursue alternative defenses." An attorney's action or
13 inaction must be examined according to what was known and reasonable at the
14 time the attorney made his choices and "ineffective assistance claims based on a
15 duty to investigate must be considered in light of the strength of the government's
16 case."

17 In re Pers. Restraint of Davis, 152 Wn.2d 647, 671, 721-22, 101 P.3d 1 (2004)(alterations
18 in original) (footnotes and internal quotation marks omitted) (quoting In re Pers. Restraint
19 of Brett, 142 Wn.2d 868, 873, 16 P.3d 601 (2001); Bragg v. Galaza, 242 F.3d 1082, 1088
20 (9th Cir.), amended by 253 F.3d 1150 (9th Cir. 2001); Rios v. Rocha, 299 F.3d 796, 805
21 (9th Cir. 2002)). In this case, the witnesses that were not interviewed prior to trial have
22 not suggested an alternative defense, but rather have supported the position of the
23 defendant that he was unfairly targeted and that he did not, in fact, assault the Deputy.
24 While their individual testimony may seem cumulative, it is also possible that the jury
25 may have found these witnesses more credible than Deputy Fries. Certainly, if Mr.
26 Burgess had interviewed these witnesses he could have exercised his professional
27 judgment as to whether or not their testimony may have assisted in presenting his case.
28 The failure to do so amounts to ineffective assistance and should lead to the granting of a
new trial.

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CONCLUSION

The defense respectfully requests the court to grant the defense Motion for a New Trial based on the information provided and on the applicable law. Alternatively, the defense asks the court grant an evidentiary hearing based on the information so far provided to allow both parties to call witnesses and present testimony on the issue.

RESPECTFULLY SUBMITTED this 1 day of May, 2008 by:


Travis R. Currie, WSB#29298

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28**DECLARATION OF COUNSEL**

I HEREBY DECLARE, UNDER PENALTY OF PERJURY PURSUANT TO THE LAWS OF THE STATE OF WASHINGTON, THAT THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF:

Procedural History

My name is Travis R. Currie, WSB#29298. I am currently assigned to represent the above-named defendant. I previously represented the defendant on this case until July 16, 2007 when the defendant retained private counsel, Steven Burgess. Mr. Burgess represented the defendant through trial. The defendant was found guilty of Assault in the Third Degree and Resisting Arrest on October 30, 2007 and sentencing was set for December 21, 2007. At the sentencing on December 21, the court granted Mr. Burgess' request to withdraw as attorney of record based on Mr. Keal's motion. Sentencing was set over until February 1, 2008. The Department of Assigned Counsel was not appointed to represent Mr. Keal at that time. Mr. Keal subsequently went to the Department of Assigned Counsel and applied for representation. On January 25, 2008, DAC entered a Notice of Appearance.

At the February 1, 2008 sentencing date I met with the defendant for the first time in over six months. At that time the defendant informed me of numerous alleged failures of his previous attorney to adequately investigate his case and prepare for trial. I requested that the court set over the Sentencing date and allow me to investigate and possibly file a Motion for a New Trial. The Sentencing was set over until April 4, 2008 and the Motion was subsequently been set over until the same date.

1 At the hearing on April 4, 2008, the defense moved to extend the time for the
2 filing of the Motion for a New Trial in order to complete our investigation. Without
3 objection from the state, the court granted the request and this matter was set over until
4 May 2, 2008.
5

6
7 **Discovery**

8 After that February hearing I made several attempts to obtain discovery on this
9 matter. Mr. Penner informed me that the discovery on this case was substantial, and that
10 the policy of his office, according to his supervisor, was that they had already provided a
11 copy of the discovery to Mr. Burgess and I would need to get the discovery from him.
12 Mr. Burgess, when contacted, informed this counsel that he would be keeping a copy of
13 the discovery in his file and would not provide me with a copy unless the defendant paid
14 him for the cost of copying that discovery.
15

16 It is the position of my office that the discovery belongs to Mr. Keal, and while
17 the law provides limitations on an attorney's ability to redistribute that discovery, if a
18 defendant gets new counsel, the discovery should be forwarded to that new attorney. On
19 March 3, 2008, after being contacted by Michael Kawamura, DAC Director, Mr. Burgess
20 agreed to provide a copy of discovery. On March 4, 2008 a copy of discovery was
21 delivered to the DAC office. On March 6, 2008 DAC again contact Mr. Burgess to
22 obtain an additional 22 pages of missing discovery. That additional discovery was
23 received later that day.
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1 **Allegations of Ineffective Assistance of Previous Counsel**

2 Mr. Keal has provided numerous names of potential witnesses on this case that he
3 alleges he gave to Mr. Burgess, and that Mr. Burgess either failed to contact or interview
4 prior to trial.

5 Mr. Keal alleges that Mr. Burgess did not interview Deputy Fries prior to trial.

6 According to Mr. Keal, the following individuals were all neighbors who were
7 **eye witnesses** to the alleged Assault on May 18, 2008: Michelle West, Zephram Cole,
8 Crystallyn Cole. Only Michelle West was talked to before trial or called as a witness.

9 According to Mr. Keal, Joannie Palmer was also a witness to the incident on May
10 18, 2008 and was not interviewed by Mr. Burgess prior to showing up to testify on
11 October 22. After talking to Ms. Palmer in the hallway, Mr. Burgess chose not to place
12 her on the stand.

13 I have spoken to Andrew Morrison, the attorney who represented Mrs. Keal on
14 her District Court case involving an Obstruction charge stemming from the same incident
15 on October 22, 2008. At that trial, Mrs. Keal was found Not Guilty. Deputy Kevin Fries
16 testified at that trial and was interviewed prior to trial by Mr. Morrison. Mr. Morrison
17 informed me that Mr. Burgess had contacted him prior to Mr. Keal's trial to talk about
18 the interview and testimony. Mr. Keal obtained a copy of the Court Smart recording of
19 the District Court case. According to Mr. Keal he offered that recording to Mr. Burgess
20 but that Mr. Burgess did not review that recording. Mr. Keal asked Mr. Burgess to place
21 Mr. Morrison on the witness list and call him as a witness to impeach the testimony of
22 Deputy Fries. Mr. Burgess did not call Mr. Morrison to testify.

1 Mr. Keal alleges that he informed Mr. Burgess that his son Christopher Coleman
2 had been accosted by Deputy Fries in the past and that Mr. Burgess did not interview Mr.
3 Coleman.
4

5 Mr. Keal alleges that Mr. Burgess did not investigate or interview the Apartment
6 Manager, Monica Kajia, nor Alicia Kajia one of the assistant managers. According to
7 Mr. Keal, Kathy Offner, another assistant manager, was not spoken to until the Motion to
8 Dismiss although she was on the State's witness list filed on October 11th.
9

10 **Investigation of Motion for New Trial**
11

12 I have hired an investigator to contact several individuals to evaluate whether they
13 may have information that could be relevant to the issue of whether the court should
14 grant Mr. Keal a new trial. That investigation has been ongoing.

15 My investigator has interviewed Michelle West, Zephram Cole, Crystal Cole and
16 Ladd West. He has forwarded me declarations from each based on those interviews. On
17 April 24, 2008, Michelle West signed a declaration based on a previous interview. On
18 May 1, 2008, Zephram Cole and Crystal Cole signed declarations.
19

20 The interviews of Mechelle West, Crystallyn Cole, and Zephram Cole suggest
21 that each of these individuals was an eye witness to at least some of the events that
22 occurred on May 18, 2008. All three were next door neighbors of Mr. Keal. They
23 observed the contact between deputy Fries and Mr. Keal that occurred outside of their
24 apartment. Because of the proximity of their apartment, they could also hear some of
25 what was going on inside the apartment including sounds of a struggle. Finally, they
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1 observed officers leading Mr. Keal from the apartment and later collected locks of his
2 hair that they believed had been torn from Mr. Keal's head from the ground.

3
4 Mr. Keal has also provided 14 photographs that he indicates he offered to
5 previous counsel. These photographs include pictures of his injuries from the taser, hair
6 that was pulled out of his head, and pictures of the apartment. (See attached
7 Reproductions of Photographs, marked as Exhibits #1-7).

8 My investigator and myself have both attempted to talk to the apartment manager
9 Monica Kajia, and the assistant managers Alexia Kajia and Kathy Offner. We have been
10 informed that none of these individuals was willing to speak to us unless we subpoena
11 them to testify, and have been referred to their corporate office.

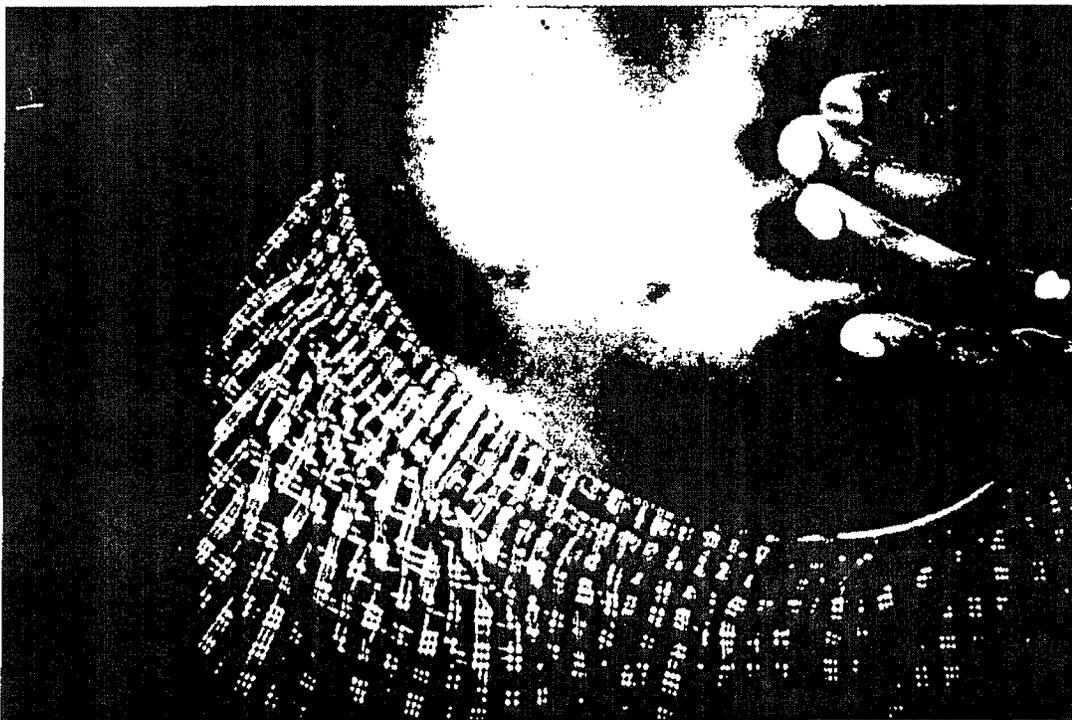
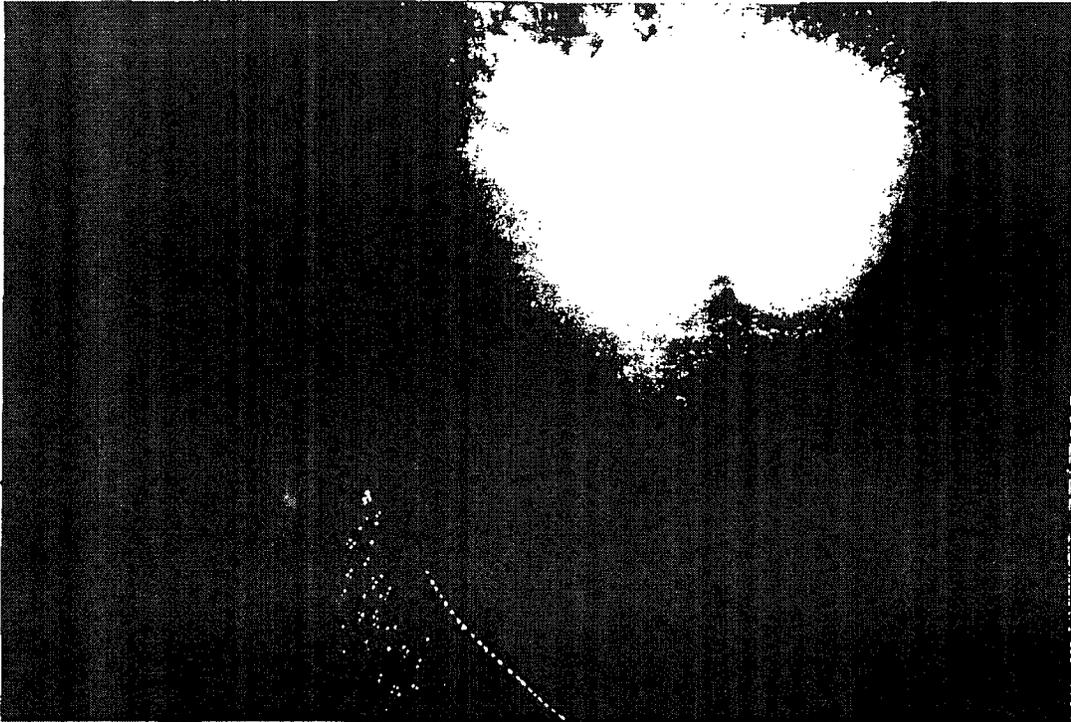
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13 My investigator has been attempting to contact Joanie Palmer, and Antonio
14 Smith, but has not yet been able to complete these interviews. At this time, Ms. Palmer is
15 refusing to cooperate with the defense investigation. The defense investigator has made
16 multiple attempts to speak to Ms. Palmer.

17 I have attempted to contact Deputy Kevin Fries to determine if he was
18 interviewed by Mr. Burgess prior to trial, but have not yet received a response.

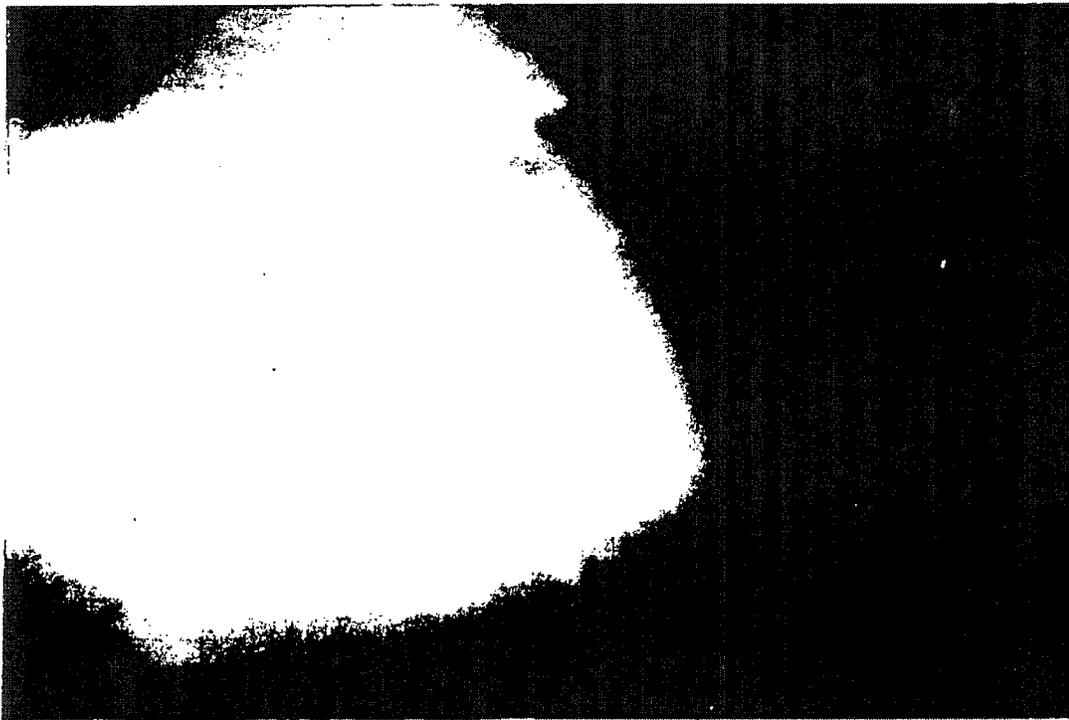
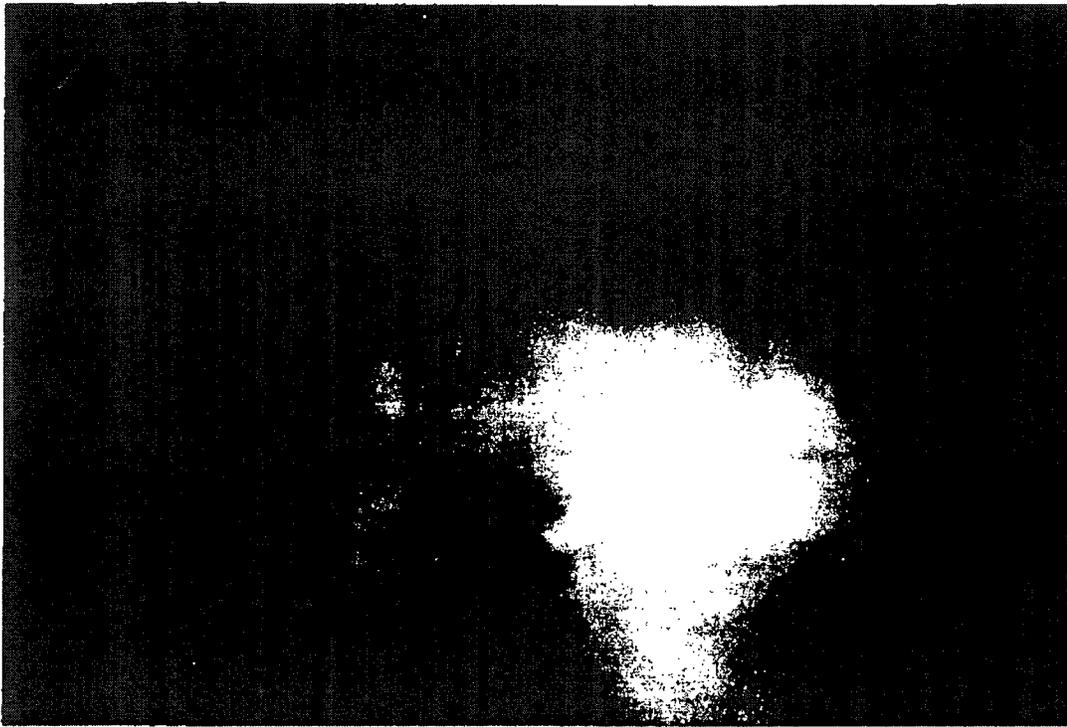
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20 Because of the showing that the defense must make in order for the court to grant
21 a new trial, it requires that we basically investigate much of the case from scratch.

22
23 SIGNED UNDER PENALTY OF PERJURY, PURSUANT TO THE LAWS OF THE
24 STATE OF WASHINGTON, AT PIERCE COUNTY, WASHINGTON, THIS 15th
DAY OF MAY, 2008, BY:

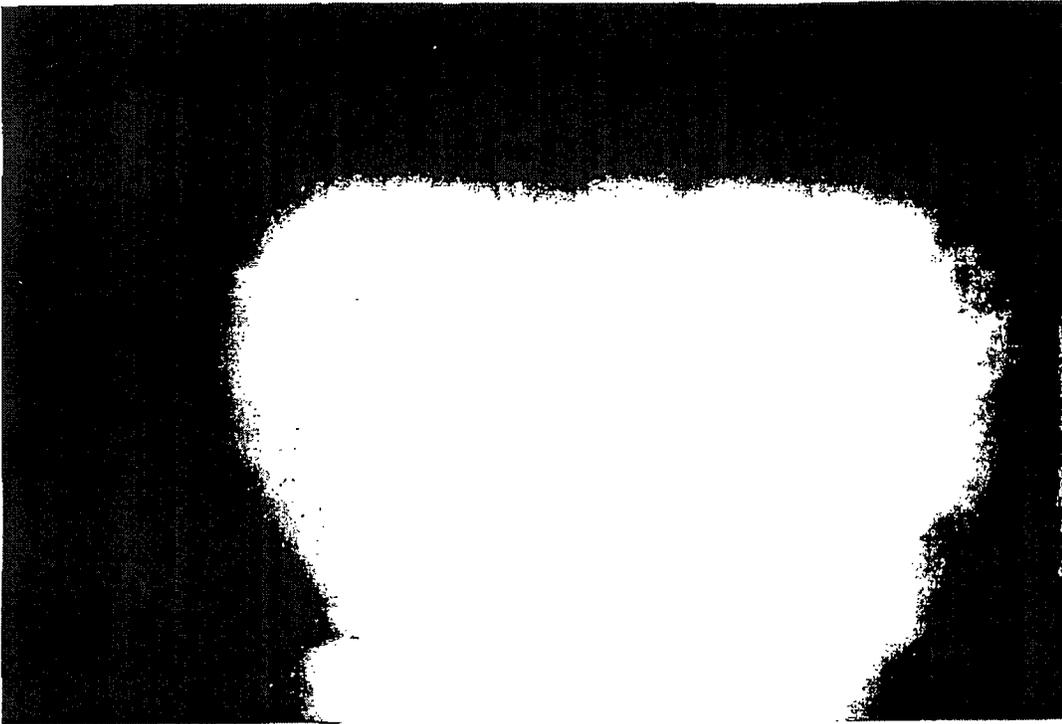
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Travis R. Currie, WSB#29298



Ex 1

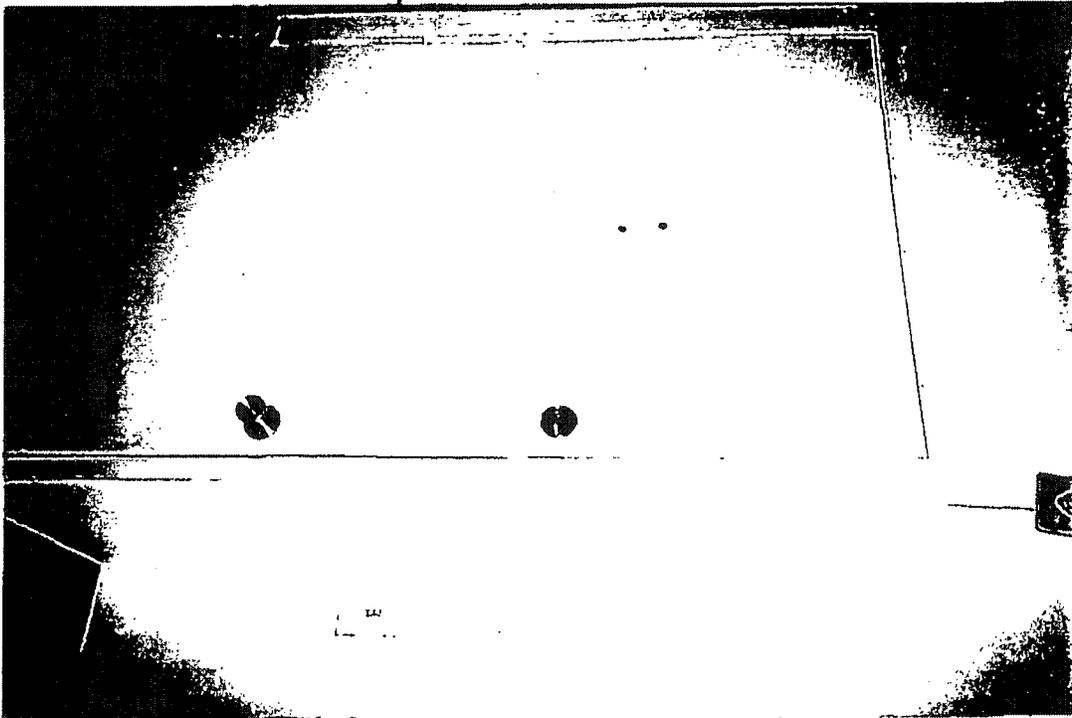


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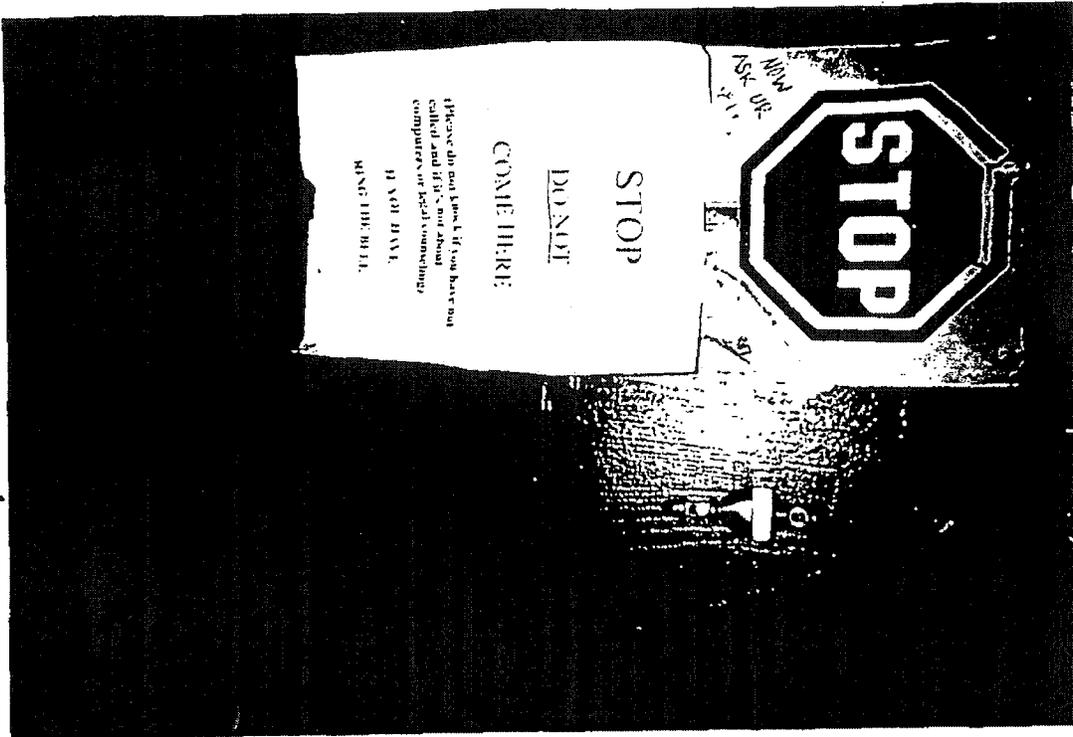


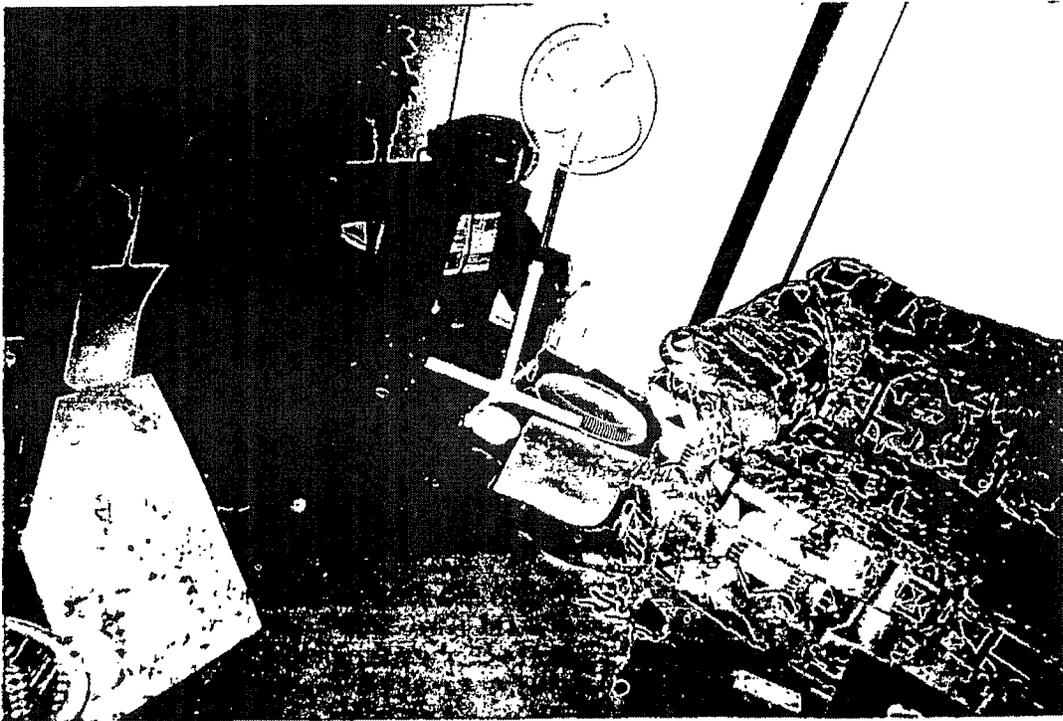
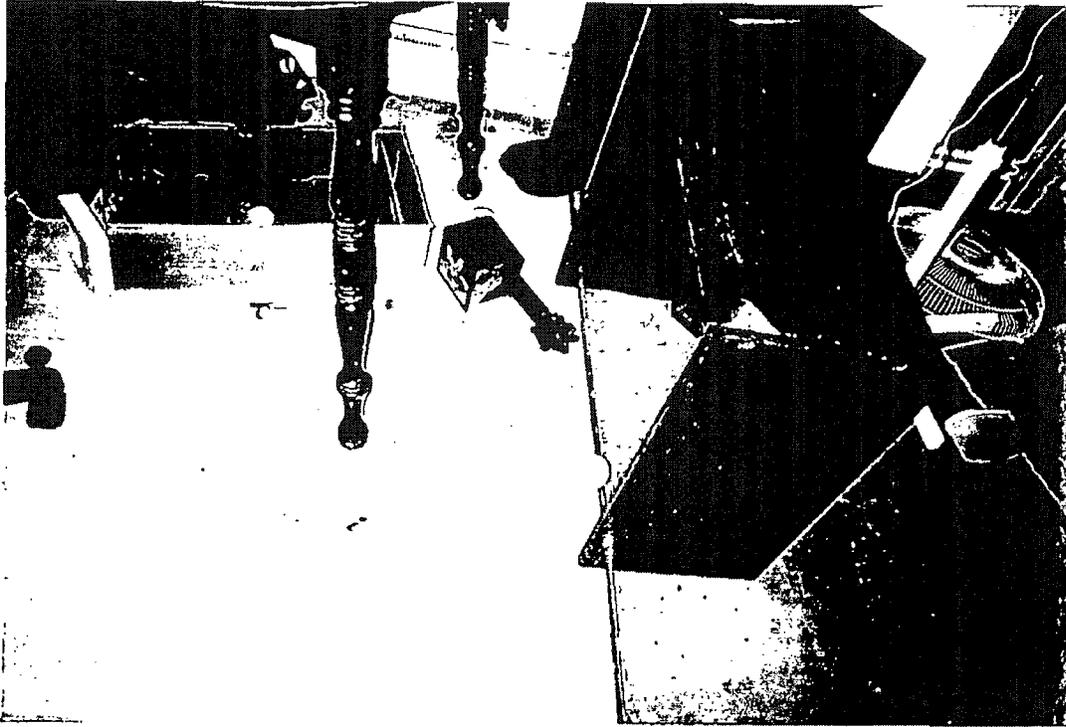
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POOR QUALITY ORIGINAL

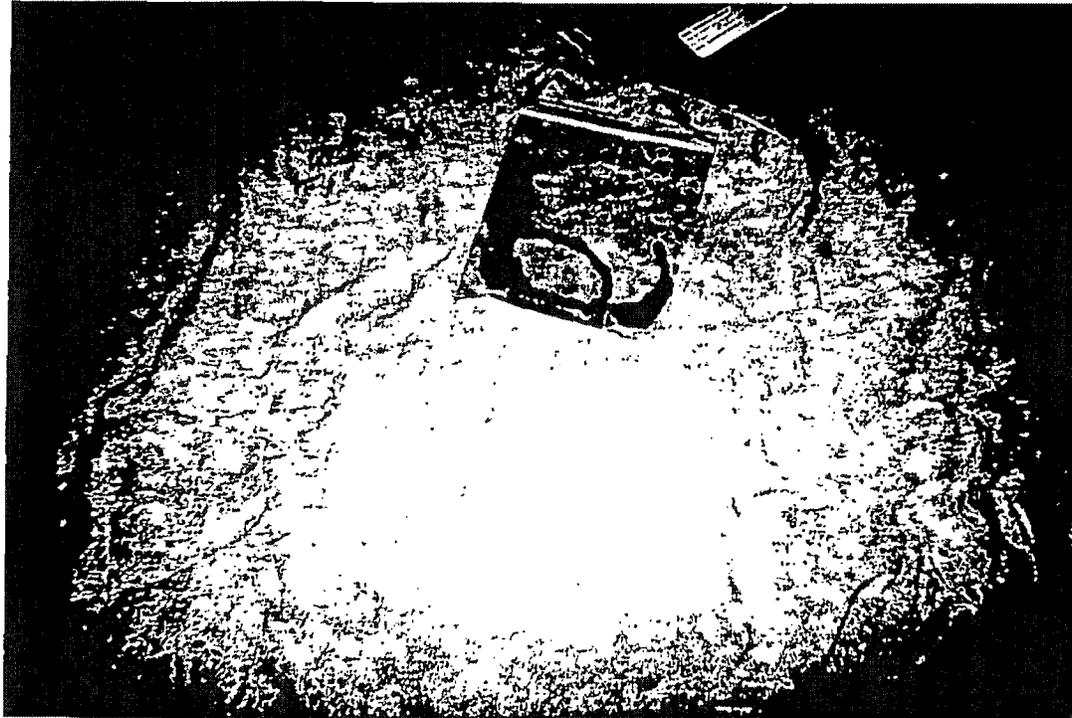


Ex 4





Ex 6



Ex 7

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

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 07-1-02733-7
)	
vs.)	
)	
Ronald Keal,	)	DECLARATION OF
)	
Defendant.	)	Crystallyn B. Cole
_____)	

I, Crystallyn B. Cole, duly sworn on oath, declare that:

On the day in question, I was sitting in the front room of my Mom's apartment, when I heard a bunch of commotion outside. Because of the numerous other fights and problems that have occurred on the property and in front of my Mom's door, I got up and looked out the peephole to see what was going on. I saw Ron Keal walking toward his wife Debbie's apartment with Officer Fries closely following with his hand on his taser. He was telling Ron that he was trespassing and they needed to talk. When they reached Debbie's door she was there with her lease to show Officer Fries that Ron was no trespassing, that he was her guest.

I had informed my Mom, Mechelle West and my husband Zephram Cole of what was going on. They had stepped outside before the above said had occurred. I had opted to stay inside because I was pregnant, was aware of Officer Fries reputation for tasing people, and knew it was in my best interest to not be in a situation of even "accidental" tasing.

I opened the door to make sure my Mom and husband were okay, because the level of commotion had risen. Just after I opened the door, Officer Fries grabbed his shoulder walkie talkie and said "NOW"! He didn't ask for back up, he just said "NOW". In less than one minute about half a dozen officers showed up. We went back inside.

My Mom and husband went to my brother's window. I was in the front room for a few more minutes before I joined them. While in the front room, I heard a lot of banging like furniture

being knocked over and thrown around, and I heard Ron yelling "no, please stop" numerous times. I then joined my Mom and husband. We watched the officers yanking Ron and Debbie toward the police car and put them in.

While in my brother's room, we noticed that Kathy and Alesha from management were standing right in front of his window yelling at everyone that they were loitering and everyone needed to go back inside. When everything had calmed down, we went out front. As we walked out the front door, we noticed hair. My husband and Mom began to pick up dreadlocks that the officers had yanked from Ron's head. They started from in front of Debbie's door and trailed to the parking lot.

It seemed as if management had it out for Ron. In February of 2007 myself, my Mom, and my husband moved up from Utah, (our son joined us in May), and moved in with my Mom. We were not on the lease but management knew we were there. We swam in the swimming pool, played on the slide, did laundry, smoked in front and in the back patio, and my husband would sit on the front steps and play his guitar, he would even work on my Mom's truck and van in the parking lot.

However, when Ron walked outside to smoke a cigarette, front or back patio, oar he worked on the vehicles he was told he was trespassing and loitering.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.



Date and Place

MAY 1, 2008
April 25, 2008 Tacoma, WA

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

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 07-1-02733-7
vs.)	
)	
Ronald Keal,	)	DECLARATION OF
)	
Defendant.	)	Zephram Cole
_____)	

I, Zephram Cole , duly sworn on oath, declare that:

On the day in question, I was cooking dinner when I heard yelling in front of my Mother in law's apartment. Being concerned because I knew my little brother was outside I cleaned my hands and went out the front door. I witnessed Ronald Keal walking in the corridor towards Debra Keal's door. Debra was exiting her apartment with lease in hand. Following close behind Ron was Officer Fries demanding Ron stop to talk that he was not under arrest. Ronald in fear of being tasered because of Officer Fries' reputation with the people of the apartment was calmly making his way into the apartment. As soon as Ron denied Officer Fries communication and entered the apartment, Officer Fries with one hand on his taser and the other on his communicator, simply stated "NOW". Within 3 seconds, several officers stormed through the entryway without presenting a warrant and Officer Fries in the lead. From my public viewpoint on the porch right next to their door.

I saw Ronald throw his hands up in submission. At that time, Fries and two other officers with excessive force grabbed Ron's hair and forced him to the ground. Ron screamed to stop, "I give, I don't want to fight". At this point Officer Fries already having drawn his taser proceeded to tase Ron several times even after Ron had submitted including one tase on the arm, the chest, and on the groin. All of these forcible attacks occurred after Ron submitted to arrest.

At this time, one of the apartment managers demanded everyone go back in their apartment. That we weren't allowed outside. Mr. Keal was escorted with his wife to the police cruiser. Me

and Mechelle West picked up multiple dreadlocks from the ground before we entered Ms. West's apartment. This is exactly what I recall to every little detail I hope this incite will help to shed some light on this injustice.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.


Date and Place

May 1, 2008
~~April 26, 2008~~ Tacoma, WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 07-1-02733-7
vs.)	
)	
Ronald Keal,	)	DECLARATION OF
)	
Defendant.	)	Mechelle C. West
_____)	

I, Mechelle C. West, duly sworn on oath, declare that:

On August 1, 2005 I moved in to the Woodmark Apts. This was the day I met Officer Fries. As I was moving my stuff in with the help of my friends and family Officer Fries pulled up blocking my truck in. At that time he leaned out his window and asked, "Which one of you ladies are moving in?" I thought this to be strange considering how many men I had helping me. Also at this time he made it known that he had the keys for Apt A-17 and that if I needed anything or had any problems I could contact him at that apt (A-17). On a nightly basis he would be up in apt A-17 with a lady who had a key and would let herself in shortly before Officer Fries showed up.

Within a week or two of me moving in, Debra and her son moved in to A-9 which is directly next door to my apt (A-10).

The only real problems we had at that time was Officer Fries not doing his job.

In Nov. Management had to get the apt (A-17) ready for people to move in that it was no longer a demo apt. On Thanksgiving 2005 Joannie and her husband Kenny moved in. At the beginning of Dec. all of the tenants in our corridor decided that we were going to decorate our area for Christmas. While Kenny was putting the lights up on the stairs Officer Fries came by and told

DECLARATION OF: Mechelle C. West
PAGE 1 OF 3

him he couldn't do it without talking to the rest of us. Let's break this down, A-1 Ben & Kate Franklin had decorated their door and stairs. A-2 Keven? decorated his door. A-9 Debra doesn't celebrate X-mas but had no problems with us decorating. A-10 myself and my son (Ladd West) decorated inside and out. A-17 Joannie & Kenny decorated door and steps. A-18 vacant. I did not see a problem. Within days of this incident I was at work with my scanner on. I heard the call come over for back up at the Woodmark. That Officer Fries was chasing Kenny. In a matter of 20 min. Officer Fries and the other Officers had chased Kenny through the complex tasing him about 17 times before finally being able to stop him. After this incident Officer Fries made sure that Kenny was a bad person and that we were better off not having his kind living at the apt.

I observed several times Officer Fries watch drug deals go down and do nothing about it, but at the same time harass my son and his friend walking home from the 7-11 at 8:30 pm, telling them that they needed to get home, that they were out past curfew.

These problems continued, when Ron Keal started coming around in Dec of 2006 things got worse.

All of a sudden it was a crime to sit out front to smoke and visit with our neighbors. On one occasion Ron's son was arrested for trespassing. Ron could not walk to his car without Officer Fries harassing him.

On the day in question, that morning my son in law and myself were out front having a smoke. We, Ron and Monica discussed Ron's presence at the apts. Monica told Ron that he could come and go, but he was not allowed to stay at the apt. for a long period of time. At that time things seemed to be o.k. Not for long, later that afternoon I was doing laundry. When it was time to get the last load my son in law and I went to get it. While at the laundry room we noticed Officer Fries at the No. office talking with the girls in management. After getting back to our apt. around 10 min. later we heard some commotion out in the corridor. So we went out to see what was going on. At the same time I came out my door, Debra was headed out her door with her lease in hand saying "Ron has permission to be on the property" and that it is her right to have guests. At this time I noticed Ron walk towards Debra's door with Officer Fries following him saying that Ron was not supposed to be on the property. Ron and Debra entered the apt, when they tried to close the door Officer Fries put his foot between the door and the door jam. I observed that Officer Fries had his left hand on his collar mike and his right hand was on his waist, I don't know if he was holding his gun or taser. At this time Officer Fries said "Now" as he pushed his way into the apt. with his chest. Within seconds there were about 6 or 7 other officers rushing Debra's apartment. At this time Cathy and Alisha started yelling at everybody to get back into their F-ing apts. I stepped back into my apt. and put my ear to the wall and could hear the commotion in Debra's apt I could hear what sounded like electrical charges. This happened about 6 to 8 times. Then I heard Debra's door open. So to keep from going back outside I went to my son's room and opened the window so I could hear and see what was happening. At this time they were taking Ron out by force leaving Ron's dreadlocks on the walk way.

DECLARATION OF: Mechelle C. West
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After all of this I was told that Ron was there illegally that he was not on the lease. I thought this to be strange considering I had three (3) extra people living in my apt. and had never been bothered about it by management or Officer Fries.

One other thing, not too long before all of this happened Officer Fries had stopped me coming out of the laundry room and wanted to talk to me. So I walked over to his squad car where he turned his computer monitor towards the passenger side of the car where I was standing and said "I just wanted you to know what kind of person Ron Keal is," When I looked at the computer he had Ron's criminal records pulled up on the screen, and again with the line "we would all be better off without his kind around." I told him it was none of my business and left.

The foregoing (of following) statement is true to the best of my knowledge and believe and was written (or signed) under penalty of perjury at (location eg 'Tacoma, WA') on (date).

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.



Date and Place

April 24, 2008

Tacoma, WA