

FILED  
COURT OF APPEALS  
DIVISION II

09 JUN -1 PM 2:06

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

STATE OF WASHINGTON  
BY  DEPUTY

NO. 38375-6-II

STATE OF WASHINGTON,

Respondent,

vs.

BRAD ALLAN SHIRLEY,

Appellant.

---

ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR CLALLAM COUNTY  
CAUSE NO. 07-1-00587-0

---

**BRIEF OF RESPONDENT**

Brian Patrick Wendt, WSBA # 40537  
Deputy Prosecuting Attorney

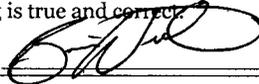
Clallam County Courthouse  
223 East Fourth Street, Suite 11  
Port Angeles, WA 98362-3015  
(360) 417-2297 or 417-2296

Attorney for Respondent

SERVICE

Oliver R. Davis  
Washington Appellate Project  
1511 Third Ave, Suite 701  
Seattle, WA 98101

This brief was served via U.S. Mail or the recognized system of interoffice communications as follows: original + one copy to Court of Appeals, 950 Broadway, Suite 300, Tacoma, WA 98402, and one copy to counsel listed at left.

I CERTIFY (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.  
DATED: June 1, 2009,  
at Port Angeles, WA 

**TABLE OF CONTENTS**

	<u>Page(s)</u>
TABLE OF AUTHORITIES .....	ii
I. COUNTER - STATEMENT OF ISSUES .....	1
II. STATEMENT OF THE CASE .....	1
III. ARGUMENT .....	7
A. THE AFFIDAVIT SUPPORTING THE SEARCH WARRANT SATISFIES <i>AGUILAR-SPINELLI</i> . ....	7
1. The informant had personal knowledge of the facts he reported to the affiant. ...	10
2. The affidavit provided sufficient facts to support the informant’s veracity. ....	15
3. The double hearsay within the affidavit satisfies the <i>Aguilar-Spinelli</i> test. ....	19
B. LAW ENFORCEMENT SEARCHED THE DEFENDANT’S JEEP PURSUANT TO A VALID SEARCH WARRANT AND DID NOT EXCEED ITS SCOPE. ....	21
C. DEFENDANT RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL. ....	24
D. DEFENDANT HAS NOT SHOWED THAT THE AFFIANT MADE DELIBERATE OR RECKLESS MISREPRESENTATIONS. ....	26
IV. CONCLUSION .....	28
APPENDIX	

**TABLE OF AUTHORITIES**

<u>Federal Cases:</u>	<u>Page(s)</u>
<i>Aguilar v. Texas</i> , 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964) . . . . .	9
<i>Franks v. Delaware</i> , 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978) . . . . .	27
<i>Jones v. United States</i> , 362 U.S. 257, 80 S.Ct. 725, 4 L.Ed.2d 697 (1960) . . . . .	19
<i>Spinelli v United States</i> , 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969) . . . . .	9, 10
<i>Strickland v. Washington</i> , 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) . . . . .	25
<i>United States v. Ventresca</i> , 380 U.S. 102, 85 S.Ct. 741, 13 L.Ed.2d 684 (1965) . . . . .	20
 <u>State Cases:</u>	
<i>In re Fleming</i> , 142 Wn.2d 853, 16 P.3d 610 (2001) . . . . .	24
<i>In re Pers. Restraint of Pirtle</i> , 136 Wn.2d 467, 965 P.2d 593 (1998) . . . . .	25
<i>State v. Casto</i> , 39 Wn. App. 229, 692 P.2d 890 (1984) . . . . .	13, 14
<i>State v. Chamberlin</i> , 161 Wn.2d 30, 162 P.3d 389 (2007) . . . . .	15
<i>State v. Chambers</i> , 88 Wn. App. 640, 945 P.2d 1172 (1997) . . . . .	22, 23
<i>State v. Dodson</i> , 110 Wn. App. 112, 39 P.3d 324 (2002) . . . . .	22, 23
<i>State v. Duncan</i> , 81 Wn. App. 70, 912 P.2d 1090 (1996) . . . . .	13
<i>State v. Estorga</i> , 60 Wn. App. 298, 803 P.2d 813 (1991) . . . . .	15
<i>State v. Fisher</i> , 96 Wn.2d 962, 639 P.2d 743 (1982) . . . . .	8

<i>State v. Garrison</i> , 118 Wn.2d 870, 827 P.2d 1388 (1992) . . . . .	27
<i>State v. Goble</i> , 88 Wn. App. 503, 945 P.2d 263 (1997) . . . . .	12
<i>State v. Helmka</i> , 86 Wn.2d 91, 542 P.2d 115 (1975) . . . . .	14
<i>State v. Horton</i> , 136 Wn. App. 29, 146 P.3d 1227 (2006) . . . . .	24
<i>State v. Horton</i> , 116 Wn. App. 909, 68 P.3d 1145 (2003) . . . . .	25
<i>State v. Jackson</i> , 102 Wn.2d 432, 688 P.2d 136 (1984) . . . . .	9, 10
<i>State v. Lair</i> , 95 Wn.2d 706, 630 P.2d 427 (1981) . . . . .	15
<i>State v. Laursen</i> , 14 Wn. App. 692, 544 P.2d 127 (1975) . . . . .	19, 20
<i>State v. Maffeo</i> , 31 Wn. App. 198, 642 P.2d 404 (1982) . . . . .	14
<i>State v. Northness</i> , 20 Wn. App. 551, 582 P.2d 546 (1978) . . . . .	21
<i>State v. O'Connor</i> , 39 Wn. App. 113, 692 P.2d 208 (1984) . . . . .	15
<i>State v. Patterson</i> , 83 Wn.2d 49, 515 P.2d 496 (1974) . . . . .	15
<i>State v. Perrone</i> , 119 Wn.2d 538, 834 P.2d 611 (1992) . . . . .	23
<i>State v. Riley</i> , 121 Wn.2d 22, 846 P.2d 1365 (1993) . . . . .	18, 22
<i>State v. Thien</i> , 138 Wn.2d 133, 977 P.2d 582 (1999) . . . . .	12
<i>State v. Toliias</i> , 135 Wn.2d 133, 140, 954 P.2d 907 (1998) . . . . .	21
<i>State v. Vickers</i> , 148 Wn.2d 91, 59 P.3d 58 (2002) . . . . .	passim
<i>State v. Wible</i> , 113 Wn. App. 18, 51 P.3d 830 (2002) . . . . .	8, 9
<i>State v. Wolken</i> , 103 Wn.2d 823, 700 P.2d 319 (1985) . . . . .	10, 11

Constitutional Provisions:

Fourth Amendment . . . . .	7, 26
Article I, section 7 . . . . .	7

Rules:

Criminal Rule 2.3	8
Criminal Rule 3.6	1
RAP 2.5(a)	21
RAP 9.2(b)	21
RAP 9.11	22

Treatises

12 Wash. Prac., Criminal Practice and Procedure § 2509 (3d ed)	10
Wayne R. LaFave, Criminal Procedure §3.3(c) at 149 (4d 2004)	10

## **I. Counter-Statement of the Issues**

1. Whether the trial court abused its discretion when it found probable cause to support a search warrant based on an informant's tip that the Defendant was involved in drug related activities.
2. Whether law enforcement exceeded the scope of a valid search warrant when it searched the Defendant's vehicles.
3. Whether trial counsel was ineffective because he did not object when the trial court admitted evidence that police seized from the Defendant's vehicle.
4. Whether affiant included deliberate misrepresentations in the search warrant affidavit.

## **II. Statement of the Case<sup>1</sup>**

### The Arrest:

On the late evening of December 22, 2007, Clallam County Deputy Karl Koehler (Koehler) stopped a vehicle because it had a defective headlight. Clerk's Papers (CP) 34. The driver of the vehicle was Joe Ray Smith (Smith); the passenger of the vehicle was David Thomas Granson (Granson). CP 34. Both Smith and Granson had outstanding warrants. CP 34. Koehler arrested the two occupants and

---

<sup>1</sup> The trial court never held a CrR 3.6 hearing because the facts surrounding the issuance of the search warrant were uncontested. CP 34. The facts pertaining to the issuance of the warrant are derived from (1) the trial court's opinion denying the 3.6 motion; (2) the transcription of tape recorded search warrant CCSO-07-4179-KW & CCSO-07-4180-KW; and (3) the transcription of tape recorded addendum to search warrant CCSO-07-4179-KW. See CP 34; CP 63-66; Appendix A (CP TBD (the transcription of tape recorded addendum to search warrant CCSO-07-4179-KW)).

conducted a search of the vehicle, which yielded substances that tested positive for methamphetamine. CP 34.

The Interview:

Shortly after the arrest, Sergeant John Keegan<sup>2</sup> (Keegan) interviewed Smith. CP 34. See also CP 42. After Smith received his *Miranda* warnings, he talked freely with Keegan. CP 34. See also CP 42; CP 47. At no point did Keegan make any promises or deals with Smith. CP 34; CP 64. See also CP 42; CP 47.

During the interview, Smith recounted his activities with Granson prior to their arrest. CP 34-35; CP 63-66. According to Smith, he picked-up Granson at Granson's residence.<sup>3</sup> CP 35; CP 64. The two drove to the Albertson's in Port Angeles, and then the two proceeded to the home of Brad Shirley (Shirley). CP 35; CP 64. Smith said the purpose of the visit to Shirley's residence was to purchase drugs.<sup>4</sup> CP 35; CP 64.

According to Smith, Granson did not have any methamphetamines when Smith drove him to Shirley's house. CP 35; CP 64. When the two arrived at the Shirley's home, Granson went inside and

---

<sup>2</sup> At the time of the arrest, Sergeant Keegan was a detective with the Olympic Peninsula Narcotics Enforcement Team (OPNET).

<sup>3</sup> Smith identified where Granson's residence was located. CP 35; CP 64.

<sup>4</sup> Smith also stated that he had driven Granson to Shirley's house several times that week, always with the intent to buy drugs. CP 35; CP 64.

Smith waited in the car. CP 35; CP 64. When Granson got back in the car, he had methamphetamines. CP 35; CP 64. The two began to drive back to Granson's residence and did not make any additional stops until Koehler pulled them over for the defective headlight. CP 35; CP 64.

While Smith spoke with Keegan, he admitted that he was a methamphetamine addict, and that he had used methamphetamine earlier that day. CP 35; CP 64. Smith confessed that he regularly delivered methamphetamine to individuals who gave him money to purchase drugs. CP 35; CP 64. Smith also disclosed that he had purchased drugs from Shirley via Granson in the past. CP 35; CP 64.

Smith told Keegan that he believed Granson sold methamphetamines to other individuals. CP 35; CP 65. According to Smith, a high volume of traffic usually frequented Granson's residence. CP 35; CP 65. Smith also shared that on the day of the arrest, he had given Granson \$300 for rent. CP 35; CP 65. Smith believed that Granson was going to use the money to purchase drugs, sell the drugs for profit, and pay rent with the proceeds.<sup>5</sup> CP 35; CP 65. Finally, Smith provided information about other drug users and dealers. CP 65.

Search Warrant Request:

---

<sup>5</sup> At the time of the arrest, Koehler discovered that Granson possessed \$700. CP 65.

On December 23, 2007, at approximately 12:15 a.m., Keegan sought two telephonic search warrants: one for Granson's residence and the other for Shirley's residence. CP 63-66. Keegan recounted the substance of his interview to Superior Court Judge Ken Williams. CP 63-66. In addition, Keegan professed that he had heard from other informants that both Granson and Shirley sold methamphetamines; that both Granson and Shirley had prior drug convictions; and that he knew Smith's statements about other drug users and dealers were true. CP 65.

Finally, Keegan informed the judge that his office had contacted an officer at the Sequim Police Department, who lived directly across the street from Granson. CP 65. According to that officer, he had seen a heavy volume of traffic at Granson's residence on the day of the arrest. CP 65. Keegan then relayed the fact that his office described one of Shirley's vehicles<sup>6</sup> to the Sequim officer, asking if he had seen it at Granson's home. CP 65. Keegan reported that the officer denied seeing it, but asked his wife. CP 65. According to Keegan, the wife confirmed that she had seen a similar vehicle at the residence that afternoon. CP 65.

Judge Williams found probable cause that both Granson and Shirley were actively involved in the sale of methamphetamine. CP 66.

---

<sup>6</sup> A two wheel drive, late 70's, early 80's, red Toyota truck with a canopy. CP 65.

As a result, the judge issued two warrants to search both Granson's and Shirley's residences. CP 65-66.

Search:

On December 28, 2007, with the aid of additional officers, Keegan executed the initial warrant on Shirley's home. Report of Proceedings (RP) 68-69 (7/30/08). When the officers approached the residence, they observed a surveillance camera pointing down on the driveway. RP 69 (7/30/08). The officers knocked and announced that they had a warrant to search the premises. RP 69 (7/30/08). After several warnings, law enforcement forced the door open. RP 69 (7/30/08). Officers contacted Shirley in the bathroom, just as they observed the toilet bowl filling with water. RP 69 (7/30/08).

Officers searched Shirley's residence, finding more than \$1500 cash, drug paraphernalia, and "crib notes." RP 73, 80 (7/30/08); Appendix A (CP TBD (*Transcription of Tape Recorded Addendum to Search Warrant CCSO-07-4179* pg. 1-4)). As the search continued, Keegan sought an addendum to the initial search warrant in order to search three vehicles<sup>7</sup> parked outside on the driveway. RP 75, 93

---

<sup>7</sup> The three vehicles were a Jeep, a GMC pickup, and a red Toyota with a canopy. The Jeep and Toyota were registered in Shirley's name. According to Keegan, while the GMC pickup was not registered to Shirley, it is always present at his residence and Shirley has no roommates. Appendix A at 3.

(7/30/08); Appendix A at 1. Keegan informed Judge George Wood that they were presently at Shirley's residence pursuant to a warrant issued by Judge Williams, which authorized them to search for items associated with the sale and distribution of methamphetamine. Appendix A at 1. Keegan provided Judge Wood with the same details that he shared with Judge Williams in order to obtain the initial warrant. Appendix A at 2-3. In addition, Keegan confirmed that officers had discovered drug paraphernalia that had tested positive for methamphetamine and items associated with the sale of methamphetamine. Appendix A at 1.

Keegan asked to expand the search warrant to the three vehicles parked outside Shirley's residence. Appendix A at 1. Keegan highlighted the fact that one of the vehicles, the red Toyota pickup with a canopy, was the one officers believed to be at Granson's residence a few days earlier. Appendix A at 3. Looking through the Toyota's windows, Keegan observed a 35 m.m. film canister on the center console. Appendix A at 3. Keegan shared that, through his training and experience, such canisters are commonly used to store drugs such as methamphetamine. Appendix A at 3. Keegan also shared that he observed a suspicious bag and personal documents in the Jeep. Appendix A at 3. Judge Wood subsequently issued a warrant to search all three vehicles. Appendix A at 4.

After Keegan received the telephonic addendum, officers searched the vehicles. Inside the Jeep, officers located more than \$6000 and a container with residue that tested positive for methamphetamine. RP 75, 97, 105 (7/30/08).

The State charged Shirley with possession of a controlled substance – methamphetamine.<sup>8</sup> Shirley moved to exclude the drug evidence pursuant to CrR 3.6, arguing the initial search warrant was not supported by probable cause. CP 22. The trial court upheld the warrant and denied Shirley’s motion. CP 38. A jury found Shirley guilty of possession of methamphetamine. CP 18. The trial court subsequently imposed a standard range sentence. CP 19-20.

### **III. Argument**

#### **A. THE AFFIDAVIT SUPPORTING THE SEARCH WARRANT SATISFIES *AGUILAR-SPINELLI*.**

The warrant clause of the Fourth Amendment and Article I, section 7 of the Washington Constitution requires that a magistrate issue a search warrant when he or she finds probable cause based upon “facts and circumstances sufficient to establish a reasonable inference that criminal activity is occurring or that contraband exists at a certain

---

<sup>8</sup> Originally, the State also charged Shirley with possession of 40 grams or less of marijuana. The State later dismissed this second charge.

location.” *State v. Vickers*, 148 Wn.2d 91, 108, 59 P.3d 58 (2002). Probable cause exists when an affidavit, supporting a search warrant, provides sufficient facts for a reasonable person to conclude there is a probability the defendant is involved in the criminal activity. *Id.* However, the affidavit must contain more than suspicion or mere personal belief that evidence of the crime will be found at a particular location. *Id.* A magistrate must exercise his or her judicial discretion in determining whether to issue a warrant. *Id.*; See also Criminal Rule (CrR) 2.3.

Appellate courts review the validity of a search warrant for abuse of discretion. *Vickers*, 148 Wn.2d at 108; *State v. Wible*, 113 Wn. App. 18, 21, 51 P.3d 830 (2002). Under an abuse of discretion standard, the appellate courts give great deference to the magistrate’s finding of probable cause. *Vickers*, 148 Wn.2d at 108; *Wible*, 113 Wn. App. at 21. A magistrate properly issues a warrant if a reasonable, prudent person would understand from the facts contained in the supporting affidavit that a crime has been committed and that evidence of the crime is located at the place to be searched. *Wible*, 113 Wn. App. at 21.. See also *State v. Fisher*, 96 Wn.2d 962, 965, 639 P.2d 743, cert. denied, 457 U.S. 1137, 102 S.Ct. 2967, 73 L.Ed.2d 1355 (1982). As long as these basic requirements are met, the appellate courts review the affidavit in light of

common sense, and not in a hyper-technical manner. *Vickers*, 148 Wn.2d at 108; *Wible*, 113 Wn. App. at 21. Appellate courts resolve any doubts in favor of the validity of the warrant. *Vickers*, 148 Wn.2d at 109.

Washington courts still apply the two prong *Aguilar-Spinelli*<sup>9</sup> test when an affidavit relies on an informant's tip to support a search warrant. *Vickers*, 148 Wn. At 111 (citing *State v. Jackson*, 102 Wn.2d 432, 440 688 P.2d 136 (1984)). Under *Aguilar-Spinelli*, probable cause requires that the affidavit:

- (1) set forth the underlying factual circumstances from which the informant makes his conclusions so that a magistrate can independently determine the reliability of the manner in which the informant acquired his information, and
- (2) set forth facts from which the officer can conclude the informant is credible and his information reliable.

*Wible*, 113 Wn. App. at 22. (citing *Spinelli v United States*, 393 U.S. 410, 413, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969); *Aguilar v. Texas*, 378 U.S. 108, 114, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964)). In short, the affidavit must establish the informant's (1) basis of knowledge, and (2) veracity. *Vickers*, 148 Wn.2d at 112; *Wible*, 113 Wn. App. at 22. If the affidavit fails to satisfy either prong, the magistrate may still find probable cause if an independent police investigation corroborates the

---

<sup>9</sup> *Spinelli v United States*, 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969); *Aguilar v. Texas*, 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964)

informant's tip. *Vickers*, 148 Wn.2d at 112 (citing *Jackson*, 102 Wn.2d at 435).

This Court should find that trial judge, the Honorable Ken Williams, did not abuse his discretion when he found probable cause to issue a search warrant. In the present case, sufficient facts and circumstances permit a reasonable inference that contraband existed at Shirley's residence. Because Keegan's affidavit, which relied upon the information that Smith provided, satisfies both prongs of the *Aguilar-Spinelli* test, this Court should affirm.

1. The informant had personal knowledge of the facts he reported to the affiant.

The knowledge prong is satisfied when the informant's tip is based upon personal knowledge. *Vickers*, 148 Wn.2d at 112 (citing *State v. Wolken*, 103 Wn.2d 823, 827, 700 P.2d 319 (1985)). If the affidavit rests on hearsay, the informant must declare (1) that he himself has seen or perceived the facts asserted, or (2) that there is good reason for believing his information even though it is based on hearsay. 12 Wash. Prac., Criminal Practice and Procedure § 2509 (3d ed). See also Wayne R. LaFave, et. al., Criminal Procedure §3.3(c) at 149 (4d 2004) (citing *Spinelli*, 393 U.S. at 416-17, 425, 427). The requirement is most easily

satisfied where the informant testifies to facts based on first-hand observation. *Wolken*, 103 Wn.2d at 827.

In the present case, Smith provided law enforcement with information that he actually observed. Keegan's affidavit reads as follows:

Smith admitted to me that he was a Methamphetamine addict and used methamphetamine today.... Smith admitted to collecting money from others in the past[,] buying Methamphetamine, and delivering it to them....

Smith said that he picked Granson up at his residence prior to being stopped by [Deputy] Koehler. Smith told me that they were going to Albertson's and then to another location. Smith told me that he believed the other location was going to be the residence of Brad Shirley and the purpose for that was to purchase drugs. Smith told me that he has taken Granson up to Shirley's house several times a week including last night. Smith told me that the purpose for doing this is to purchase drugs. Smith told me that last night Granson did not have any Methamphetamine on him [when] ... Smith drove him to Shirley's house and Granson went inside[.] Smith stayed in the car and then drove back to Granson's house without making any other stops[,] and at that time Granson had Methamphetamine on him[.] Smith admitted to me that he has purchased drugs from Shirley in the past via Granson.

CP 64. These statements reveal that which Smith actually observed and knew to be true. Most importantly, Smith informed Keegan that (1) he was familiar with methamphetamine as an addict; (2) he knew that Granson did not have methamphetamine on his person prior to his visit with Shirley; (3) he drove Granson to Shirley's residence for the sole

purpose to acquire methamphetamine; and (4) he observed that Granson had methamphetamine immediately after leaving Shirley's home. See CP 64, *supra*.

Based upon these statements, a sufficient nexus existed between the criminal activity, the sale of methamphetamine, and the place to be searched – Shirley's residence. See *State v. Thien*, 138 Wn.2d 133, 140, 977 P.2d 582 (1999) (probable cause requires a nexus between criminal activity and the item to be seized, and also a nexus between the item to be seized and the place to be searched); See also *State v. Goble*, 88 Wn. App. 503, 509, 945 P.2d 263 (1997). As noted above, Smith observed Granson enter Shirley's home "empty handed" and with the intent to purchase drugs. After Granson exited Shirley's residence, Smith observed that Granson possessed methamphetamine. These facts permit the reasonable inference that Shirley was engaged in the sale and distribution of methamphetamine, and that officers would find drugs or items associated with their sale inside his residence. This Court should find that Smith's personal observations sufficiently satisfied the *Aguilar-Spinelli* test.

Shirley argues that Smith did not demonstrate an adequate basis of knowledge because he only had hearsay knowledge. Br. of Appellant at 17. Shirley asserts:

In the present case, the informant Joe Smith stated to the warrant affiant (a Sheriff's Deputy) [sic] that the passenger in his car (Granson) *claimed* he had purchased methamphetamine from the defendant Brad Shirley when he left Smith's vehicle and went inside Shirley's home.

Br. of Appellant at 16 (emphasis added). See also Br. of Appellant at 15-22. The record does not support this argument. See CP 63-66. Keegan's affidavit does not reflect any statement that Smith attributed to Granson. See CP 63-66. With respect to the suspected drug transaction between Shirley and Granson, the affidavit only contains Smith's observations that (1) he drove Granson to Shirley's for the purpose to buy drugs, (2) he knew that Granson didn't have methamphetamine before entering Shirley's residence, and (3) that when Granson exited the house he observed that he was in possession of methamphetamine. CP 64. This Court should find that Smith observed these facts, and that the challenged affidavit does not contain any hearsay attributable to Granson.

Shirley appears to argue that the knowledge prong is satisfied only if the informant observes the actual exchange of drugs. Br. of Appellant at 17-20. In support of this position, Shirley cites *State v. Duncan*, 81 Wn. App. 70, 76, 912 P.2d 1090 (1996) (informant personally observed a certain quantity of marijuana in the Defendant's presence), *State v. Casto*, 39 Wn. App. 229, 234, 692 P.2d 890 (1984)

(informant observed a marijuana grow operation and participated in a controlled buy). However, these cases do not require an informant to witness a drug exchange as the sole means to satisfy the knowledge prong of the *Aguilar-Spinelli* test. In fact, the *Casto* opinion states a magistrate may find probable cause where the presence of drugs is presumed. 39 Wn. App. at 234 (citing 1 W. LaFave, Search & Seizure § 3.3(b) at 512 (1978); *State v. Helmka*, 86 Wn.2d 91, 93, 542 P.2d 115 (1975); *State v. Maffeo*, 31 Wn. Ap. 198, 202, 642 P.2d 404, *review denied*, 97 Wn.2d 1012 (1982)).

Probable cause only requires that a search warrant provide sufficient facts for a reasonable person to conclude that there is a *probability* that the defendant is involved in criminal activity. *Vickers*, 148 Wn.2d at 108 (emphasis added). Because the magistrate is entitled to draw on commonsense and make reasonable inferences from the facts and circumstances set forth in the affidavit, *see id.*, the trial court did not abuse its discretion when it found probable cause that Shirley was likely involved in criminal activity: based on the fact that Smith observed Granson enter Shirley's residence with the intent to purchase drugs, and without any methamphetamine on his person; and that Smith also observed Granson with methamphetamine, immediately after he exited

Shirley's residence. See CP 64. This Court should find that the knowledge prong is satisfied.

2. The affidavit provided sufficient facts to support the informant's veracity.

When appellate courts review a probable cause determination to support a warrant, the courts only consider the information that was available to the issuing magistrate. *State v. Estorga*, 60 Wn. App. 298, 304, 803 P.2d 813 (1991) (citing *State v. Patterson*, 83 Wn.2d 49, 55, 515 P.2d 496 (1973)). Even though little or nothing is known about the informant, the facts and circumstances under which the information was furnished may reasonably support an inference that the informant was telling the truth. *Estorga*, 60 Wn. App. at 304 (citing *State v. Lair*, 95 Wn.2d 706, 710, 630 P.2d 427 (1981)).

An admission against penal interest is "one factor" that may establish an informant's credibility, "[p]articularly where [it] is not the only indication of reliability." *State v. Chamberlin*, 161 Wn.2d 30, 162 P.3d 389 (2007). Identity of the informant is another factor favoring reliability of the informant. *Estorga*, 60 Wn. App. at 304 (citing *State v. O'Connor*, 39 Wn. App. 113, 120, 692 P.2d 208 (1984), *review denied*, 103 Wn.2d 1022 (1985)). *See also State v. Chenoweth*, 160 Wn.2d 454, 483, 158 P.3d 595 (2007) ("[a]n informant's willingness to come

forward and identify himself is a strong indicator of reliability. Such a person may be held accountable for false accusations.”). Finally, a magistrate may find an informant credible if an independent police investigation corroborates the informant’s tip. *See Vickers*, 148 Wn.2d at 112.

In the present case, Keegan’s affidavit set forth numerous facts from which the trial judge could determine that Smith was a credible informant. First, Smith made significant statements against his penal interest despite the fact that Keegan never promised him leniency:

Smith admitted to me that he was a Methamphetamine addict and used methamphetamine today.... Smith admitted to collecting money from others in the past[,] buying Methamphetamine, and delivering it to them.

CP 64. At the time of the arrest, police officers discovered methamphetamine in Smith’s vehicle.<sup>10</sup> CP 64. Nonetheless, Smith admitted that he often served as a carrier of methamphetamine. See CP 64, *supra*. Based on this statement, the State could have charged Smith with possession with intent to deliver methamphetamine. Statements against penal interest are intrinsically reliable because a person is unlikely to make a self-incriminating admission unless it is true. *See Chenoweth*, 160 Wn.2d at 483. Smith’s statement against his penal

---

<sup>10</sup> The State notes that Smith claimed the methamphetamine belonged to Granson. CP 64.

interest demonstrated his honesty and provided the context for the magistrate to evaluate the veracity of his other statements.

Second, Smith permitted Keegan to identify him despite the inherent risk that may result from being a named informant. Shirley argues that no such identification occurred because Keegan sealed the record of the telephonic warrant application. Br. of Appellant at 26. However, there is nothing in the record to show that Smith was aware that Keegan sought to seal the record. See CP 63-66. Even if the record was sealed, there was nothing to prohibit trial counsel from filing a motion to unseal the record. This Court should find that Smith's willingness to come forward and identify himself is a strong indicator of reliability because he could be held to account for false accusations. See *Chenoweth*, 160 Wn.2d at 483.

Finally, Smith relayed additional facts and circumstances relevant to the magistrate's assessment of his veracity. Smith provided information about other drug users and dealers in the area, which Keegan knew to be true through his experience with OPNET. CP 65. In addition, Smith stated his belief that Granson sold methamphetamines because he regularly observed a high volume of traffic at Granson's residence. CP 35, CP 65. This observation was corroborated by police investigation, which confirmed that other witnesses had observed a high

traffic volume at Granson's residence. CP 65. The fact that law enforcement was able to confirm much of what Smith disclosed further bolsters his credibility as an informant.

Shirley attempts to dispel Smith's veracity through claims that he was a drug dealer that was under the influence of methamphetamine at the time of his arrest. However, the record does not support the conclusion that Smith was under the influence of drugs at the time he spoke with Keegan. The record only reveals that Smith had used methamphetamine earlier that day. CP 64. Furthermore, the fact that Smith admitted to serving as a drug courier does not necessarily impugn his credibility. *See State v. Riley*, 34 Wn. App. 529, 533, 663 P.2d 145 (1983) (The fact that an informant may be under suspicion does not necessarily vitiate the inference of reliability).

Because Smith volunteered the information, while under arrest and advised of his rights, without promise or persuasion, and in light of the factors that demonstrate his credibility, this Court should find that the veracity prong of the *Aguilar-Spinelli* test is satisfied.

///

///

///

3. The double hearsay within the affidavit satisfies the Aguilar-Spinelli test.

An affiant, seeking a search warrant, can base his or her information on simple hearsay. *State v. Laursen*, 14 Wn. App. 692, 695, 544 P.2d 127 (1975) (citing *Jones v. United States*, 362 U.S. 257, 80 S.Ct. 725, 4 L.Ed.2d 697 (1960)). See also *Vickers*, 148 Wn.2d at 111. In reference to double hearsay, the magistrate need not summarily reject the twice removed statements, but he or she should evaluate the information in order to determine whether the affiant's immediate informant gathered the information in a reliable way and from a reliable source. *Laursen*, 14 Wn. App. at 695.

In the present case, Shirley goes to great lengths to argue that Smith's knowledge was the product of double hearsay and that the trial court erred by not applying the *Aguilar-Spinelli* test to the claims made by Granson. Br. of Appellant 16, 20-22. As noted above, Keegan's affidavit is void of any statements that Smith attributed to Granson. See CP 63-66. Thus, there is no double hearsay problem with respect to Granson.

However, the search warrant affidavit does contain double hearsay with respect to Keegan's recitation of the police investigation that corroborated Smith's statement that he had seen a high volume of

traffic at Granson's residence, and led to the suspicion that Shirley's own vehicle had been at the residence too. See CP 65. This Court should find that this instance of double hearsay meets the criteria of *Aguilar-Spinelli*.

In the affidavit, Keegan informed the magistrate of the following:

[W]hile I was interviewing Smith[,] Detective Lightfoot called Officer Nelson of the Sequim Police Department[,] who lives across the street from Granson's residence. Nelson told Lightfoot that he's seen a lot of traffic at Granson's house and it [had] been heavier than normal today. Nelson said that there's been more than a dozen... vehicles[.]

Nelson has not been watching the residence all day.... Lightfoot described Brad Shirley's [truck] to Nelson and asked him if he's seen it[,] a late 70's early 80's Toyota truck[,] two wheel drive, red in color with a canopy at Granson's[.] Nelson said that he hadn't but he asked his wife and she said... that she saw it there at approximately 17 hours today.

CP 65. In above passage, there are several layers of hearsay.

Here, the information regarding the traffic volume and the fact that a vehicle similar to the one that Shirley owns was present at Granson's residence was acquired first-hand by Officer Nelson and his wife. CP 65. Keegan is entitled to rely on the information because it came from his fellow officers. See *Laursen*, 14 Wn. App. at 695 (citing *United States v. Ventresca*, 380 U.S. 102, 85 S.Ct. 741, 13 L.Ed.2d 684

(1965)) (an affidavit should be accorded a reasonable degree of reliability when the affiant seeks a warrant based on the information supplied by fellow officers). In addition, Officer Nelson's wife is a credible informant by virtue of the fact that she is an identifiable, ordinary citizen, who provided a detailed description of the facts which she had knowledge – *i.e.* the exact time the suspected vehicle was present outside Granson's residence. *See State v. Northness*, 20 Wn. App. 551, 557-58, 582 P.2d 546 (1978). This Court should find that the double hearsay included in Keegan's affidavit satisfies both the knowledge and the veracity prongs of the *Aguilar-Spinelli* test.

B. LAW ENFORCEMENT SEARCHED THE DEFENDANT'S JEEP PURSUANT TO A VALID SEARCH WARRANT AND DID NOT EXCEED ITS SCOPE.

As a general rule, appellate courts will not consider issues raised for the first time on appeal. RAP 2.5(a). *State v. Tolia*s, 135 Wn.2d 133, 140, 954 P.2d 907 (1998). Because Shirley did not challenge the scope of the search warrant at the trial level, this Court need not address this issue on appeal.

It is the burden of the party seeking review of an issue to ensure that the record on review contains all the transcripts necessary to present that issue. RAP 9.2(b). In the present case, Shirley does not include all

the verbatim transcripts that relate to the telephonic affidavits that would ensure that this Court has the necessary information to fairly address the issue of the search warrant's scope. Because Shirley challenges the scope of the search for the first time on appeal, the State did not have the opportunity to present evidence at the trial level showing that the officers had the authority to search his vehicles. Without a complete record regarding the scope of the search, this Court may dismiss Shirley's challenge.

In the interest of justice and judicial economy, the State includes a *Transcription of Tape Recorded Addendum to Search Warrant CCSO-07-4179-KW*. See Appendix A. Should this Court decide to address the merits of Shirley's present challenge, the Court may review this additional evidence pursuant to RAP 9.11.

The Fourth Amendment requires warrants to describe with particularity the things to be seized. *State v. Riley*, 121 Wn.2d 22, 28, 846 P.2d 1365 (1993); *State v. Dodson*, 110 Wn. App. 112, 119, 39 P.3d 324 (2002). The particularity requirement prevents general searches and seizure of objects that are mistakenly believed to fall within the issuing magistrate's authorization. *Dodson*, 110 Wn. App. at 119 (citing *State v. Chambers*, 88 Wn. App. 640, 643, 945 P.2d 1172 (1997)).

The appellate courts review a warrant's particularity de novo. *State v. Perrone*, 119 Wn.2d 538, 549, 834 P.2d 611 (1992); *Dodson* 110 Wn. App. at 120. The constitutional requirements are met if the warrant describes the things to be seized with reasonable particularity under the circumstances. *Dodson*, 110 Wn. App. at 120 (citing *Chambers*, 88 Wn. App. at 643). Again, the appellate courts evaluate the warrant in a commonsense, practical manner, rather than in a hyper-technical sense. *Id.*

In the present case, the investigating officers did not exceed the scope of the search warrant. Shirley argues that the officer exceeded the warrant's scope because the initial warrant did not expressly authorize a vehicle search. Br. of Appellant at 34-49. However, Shirley fails to recognize that Keegan obtained an addendum to the warrant issued by Judge Williams. RP 75, 93 (7/30/08); Appendix A (CP TBD (State's Supplement *Transcription of Tape Recorded Addendum to Search Warrant CCSO 07-4179* pg. 1-4)).

After investigating officers had conducted a lawful search of Shirley's residence, but prior to their search of the three vehicles at the residence, Keegan sought to amend the search warrant:

[Y]our honor this is an addendum to a search warrant CCSO 07-4180 from Ken Williams. [C]urrently we're at the address on that warrant 102 Motor Avenue. [T]he

purpose of this warrant was to search for items associated with the sale and distribution of Methamphetamine....

[W]e're seeking to expand this warrant to search the vehicles parked at the residence registered to the suspect [Mr.] Brad Allen Shirley born in 1969. [T]he first vehicle [is] a burgundy Jeep[,] Washington license 366RQX. The second vehicle is a GMC pickup... license plate B53523D[.] [A]nd a Toyota pickup truck with a canopy... Washington license plate B35153B.

Appendix A at 1. Judge Wood amended the initial search warrant to include the three vehicles, after Keegan reiterated (1) the facts that Smith had supplied for the initial warrant, (2) the fact that witnesses had observed the Toyota truck at Granson's residence, and (3) that Keegan observed items he believed were associated with methamphetamine in both the Toyota and the Jeep. Appendix A at 2-4. Because the addendum describes the three vehicles by their individual make and specific license plates, this Court should hold that investigating officers did not exceed the scope of the warrant when they searched the Jeep and seized additional contraband. See RP 75, 97, 105 (7/30/08).

### C. THE DEFENDANT RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL

Appellate courts review ineffective assistance of counsel claims *de novo*. *In re Fleming*, 142 Wn.2d 853, 865, 16 P.3d 610 (2001); *State v. Horton*, 136 Wn. App. 29, 146 P.3d 1227 (2006). To show ineffective assistance of counsel, an appellant must prove both (1) that his

attorney's performance was deficient, and (2) that this deficiency prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

Deficient performance is that which falls below an objective standard of reasonableness. *State v. Horton*, 116 Wn. App. 909, 912, 68 P.3d 1145 (2003). However, appellate courts review ineffective assistance claims with a strong presumption that defense counsel was competent. *In re Pers. Restraint of Pirtle*, 136 Wn.2d 467, 487, 965 P.2d 593 (1998).

To satisfy the prejudice prong of an ineffective assistance of counsel claim, the appellant must show that counsel's performance was so inadequate that there is a reasonable probability that, but for the deficient performance, the result at trial would have been different – thereby undermining an appellate court's confidence in the outcome. *Strickland*, 466 U.S. at 694.

In the present case, Shirley claims he received ineffective assistance of counsel when his attorney failed to object when the trial court admitted evidence that resulted from a police search of his vehicle. Br. of Appellant at 37. As noted above, Shirley erroneously assumes that law enforcement lacked the requisite authority to search his vehicles, specifically the Jeep. However, Keegan obtained an addendum to the

initial search warrant, and the addendum identified with particularity each vehicle to be searched. Appendix A at 1-4.

This Court should hold that Shirley cannot satisfy either prong of an ineffective assistance claim. Because law enforcement had the authority to search his vehicles, and the evidence the officers seized from the Jeep was the product of a lawful search, Shirley's trial counsel was not deficient for failing to object to the properly seized evidence, nor did the admissible evidence unduly prejudice Shirley's case.

D. DEFENDANT HAS NOT SHOWED THAT THE  
AFFIANT MADE DELIBERATE OR RECKLESS  
MISREPRESENTATIONS.

In his statement of additional grounds, Shirley asserts that Keegan's representation that Shirley had a prior conviction for possession of methamphetamine with intent to deliver was false. SAG at 1. This Court should dismiss this argument because Shirley failed to make the requisite showing that Keegan's misrepresentation was deliberate or reckless.

The Fourth Amendment requires an evidentiary hearing when the defendant makes a substantial preliminary showing that the affiant deliberately or recklessly misrepresented the facts in a search warrant affidavit, and that the misstated information was

material or relevant to the magistrate's determination of probable cause. *Vickers*, 148 Wn.2d at 115 (citing *Franks v. Delaware*, 438 U.S. 154, 156-57, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978)). However, "[a]llegations of negligence or innocent mistake are insufficient." *Vickers*, 148 Wn.2d at 115. The defendant must make an offer of proof with any allegation of deliberate falsehood or reckless disregard of the truth. *Vickers*, 148 Wn.2d at 115 (citing *State v. Garrison*, 118 Wn.2d 870, 872, 827 P.2d 1388 (1992)).

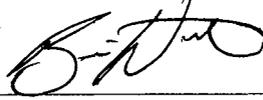
In the present case, Keegan did state in his telephonic affidavit that Shirley had a prior conviction for possession of methamphetamine. CP 65. However, at sentencing, the trial court issued a judgment and sentence that indicated that Shirley actually had an offender score of 0. See CP 7-8. Shirley has provided no evidence to show that Keegan's statement was a deliberate misrepresentation. It is the State's position that Keegan made an innocent mistake when he told the magistrate that Shirley had a prior drug conviction. Furthermore, the trial court likely would have found probable cause without the assertion given the sufficient facts and circumstances that point to criminal activity at Shirley's residence. Thus, this Court should hold (1) that Shirley's SAG argument is an insufficient basis to challenge the warrant,

and (2) that the argument is not properly before the Court for want of a preliminary showing that Keegan deliberately or recklessly misrepresented the truth.

#### **IV. Conclusion**

For the foregoing reasons, the State respectfully requests that this Court affirm the present conviction and sentence.

DATED this 1<sup>st</sup> day of June, 2009.



---

Brian Patrick Wendt WSBA # 40537  
Deputy Prosecuting Attorney

APPENDIX "A"

Pros 1-23-08

Narrative Report

RUN DATE: 1/23/2008

Page 1

CASE NUMBER: OPNET 2007-13573

TRANSCRIPTION OF TAPE RECORDED ADDENDUM TO SEARCH WARRANT CCSO-07-4179-KW.

JK = Detective John Keegan  
JW = Judge George Wood  
XX = Unknown Dispatcher

RECEIVED

JAN 24 2008

CLALLAM COUNTY  
PROSECUTING ATTORNEY

XX: And were recording go ahead.

JW: Alright this is Judge George Wood it's December 28 2007 I've got ah about 11:22 A.M. ah Detective Keegan's on the line do you wanta raise your hand for me.

JK: Doing so your honor.

JW: Okay do you swear the testimony you're about give shall be the truth the whole truth and nothing but the truth?

JK: Yes I do your honor.

JW: Alright why don't you state your name and your position and I am familiar with your background.

JK: I am John Keegan I'm a Detective with the Clallam County Sheriff's Department currently assigned to the Olympic Peninsula Narcotics Enforcement Team.

JW: Okay.

JK: Ah your honor this is an addendum to a search warrant CCSO-07-4180 from Ken Williams. Ah currently were at the address on that warrant 102 Motor Avenue ah the purpose for this warrant was to search for items associated with the sale and distribution of Methamphetamine. Ah we served the warrant, inside the residence we found items associated with the use and sales of Methamphetamine mainly drug paraphernalia which had residue on there that field tested positive for Methamphetamine. Ah were seeking to expand this warrant to search the vehicles ah parked at the res, ah residence registered ah to the suspect Mister ah Brad Allen Shirley born in 1969 ah the first vehicle be a burgundy Jeep Washington license 366RQX. The second vehicle is a GMC pickup that's used to be spray painted blue license plate B53523D and ah Toyota pickup truck with a canopy of special interest Washington license plate B35153B um again basically ah on December 23<sup>rd</sup>

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Detective: \_\_\_\_\_  
Supervisor Approval: \_\_\_\_\_

Date: 01.23.08  
Date: \_\_\_\_\_

14

## Narrative Report

RUN DATE: 1/23/2008

Page 2

early in the morning I received two search warrants from Judge Williams regarding a traffic stop made by Clallam County Sheriff's Department Deputy Koehler. He stopped two individuals next to this residence. I talked to one of those individuals and I'm sorry Methamphetamine was found in that vehicle. The two individuals were the driver, Joe Ray Smith and David Thomas Granson. Both had warrants. Search incident the vehicle Methamphetamine was found. I talked to Mister Smith about it after I read him his rights he provided me with information I know to be true. Some of that was the fact that they were coming to this residence to purchase narcotics mainly Methamphetamine. Um, we also received a search warrant 4179 from Judge Williams for the residence of Mister Granson. There we found items associated with the sales and distribution of Methamphetamine including Methamphetamine. Based on that information and the fact that we searched this residence and we found some and we have a witness who is a police officer who lives across the street from Granson who can identify, who identified that earlier that day a red Toyota pickup with a shell matching the description of the vehicle here was seen at the residence. I interviewed Mister Shirley upon his arrest. He denied knowing Mister Granson originally but then changed his story to oh he just shows up and I run him off cause he wants drugs and I don't sell drugs, nor do I use them which I find contradictory since we found Marijuana and Methamphetamine in his residence. He also denied knowing other individuals known for drug culture. However, the search warrant granted me information stored on cell phone we found those people's phone numbers stored in there and when we confronted with that he changed his story yet again and says oh I know them I just don't call them and I confronted him why those numbers would be in his cell phone and then he changed his story yet again and said well I call them you know maybe every six months which I also find highly to believe due to the fact that the phone is actually rather new. So based on that testimony, I'd like permission to search not only these three vehicles but the city issued trash can which is at the curb the alley behind his residence.

JW: Um, so tell me exactly what the warrant or ah I think you said 12/23 was when the warrant was issued or was it issued later then that?

JK: That was yeah issued that morning.

JW: 12/23 by Judge Williams?

JK: Yeah.

JW: And for Mister Shirley's residence?

JK: Yes.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Detective: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval: \_\_\_\_\_

Date: \_\_\_\_\_

15

Narrative Report

RUN DATE: 1/23/2008

Page 3

JW: Okay and so at that time then there wasn't any indication in the warrant of, of vehicles?

JK: Ah no, not at that time.

JW: Okay so you're asking me at this time to add the vehicles, were you aware at the time you asked for the search warrant that there may be vehicles on the property or is this something that you guys arouse your suspicion since you've been there?

JK: One of the things that arouses in my suspicion is the fact that that the Toyota was parked ah was seen \_\_\_ a very similar make, model ah with canopy much like the one here was seen at the other suspects residence earlier that day ah which is con...

JW: Over at Granson's residence?

JK: Yes.

JW: Okay.

JK: \_\_\_\_\_ Smith \_\_\_ that he buys drugs from Shirley via Granson and that they were on there way to Granson's house to get more drugs and that he provided um, sigh, Granson with three hundred dollars earlier that day which he believed he was going to us to purchase drugs so he can sell them, make a profit and pay off his rent. Ah looking through the window of the Toyota I see a 35 millimeter film canister on the center console which based on my training and experience commonly is used to store ah drugs such as Marijuana, Methamphetamine and or Cocaine. Um, the Jeep also has personal documents I can see in the view, I see some sort of plastic bag it looks like it contains other material though ah but it's got mail to ah Mister Shirley and again it's registered to him and that he does drive this vehicle.

JW: Okay are all, all the vehicles registered to Shirley that you wanta on the ah addendum?

JK: All of the above except for the GMC pickup it is parked here ah based on my observations of driving around I've seen the vehicle parked here ah all the time ah no one else is present at the residence and Mister Shirley says that he has no roommates.

JW: Okay, alright so you wanta add those ah the three vehicles is that it, ah plus ah trash container?

JK: Plus, plus the trash container.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Detective: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval: \_\_\_\_\_

Date: \_\_\_\_\_

16

Narrative Report

RUN DATE: 1/23/2008

Page 4

JW: And what, what is the purpose of the trash?

JK: Ah because I know that ah individuals ah when they're done with certain paraphernalia like the baggies and storage containers in which they use to temporarily hold ah controlled substances they do eventually get thrown away um I also know that ah crib notes and documents and such like that ah do not want to be stored in ones residence because it just incriminates them further and I, and that ah he would probably throw those items away too and the fact that I don't think that he has I mean the fact that the trash can is off the property in the alley and is ready to be picked up ah would indicate that fact that ah, ah other than the fact that I mean I believe there may be evidence ah to the crime in that but it also appears that it's technically abandoned on the curb side.

JW: Okay alright ah well I'll give you ah authority to ah, to amend the warrant that was issued by ah Judge Williams.

JK: Thank you.

JW: What \_\_\_ items you wanta search, so you can sign my name to that ah George Wood and ah I've got 11:28 A.M.

JK: 11:28.

JW: Yep.

JK: Thank you your honor.

JW: Alright thanks.

JK: Bye-bye.

*End of tape recorded transcription of addendum for search warrant CCSO-07-4179-KW.*

(T-01/23/08-kss)

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Written and signed in Clallam County.

Detective: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor Approval: \_\_\_\_\_

Date: \_\_\_\_\_