

NO. 43386-9-II

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

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STATE OF WASHINGTON,

Respondent,

v.

COLIN MCCURDY,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR CLALLAM COUNTY

The Honorable Brooke Taylor, Judge

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BRIEF OF APPELLANT

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## TABLE OF CONTENTS

	Page
A. <u>ASSIGNMENTS OF ERROR</u> .....	1
Issue Presented on Appeal.....	1
B. <u>STATEMENT OF THE CASE</u> .....	2
2. SUBSTANTIVE FACTS.....	2
a. <u>Competency to Stand Trial</u> .....	2
b. <u>Sufficiency</u> .....	2
C. <u>ARGUMENTS</u> .....	4
1. THE TRIAL COURT ERRED BY PERMITTING MR. MCCURDY TO PROCEED TO TRIAL WHERE FOLLOWING A WESTERN STATE EVALUATION, MR. MCCURDY WAS DETERMINED NOT TO BE COMPETENT TO STAND TRIAL.....	4
a. <u>Initial Competency Finding</u> .....	7
b. <u>Court's Ongoing responsibility Ensure Competence to Stand Trial</u> .....	10
2. THE STATE FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT MR. MCCURDY CONTRUCTIVELY POSSESSED FREARMS OR MARIJUANA.....	13

a.	<u>Standard of Review</u> .....	14
D.	<u>CONCLUSION</u> .....	22

## TABLE OF AUTHORITIES

	<b>Page</b>
<u>WASHINGTON CASES</u>	
<u>State v. Alvarez,</u> 105 Wn. App. 215, 19P.3d 485 (2001).....	21, 23, 24, 27
<u>State v. Anderson,</u> 141 Wn.2d 357, 5 P.3d 1247 (2000).....	20
<u>State v. Bowen,</u> 157 Wn.App. 821, 239 P.3d 1114 (2010).....	22
<u>Callahan,</u> 77 Wn.2d 27, 459 P.2d 400 (1969)	
<u>State v. Chouinard,</u> __ Wn.App. __, 282 P.3d 117, 119 (2012).....	21, 22
<u>State v. Collins,</u> 76 Wn.App. 496, 886 P.2d 243 (1995).....	22, 23
<u>State v. Cross,</u> 156 Wn.App. 568, 234 P.3d 288 (2010).....	13
<u>State v. Echeverria,</u> 85 Wn.App. 777, 783, 934 P.2d 1214 (1997).....	22
<u>State v. George,</u> 146 Wn.App. 906, 193 P.3d 693 (2008).....	25, 26
<u>State v. Hagen,</u> 55 Wn.App. 494, 781 P.2d 892 (1989).....	21
<u>State v. Hicks,</u> 41 Wn.App. 303, 704 P.2d 1206 (1985).....	13

## TABLE OF AUTHORITIES

	Page
<u>WASHINGTON CASES, continued</u>	
<u>State v. Hosier</u> , 157 Wn.2d 1, 133 P.3d 936 (2006).....	20
<u>State v. Hystad</u> , 36 Wn.App. 42, 671 P.2d 793 (1983).....	21
<u>State v. Lyons</u> , 174 Wn.2d 354, 275 P.3d 314 (2012).....	23
<u>State v. Marshall</u> , 144 Wn.2d 266, 27 P.3d 192 (2001).....	11, 12, 13, 19
<u>State v. McFarland</u> , 73 Wn.App. 57, 70, 867 P.2d 660 (1994), <i>aff'd</i> , 127 Wn.2d 322, 899 P.2d 1251 (1995).....	22
<u>State v. Ortiz</u> , 104 Wn. 2d 479, 706 P. 2d 1069 (1985), <u>cert. denied</u> , 476 U.S. 1144, 106 S.Ct. 2255, 90 L.Ed.2d 700 (1986).....	13-17
<u>State v. Partin</u> , 88 Wn.2d 899, 567 P.2d 1136 (1977).....	22, 26, 27
<u>State v. Raleigh</u> , 157 Wn.App. 728, 238 P.3d 1211 (2010) <u>review denied</u> , 170 Wn.2d 1029, 249 P.3d 624 (2011).....	20, 21
<u>State v. Reid</u> , 40 Wn.App. 319, 326, 698 P.2d 588 (1985).....	22

## TABLE OF AUTHORITIES

	<b>Page</b>
<u>WASHINGTON CASES, continued</u>	
<u>State v. Rhome,</u> 172 Wn.2d 654, 260 P.3d 874 (2011).....	13
<u>State v. Sisouvanh</u> --- P.3d ---, 2012 WL 4944801 Wash. (2012).....	12, 19
<u>State v. Spruell,</u> 57 Wn. App. 383, 788 P.2d 21 (1990).....	24-26
<u>State v. Swain,</u> 93 Wn. App. 1, 968 P.2d 412 (1998).....	14-16
<u>State v. Tadeo–Mares,</u> 86 Wn.App. 813, 939 P.2d 220 (1997).....	22
<u>State v. Turner,</u> 103 Wn.App. 515, 521, 13 P.3d 234 (2000).....	22
<u>State v. Wicklund,</u> 96 Wn.2d 798, 638 P.2d 1241 (1982).....	12
<u>State v. Woods,</u> 143 Wn.2d 561, 23 P.3d 1046, <u>cert. denied</u> , 534 U.S. 964, 151 L. Ed. 2d 285 (2001).....	13
<u>FEDERAL CASES</u>	
<u>Godinez v. Moran,</u> 509 U.S. 389, 113 S.Ct. 2680, 125 L.Ed.2d 321 (1993).....	12

## TABLE OF AUTHORITIES

	<b>Page</b>
<u>OTHER STATE CASES</u>	
<u>People v. Kelly</u> , 1 Cal.4th 495, 3 Cal.Rptr.2d 677, 822 P.2d 385 (1992).....	17
<u>State v. Sanders</u> , 209 W. Va. 367, 549 S.E.2d 40 (2001).....	17, 18
<u>STATUTES, RULES AND OTHERS</u>	
RCW 10.77.050.....	12, 13, 19
RCW 9.41.040(1)(a).....	19, 20
RCW 69.50. 4013.....	20

A. ASSIGNMENTS OF ERROR

1. The trial court erred by finding Mr. McCurdy competent to stand trial where the Western State expert Dr. Redick concluded that Mr. McCurdy was not competent to stand trial and Mr. McCurdy's behavior in court supported the conclusion of incompetence to stand trial.

2. The state failed to prove that Mr. McCurdy constructively possessed firearms or marijuana.

Issues Presented on Appeal

1. Did the trial court erred by finding Mr. McCurdy competent to stand trial where the Western State expert concluded that Mr. McCurdy was not competent to stand trial and Mr. McCurdy's behavior in court supported the conclusion of incompetence to stand trial?

2. Did the trial Court err by failing to conduct a new competency hearing after Mr. McCurdy demonstrated behavior consistent with incompetence to stand trial?

3. Did the state fail to prove that Mr. McCurdy constructively possessed firearms or marijuana?

B. STATEMENT OF THE CASE

a. Competency to Stand Trial

Dr. Carl Redick, PhD, a Western State psychologist performed a forensic evaluation of Mr. McCurdy and determined that Mr. McCurdy was not competent to stand trial. "With current information, it was my opinion that that the defendant did not have the capacity to understand to the nature of the proceedings or the ability to assist in his defense." CP 57. Dr. Redick recommended that trial counsel attempt to work with Mr. McCurdy, but if that provided unsuccessful, the Court should consider the failure to be the result of Mr. McCurdy's "mental disorder and an indication of incompetence on the current charges.". CP 52, 57.1

b. Sufficiency.

According to Deborah Bays, a man named Miles gave her \$425 in cash to rent a room in her house for the month of March 2011. RP 65 (April 11, 2012). Ms. Bays did not have a rental agreement with this man and he never received mail at her address. RP 74-75 (April 11, 2012). Ms. Bays rarely saw this man, never saw him with large plastic bags or guns, never saw him smoke marijuana

and never smelled marijuana in her house. RP 70, 73-75 (April 11, 2012). The last time Ms. Bays last saw this man was on March 21, 2011. RP 74 (April 11, 2012). Ms. Bays never obtained any identification from her renter. RP 74 (April 11, 2012). In Court Ms. Bays identified Mr. McCurdy as the renter. RP 70-71 (April 11, 2012).

On March 29, 2011, Ms. Bays decided to look into the room she indicated that Mr. McCurdy rented. RP 67-68(April 11, 2012). Ms. Bays testified that she discovered bags of marijuana on the bed in the rented room. RP 67 (April 11, 2012). Ms. Bays called the police twice to report the marijuana. RP 67-69 (April 11, 2012). The police arrived with a search warrant for the marijuana and searched the rented bedroom, retrieving 60 pounds of marijuana in one pound bags secured inside large black plastic bags. RP 84, 87, 107(April 11, 2012).

Police officer Mark Millet found ammunition inside a duffel bag inside the tenant's room. RP 94 (April 11, 2012). Millet applied for a second warrant to search a locked tool box also located in the tenant's closet. RP 96 (April 11, 2012). The police found two rifles inside the locked toolbox: a black powder rifle and a Springfield

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<sup>1</sup> The balance of the facts related to Mr. McCurdy's behavior during trial are

Armory rifle. RP 97, 100, 108, 110 (April 11, 2012). The police also found personal notes addressed to Mr. McCurdy inside the toolbox. RP 102, 103 (April 11, 2012); RP 14-15, 21 (April 12, 2012).

The police did not conduct any fingerprint analysis to connect Mr. McCurdy to the contraband, even though the materials seized could have been analyzed for fingerprints. RP 20-21 (April 12, 2011).

C. ARGUMENT

1. THE TRIAL COURT ERRED BY PERMITTING MR. MCCURDY TO PROCEED TO TRIAL WHERE FOLLOWING A WESTERN STATE EVALUATION, MR. MCCURDY WAS DETERMINED NOT COMPETENT TO STAND TRIAL.

On February 12, 2012 and February 17, 2012, defense counsel informed the court that Dr. Redick concluded that Mr. McCurdy was not competent to stand trial. RP 3 (February 10, 2012); RP 5 (February 17, 2012). During the competency hearing held on March 12, 2012, contrary to Dr. Redick's conclusion, the Court determined that Mr. McCurdy understood the proceedings and could assist his attorney, and if Mr. McCurdy did not assist his attorney, the reason was uncooperativeness rather than incompetence. RP 3-4 (March 12,

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presented in the body of the argument for strategic purposes.

2012). The court also admitted that it was confused by the Western State evaluation but nonetheless found Mr. McCurdy competent to stand trial. RP 6, 13 (March 12, 2012). Throughout the proceedings Mr. McCurdy insisted on being competent to stand trial. RP 4 (February 10, 2012); RP 4 (February 17, 2012).

Mr. McCurdy referred to his prior attorney as “venomous poison; and creating a “putrid substance”; he referred to his current attorney as not trustworthy and he called the judge a liar and had numerous outbursts during trial about issues unrelated to his case. RP 7-8 (March 12, 2012). Mr. McCurdy did not trust his attorney, he wanted to represent himself, he knew that he could not represent himself and was, as anticipated by Dr. Redick, not competent to stand trial. CP 60. Mr. McCurdy insisted on a defense strategy that his attorney could not produce and rejected a credit for time served offer. RP34-53 (April 12, 2012).

Throughout the proceedings Mr. McCurdy behaved in the manner anticipated by the Dr. Redick which confirmed Mr. McCurdy’s incompetence to stand trial due to his: (1) inability to properly understand the nature of the proceedings against him; and (2) his inability to rationally assist his legal counsel in the defense of his

cause.’ State v. Marshall, 144 Wn.2d 266, 281, 27 P.3d 192 (2001),  
abrogated on other grounds in State v. Sisouvanh  
--- P.3d ----, 2012 WL 4944801  
Wash.,2012 (Westlaw page 18).

In Washington, “[n]o incompetent person shall be tried,  
convicted, or sentenced for the commission of an offense so long as  
such incapacity continues.” RCW 10.77.050; State v. Wicklund, 96  
Wn.2d 798, 800, 638 P.2d 1241 (1982). The test for competency to  
stand trial is whether the accused (1) is capable of understanding the  
nature of the proceedings against him and (2) is able to rationally  
assist his legal counsel in his defense. Wickland, 96 Wn.2d at 800.  
“Requiring that a criminal defendant be competent has a modest aim:  
It seeks to ensure that he has the capacity to understand the  
proceedings and to assist counsel.” Godinez v. Moran, 509 U.S. 389,  
402, 113 S.Ct. 2680, 125 L.Ed.2d 321 (1993).

Mr. McCurdy was unable to understand the perils of  
proceeding to trial with his case and despite the lack of a viable  
defense strategy insisted on bringing forward irrelevant witnesses.  
Marshall, 144 Wn.2d at 281. “A person is not competent at the time of  
trial, sentencing, or punishment if he is incapable of properly

appreciating his peril and of rationally assisting in his own defense.”  
Id.

A competency evaluation is required whenever "there is reason to doubt" the defendant's competency. RCW 10.77.060(1)(a); Marshall, 144 Wn.2d at 278. The defense bears the threshold burden of establishing a reason to doubt the defendant's competency. A defense attorney's opinion regarding the competency of a client, is entitled to considerable weight. State v. Woods, 143 Wn.2d 561, 605, 23 P.3d 1046, cert. denied, 534 U.S. 964, 151 L. Ed. 2d 285 (2001).

a. Initial Competency Finding

This court reviews a trial court's competency decision under an abuse of discretion standard. State v. Ortiz, 104 Wn. 2d 479, 482, 706 P. 2d 1069 (1985), cert. denied, 476 U.S. 1144, 106 S.Ct. 2255, 90 L.Ed.2d 700 (1986); State v. Hicks, 41 Wn.App. 303, 306, 704 P.2d 1206 (1985). A trial court abuses its discretion when its decision is “ ‘manifestly unreasonable, or exercised on untenable grounds” State v. Rhome, 172 Wn.2d 654, 668, 260 P.3d 874 (2011); State v. Cross, 156 Wn.App. 568, 580, 234 P.3d 288 (2010) (quoting State ex rel. Carroll v. Junker, 79 Wn.2d 12, 26, 482 P. 2d 775 (1971)).

Mr. McCurdy challenges the court's finding that he understood

the nature of the proceedings against him, including the charges and the duties of the judge, prosecutor, and defense attorney; and he challenges the court's determination that he was able to assist in his defense. Dr. Redick concluded that Mr. McCurdy was not able to assist in his defense and specifically indicated that if Mr. McCurdy demonstrated an unwillingness to work with his attorney that this behavior was not willful but rather a manifestation of Mr. McCurdy's incompetence to stand trial stemming from his mental health issues. CP 60.

In State v. Swain, 93 Wn. App. 1, 968 P.2d 412 (1998) the Court of Appeals declined to review Swain's claim that the trial court committed probable error in determining that he was not competent to stand trial because the evidence supported the trial court's finding and the expert's conclusion. Swain, 93 Wn. App. at 9-10. Relying on Ortiz,<sup>2</sup> Mr. Swain, contrary to the court's findings, like Mr. McCurdy argued that he was competent because he understood the courtroom personnel and their responsibilities. Swain, 93 Wn. App. at 9.

In Ortiz, the court upheld the trial court's finding of competency in part because the defendant "understands that there is a judge in

the courtroom, that a prosecutor will try to convict him of a criminal charge, and that he has a lawyer who will try to help him.” However, in Ortiz the court was persuaded by expert opinion that the defendant was competent. In Swain, as in Mr. McCurdy’s, contrary to the defendants’ beliefs, the expert’s concluded that Mr. Swain and Mr. McCurdy were not competent to stand trial. CP 60; Swain, 93 Wn. App. at 9.

Mr. Swain also argued that he understood his defense and was able to render the necessary assistance to his counsel. *Id.* While the “ability to assist” factor of incompetency, holding is a “minimal requirement[.]”, to be competent the defendant must be able to understand the proceedings **at all times**. (Emphasis added) Swain, 93 Wn. App. at 9, quoting, State v. Harris, 114 Wn.2d 419, 429, 789 P.2d 60 (1990) . In Swain, while the defendant “at times appeared to articulate a defense and to have a minimal understanding of the courtroom and the participants’ roles”... “at other at times Mr. Swain was confused”. Swain, 93 Wn. App. at 10.

Mr. McCurdy’s behavior during trial like Swain’s demonstrated that he lacked the capacity to understand the nature of the

proceedings against him and could not assist in his own defense as a result of mental disease or defect because he too at times appeared able to articulate a defense and to have a minimal understanding of the courtroom and the participants' roles and at many other times he was confused.

For these reasons, as in Swain and Ortiz, the trial court abused its discretion by failing to follow the expert's advice and by failing to order a second competency hearing after Mr. McCurdy's repeated outbursts in court.

b. Court's Ongoing responsibility  
Ensure Competence to Stand  
Trial.

During the competency evaluation Mr. McCurdy made the following comments about his prior attorney. "[T]he putrid substance that was there between me and Mrs. Jackson" ... "see to it that she's labeled as a venomous serpent that was frivolously trying to corral me into either prison or an insane asylum". RP 7-8 (March 12, 2012). During the trial proceeding on April 11, 2012, Mr. McCurdy accused the judge of being a liar who was prejudiced against him and made similar claims against his attorney. RP 33-35 (April 11, 2012). During

the same proceeding, Mr. McCurdy insisted on informing the jury about this fiancée and his business. RP 44 (April 11, 2012).

Following this series of outbursts, the prosecutor reminded the court that Dr. Redick found Mr. McCurdy not competent to stand trial because of his inability to follow the court, and his fixation and attacks on his attorney. RP 44-45 (April 11, 2012). Due to the attorney client privilege, the defense attorney informed the court that he could not indicate whether or not Mr. McCurdy was able to assist in his defense. RP 46 (April 11, 2012). Later on the same trial date, Mr. McCurdy again insisted on his competence to stand trial. *Id.* Rather than consider Mr. McCurdy's ongoing behavior during trial, the court instead referred to its earlier determination that Mr. McCurdy was competent to stand trial. RP 47 (April 11, 2012).

In discussing the trial court's obligation to hold a new competency hearing, the Court in State v. Sanders, 209 W. Va. 367, 549 S.E.2d 40, 51 (2001), like in Ortiz, reasoned:

[W]hen a competency hearing has already been held and defendant has been found competent to stand trial ... a trial court need not suspend proceedings to conduct a second competency hearing unless it is presented with a substantial change of circumstances or with new evidence casting a serious doubt on the validity of that finding.”

Sanders, 549 S.E.2d at 51, (quoting People v. Kelly, 1 Cal.4th 495, 3 Cal.Rptr.2d 677, 822 P.2d 385, 412 (1992)). In Sanders, despite an expert's warning about the possibility of degeneration if a long delay occurred before trial, five months passed between the competency hearing and trial. Then, a month before trial, an expert's report raised doubt about defendant's competency. The court held that given the new report and defendant's bizarre behavior at trial, the trial court erred by failing to re-evaluate competency at the time of trial.

Here similar to Sanders, the expert warned that Mr. McCurdy was not competent to stand trial and described the manifestation of Mr. McCurdy's incompetence as an inability to work with his attorney that would manifest during trial. Despite this clear explanation of how Mr. McCurdy's mental illness prevented him from assisting his trial counsel with a defense, the trial court refused to hold an additional hearing or recognize Mr. McCurdy's incompetence to stand trial.

During the trial, Mr. McCurdy insisted on bringing forward witnesses that his attorney refused to consider on relevance grounds. RP 118-119 (April 12, 2012). After the defense rested, Mr. McCurdy

argued with the court for a lengthy period of time that he wanted to represent himself, he wanted to present a defense, he wanted to make his own closing argument; he was not competent to represent himself, that his attorney did not work with him, that he received no defense at all, and wanted to reopen his case. RP 34-53. The court allowed Mr. McCurdy to rant and denied his request to proceed pro se. RP 50-53 (April 12, 2012).

A second competency evaluation was required under Marshall, and RCW 10.77.060 because Mr. McCurdy's behavior provided "reason to doubt" his competency. RCW 10.77.060(1)(a); Marshall, 144 Wn.2d at 278. The trial court's failure to hold a second hearing and its determination that Mr. McCurdy was competent was an abuse of discretion. Sisouvanh --- P.3d ---- (Westlaw page 18). Because Mr. McCurdy was not competent to stand trial, his conviction must be reversed and the matter remanded to the trial court for a new competency hearing.

2. THE STATE FAILED TO PROVE  
BEYOND A REASONABLE DOUBT  
THAT MR. MCCURDY  
CONSTRUCTIVELY POSSESSED  
FIREARMS OR MARIJUANA.

Mr. McCurdy does not dispute that he is a felon ineligible to

possess a firearm under RCW 9.41.040. Rather Mr. McCurdy disputes the element of possession of the marijuana and the firearms.

a. Standard of Review

Evidence is sufficient when viewing evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. State v. Hosier, 157 Wn.2d 1, 8, 133 P.3d 936 (2006); State v. Chouinard, \_\_\_ Wn.App. \_\_\_, 282 P.3d 117, 119 (2012). The reviewing Court defers to the trier of fact on issues of conflicting testimony, witness credibility, and persuasiveness of evidence. State v. Raleigh, 157 Wn.App. 728, 736–37, 238 P.3d 1211 (2010), review denied, 170 Wn.2d 1029, 249 P.3d 624 (2011).

Mr. McCurdy was convicted of unlawful possession of a firearm contrary to RCW 9.41.040(1)(a). The elements of the required the state to prove that Mr. McCurdy was: (1) a felon; who (2) was knowingly in possession of a firearm. Id.; (State v. Anderson, 141 Wn.2d 357, 5 P.3d 1247 (2000)). Mr. McCurdy was also convicted of unlawful possession of more than 40 grams of Marijuana contrary to RCW 69.50. 4013 required the state to prove: possession of marijuana without a valid prescription. RCW 69.50.4013 (former version since amended on other grounds in 2012). Mr. McCurdy

challenges the possession element in both charges.

Possession may be actual or constructive. Raleigh, 157 Wn.App. at 737. “[T]he ability to reduce an object to actual possession” is an aspect of dominion and control, however, “other aspects such as physical proximity” must also be considered as well. Chouinard, 282 P.3d at 120, quoting, State v. Hagen, 55 Wn.App. 494, 499, 781 P.2d 892 (1989).

Mere proximity to the contraband is insufficient to show dominion and control. Chouinard, 282 P.3d at 119; Raleigh, 157 Wn.App. at 737. Furthermore, knowledge of the presence of contraband, without more, is insufficient to show dominion and control to establish constructive possession. Chouinard, 282 P.3d at 120; State v. Hystad, 36 Wn.App. 42, 49, 671 P.2d 793 (1983).

While dominion and control over the contraband may establish constructive possession, without such dominion and control over the contraband “[c]onstructive possession requires dominion and control over the room, space, or area where police find contraband.” Chouinard, 282 P.3d at 119; State v. Alvarez, 105 Wn. App. 215, 217, 19P.3d 485 (2001).

In establishing dominion and control over the premises, the

totality of the circumstances must be considered. No single factor is dispositive. State v. Collins, 76 Wn.App. 496, 501, 886 P.2d 243 (1995). Ownership of the premises where contraband is located is evidence of constructive possession of the contraband in the premises. State v. Bowen, 157 Wn.App. 821, 828, 239 P.3d 1114 (2010); State v. Turner, 103 Wn.App. 515, 521, 13 P.3d 234 (2000); State v. McFarland, 73 Wn.App. 57, 70, 867 P.2d 660 (1994), *aff'd*, 127 Wn.2d 322, 899 P.2d 1251 (1995); State v. Reid, 40 Wn.App. 319, 326, 698 P.2d 588 (1985); State v. Echeverria, 85 Wn.App. 777, 783, 934 P.2d 1214 (1997). Here Ms. Bays, not Mr. McCurdy owned the premises where the contraband was found.

Constructive possession of an apartment may be established by showing the defendant leased the apartment or paid rent and resided there. Tadeo–Mares, 86 Wn.App. at 816, 939 P.2d 220 (1997). Here, Mr. McCurdy has not resided in the room for over 7 days. Other indicia of dominion and control include the cumulative evidence of letters and bills addressed to the defendant at that address, the defendant's clothing at that address, payment of rent or possession of keys and his exercise of control over the premises. State v. Partin, 88 Wash.2d 899, 906, 567 P.2d 1136 (1977),

overruled on other grounds State v. Lyons, 174 Wn.2d 354, 275 P.3d 314 ( 2012). Other factors deemed significant have been phone callers asking for the defendant at the address and the absence of any evidence the defendant had another address. Collins, 76 Wn.App. at 501, 886 P.2d 243.

In Mr. McCurdy's case, the only evidence of dominion and control over the room was his payment of \$400 for the use of a room for a month that Mr. McCurdy vacated at least a week prior to Ms. Bays reporting the marijuana to the police. No one ever saw Mr. McCurdy in possession of the firearms or marijuana; there was no odor of marijuana from the room Mr. McCurdy previously rented, there was no rental agreement, no telephone calls to the residence asking for Mr. McCurdy, no mail received, no keys to the house or any other indicia of ownership.

In Alvarez, this Court reversed the conviction for unlawful possession of a handgun discovered in a back bedroom closet during a search of a teenage hangout. 105 Wn. App. at 217-218, 223. The Court held that even though the police found Alvarez's clothes, savings deposit books, book bag and pictures inside the bedroom door, that evidence did "not meet the threshold requirement for

constructive possession. “ Alvarez, 105 Wn. app. at 217.

Here as in Alvarez, Mr. McCurdy was at most a transient occupant in Ms. Bays home. He did not possess the keys, his fingerprints were not on any of the items, there was no rental agreement and he had not set foot on the premises for at least one week prior to the police executing their search warrant. Moreover, the fact that three were notes addressed to him was insufficient evidence to meet the threshold requirement for dominion and control just as the Court so held in Alvarez where Alvarez’s bank statements, pictures and a book bag were found in the room with the contraband.

In Callahan, police executed a search warrant on a houseboat. The defendant was found sitting at a table on which police found various pills and hypodermic needles. Police also found a cigar box filled with drugs close to the defendant on the floor. The defendant admitted ownership of two books on drugs, two guns, and a set of broken scales found on the boat. He also admitted actually handling the drugs earlier that day. Callahan, 77 Wn.2d at 28. Although the defendant in that case admitted to exercising control over the drugs by handling them, was in close proximity to other drugs, and admitted ownership of guns, books on narcotics, and measuring scales, this

evidence was not sufficiently substantial to support a finding of constructive possession. Callahan, 77 Wn.2d at 31-32.

In State v. Spruell, 57 Wn. App. 383, 788 P.2d 21 (1990), the defendant was arrested in the kitchen of a home in which officers found cocaine and marijuana, along with paraphernalia associated with drug manufacturing. From outside the home, they also heard what sounded like a plate hitting the back door from inside the home. Once inside, they found cocaine along the door and doorjamb and a plate on the floor located within a few feet of the door. The defendant's fingerprint was on that plate. Spruell, 57 Wn. App. at 384-85. Still, the evidence – which suggested at least temporary control over the drugs – was not sufficiently substantial to support a finding of constructive possession. Id. at 387-89.

In State v. George, 146 Wn.App. 906, 193 P.3d 693 (2008), Division One of this Court reversed George's drug-related conviction because it determined that the State did not prove his constructive possession of the contraband. George rode in the driver's side backseat while the vehicle's owner rode in the front passenger seat. George, 146 Wn.App. at 912–13. Troopers found a glass pipe with burnt marijuana inside, as well as empty beer cans and bottles on the

floorboard behind the driver's seat, where George had been sitting. George, 146 Wn.App. at 912. A jury convicted George of marijuana and paraphernalia possession. On appeal, Division One reversed all counts for insufficient evidence, holding that George's mere proximity to the pipe and drugs, and knowledge of its presence, was insufficient to convict George of constructive possession. George, 146 Wn.App. at 923, 193 P.3d 693.

In Mr. McCurdy's case there was less evidence of constructive possession than in George, Callahan, and Spruell. Callahan and Spruell are most analogous on the issue of dominion and control over the contraband. In each of those cases, the defendant was either next to or had admitted handling the contraband which the Courts held did not establish constructive possession. In Mr. McCurdy's case there were no admissions of handling or being near the contraband. There were no fingerprints, no admissions of passing control, no keys to the house, and no rental agreement. In short insufficient evidence to establish that Mr. McCurdy had dominion and control over the bedroom or the closet where the rifles were located. Ms. Bays never saw Mr. McCurdy with the marijuana or guns and had not seen Mr. McCurdy for a week prior to locating the contraband.

By contrast in Partin, the Court found that Partin occupied the premises based on photographs and articles featuring the defendant, a payment book for the purchase of the premises with Mr. Partin's paycheck stubs inside, three letters addressed to him, and his unemployment documents. Mr. Partin also gave out the address as his own, the phone rang repeatedly with callers asking for Mr. Partin, and had acted as if he owned the place on a previous police visit. Partin, 88 Wn.2d at 907–08.

Alvarez, is most analogous on the issue of dominion and control over the premises. In Alvarez and in Mr. McCurdy's case the defendants were at most were transient occupants; in Alvarez, there was more indicia of occupancy because Alvarez occupied the premises at the time of the search warrant, yet the Court held the evidence failed to establish dominion and control over the premises. Following Alvarez, the evidence here cannot establish dominion and control over the premises.

While it is possible that Mr. McCurdy knew of the contraband, it is also possible that someone else placed the contraband in that room. Regardless of the possibilities, the state was required to prove beyond a reasonable doubt that Mr. McCurdy possessed the

contraband. In this case, it failed to meet that burden. For this reason, the charges should be reversed and the matter remanded for dismissal with prejudice.

D. CONCLUSION

For the reasons discussed herein, Mr. McCurdy requests this Court reverse his conviction for possession of the firearms and marijuana and dismiss with prejudice or reverse and dismiss for a new competency determination.

DATED this 1st day of November, 2012

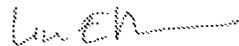
Respectfully submitted,



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LISE ELLNER WSBA#20955  
Attorney for Appellant

I, Lise Ellner, a person over the age of 18 years of age, served the Clallam County Prosecutor [lschrawyer@co.clallam.wa.us](mailto:lschrawyer@co.clallam.wa.us) and [schrawyer@co.clallam.wa.us](mailto:schrawyer@co.clallam.wa.us) and Colin McCurdy a true copy of the document to which this certificate is affixed, On December 3, 2012. Service was made by depositing in the mails of the United States of America, properly stamped and addressed.



Signature

Current address for Colin McCurdy #DOC 307135  
Clallam Bay Corrections Center  
1830 Eagle Crest Way  
Clallam Bay, WA 98326

A handwritten signature in black ink, appearing to read "Colin McCurdy". The signature is written in a cursive style with a horizontal line extending to the right.

Signature

# ELLNER LAW OFFICE

**December 03, 2012 - 5:52 AM**

## Transmittal Letter

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