

FILED

JAN 07 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO. 31000-1-III

BENTON COUNTY SUPERIOR COURT NO. 11-1-00669-1

COURT OF APPEALS, DIVISION III
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

RODOLFO GALVAN,

Appellant.

BRIEF OF APPELLANT

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WSBA # 22398
Attorney for Appellant

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A. ASSIGNMENTS OF ERROR

1. The trial court erred in denying defendant's motion to suppress evidence.
2. The trial court erred in concluding that Mr. Galvan's statements were made after a knowing, voluntary and intelligent waiver.
3. The trial court erred in concluding that Trooper Brandt's request to search the "vehicle" allowed the Trooper to search locked compartments inside the vehicle even though the affidavit did not specifically request permission to search locked compartments and containers as the areas within the vehicle to be searched.
4. The trial court erred in concluding that the scope of a search warrant is different than scope of a consent search and therefore *State v. Monaghan* did not apply to the instant case.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Did the trial court err in finding that Mr. Galvan's statements were made after a knowing, intelligent and voluntary waiver of his rights when the Trooper testified to additional information not contained in his initial report and Mr. Galvan submitted an affidavit indicating he never was given an opportunity to acknowledge those rights? (Assignment of Error 1 & 2)

2. Does the term “vehicle” without further definition in an affidavit for a search warrant include locked containers within the vehicle? (Assignment of Error 1, 3 & 4)

3. Is *State v. Monaghan* applicable and persuasive to the case at hand? (Assignment of Error 1 & 4)

C. STATEMENT OF THE CASE

On Thursday, March 24, 2011 at approximately 10:45 pm Rodolfo Galvan was heading home in a friend’s vehicle, a green Pontiac Grand Am, when he saw Trooper Brandt make an abrupt U-turn, to get behind the vehicle. CP 5. Trooper Brandt testified that the front passenger-side headlight was inoperative and it was during the hours of darkness. 05/31/12 RP 6. Trooper Brandt then stopped the vehicle. 05/31/12 RP 6. Upon contacting Mr. Galvan, the only occupant in the vehicle, Trooper Brandt testified that he detected the odor of fresh Marijuana emitting from the vehicle. 05/31/12 RP 7. Trooper Brandt then began questioning Mr. Galvan about whether there was any marijuana in the vehicle, to which Mr. Galvan repeatedly answered that there was not. 05/31/12 RP 7; CP 5 & 79. Trooper Brandt then ordered Mr. Galvan out of the vehicle, handcuffed, and arrested him. 05/31/12 RP 7; CP 5 & 79.¹

Trooper Brandt then took Mr. Galvan to the front of his patrol car and read him his Constitutional rights from an issued card and then continued

¹ Trooper Brandt’s report indicates that he “placed Mr. Galvan in handcuffs and told him he was being detained for the investigation of narcotics possession.”

interrogating Mr. Galvan. CP 5 & 79. Trooper Brandt indicated that once he removed Mr. Galvan from the vehicle, the odor of marijuana changed - he noted "the odor marijuana was not fresh any longer. It was an odor of burnt marijuana coming from his person". 05/31/12 RP 7-8. Trooper Brandt then had Mr. Galvan tilt is head back and noted his eyes were fluttering and had him open his mouth and observed his tongue had green raised taste buds. 05/31/12 RP 7-9. Trooper Brandt testified that he did not believe Mr. Galvan was under the influence of marijuana. 05/31/12 RP 18.

The trooper then continued asking Mr. Galvan questions about the marijuana odor and where he was coming from, where he was going, who he was with. 05/31/12 RP 7-9. Though no marijuana had been found, or was ever found, Trooper Brandt states he placed Mr. Galvan under arrest for possession of marijuana. 05/31/12 RP 9. Trooper Brandt conducted a search of Mr. Galvan's person and located approximately \$1,100.00 in cash but no marijuana, or paraphernalia.² This search was done "prior to securing him in my patrol vehicle" though Mr. Galvan was ultimately released and it appears there was no intention to take him into custody and book him into jail. 05/31/12 RP 9.

Trooper Brandt asked Mr. Galvan for consent to search his vehicle and Mr. Galvan indicated that he would not consent to a search for anywhere other than the places that could be seen. 05/31/12 RP 11; CP 103. However, Mr.

² Trooper Brandt's testimony regarding the contact and search of Mr. Galvan is substantially more detailed than his report and his affidavit for a search warrant. CP 79.

Galvan refused to sign the consent to search form. 05/31/12 RP 11; CP 103. Trooper Brandt then observed a blue-padlocked gun case on the rear passenger side floorboard. 05/31/12 RP 11; CP 103. Trooper Brandt questioned Mr. Galvan about this case and Mr. Galvan responded that it contained a lighter. 05/31/12 RP 11. Mr. Galvan was not prohibited from having a firearm at the time of this arrest and Trooper Brandt had no reason to believe Mr. Galvan was prohibited from having a gun 05/31/12 RP 20; CP 103. In fact, Trooper Brandt testified that he did not believe the padlocked case contained a gun. 05/31/12 RP 20. Trooper Brandt then impounded Mr. Galvan's vehicle to the Washington State Patrol Bullpen and released Mr. Galvan after telling him that he would forward charged for possession of marijuana based on the odor emitting from his person and his observations. CP 103-104.

After impounding the vehicle Trooper Brandt applied for a search warrant. 05/31/12 RP 12; CP 104. Trooper Brandt contacted the honorable Judge Kathryn via telephone and read the affidavit to him and requested permission to affix his signature to the warrant. 05/31/12 RP 12; CP 104. In this affidavit he requested a:

[S]earch warrant be issued granting permission to search the above listed vehicle for any controlled substances including but not limited to marijuana. Also any evidence of distribution of those controlled substances including but not limited to packaging materials, scales, address books, crib notes, receipts, cash, and weapons. Also evidence of exercise of the command and control over the vehicle including, but not limited to person

mail and personal paperwork.
Judge Kathryn gave permission to affix his signature to such a warrant and the phone call ended. 05/31/12 RP 13-15; CP 104. Trooper Brant then affixed Judge Kathryn's signature to a warrant which provided permission to search:

[e]ntire vehicle including engine compartment, covered bed of vehicle, all interior compartments, any open, closed, locked or otherwise sealed containers/compartments located inside or outside of the vehicle.

05/31/12 RP 15; CP 104. Trooper Brandt did not read the search warrant, containing these additional specifications of the search, to Judge Kathryn.
05/31/12 RP 15-17; CP 104.

The glove box of the vehicle was locked. 05/31/12 RP 14; CP 104.
Inside this locked compartment Trooper Morris and Brandt found a handgun and a clear baggy containing white powder and small chunks which were later discovered to be methamphetamine. 05/31/12 RP 14; CP 104. The blue case in the back rear passenger seat was padlocked. 05/31/12 RP 14; CP 104. Inside the padlocked case there was a lighter and a wooden scoop with white powder residue which later tested positive for methamphetamine. 05/31/12 RP 14; CP 104. There was no marijuana, fresh or burnt, discovered in the vehicle.
05/31/12 RP 18; CP 104.

A suppression hearing was held on May 31, 2012. The defendant's motion to suppress statements and evidence was denied. CP 75, 103-105. A stipulated facts bench trial was held on June 28, 2012 and Mr. Galvan was

found guilty of unlawful possession of a controlled substance and possession of drug paraphernalia. CP 106-117. This appeal followed.

D. ARGUMENT

1. ***The warrantless search of the defendant was unlawful***

Appellate review of a denial of a motion to suppress requires the reviewing court to determine “whether substantial evidence supports the challenged findings of fact and whether the findings support the conclusions of law.” *State v. Diluzio*, 162 Wn.App. 585, 254 P.3d 218 (Div. 3 2011) quoting *State v. Garvin*, 166 Wn.2d 242, 249, 207 P.3d 1266 (2009). The standard of review applied in determining whether police have seized an individual is a mixed question of law and fact. *State v. Bailey*, 154 Wn.App. 295, 299, 224 P.3d 852 (Div. 3 2010). The questions of fact are issues such as what the defendant said and did and what the police said and did. *Id*; *State v. Montague*, 73 Wn.2d 381, 389, 438 P.2d 571 (1968). The legal consequences which flow from these facts are questions of law. *State v. Lee*, 147 Wn.App. 912, 916, 199 P.3d 445 (2008).

The Fourth Amendment of the United States Constitution protects its citizens from unreasonable searches and seizures. U.S. Const. amend IV. The Washington Constitution affords greater protections than the U.S. Constitution against unreasonable searches and seizures, by providing its citizens an express Right to Privacy. Wash. Const. art I, § 7. *State v. Wallin*, 125 Wn.App. 648,

654, 105 P.3d 1037 (Div. 1, 2005) citing *State v. Young*, 123 Wn.2d 173, 179-80, 867 P.2d 593 (1994). This greater protection was recently emphasized by

Division 1:

The Fourth Amendment protects only against ‘unreasonable searches by the State, leaving individuals subject to ... warrantless, but reasonable, searches. Article I, section 7, is unconcerned with the reasonableness of a search, but instead requires a warrant before any search, whether reasonable or not. This creates an almost absolute bar to warrantless arrests, searches, and seizures, with only limited exceptions.... The distinction between article 1, section 7, and the Fourth Amendment arises because the word “reasonable” does not appear in any form in the text of article I, section 7, as it does in the Fourth Amendment. Understanding this significant difference between the Fourth Amendment and article I, section 7 is vital to properly analyze the legality of any search in Washington.

State v. Monaghan, 165 Wn.App. 782, 787-788, 266 P.3d 222 (Div. 1, 2012)

(internal citations omitted).

Warrantless searches and seizures are "per se" unreasonable under both the state and federal constitutions. *State v. Walker*, 136 Wn.2d 678, 682, 965 P.2d 1079 (1998); *State v. Chrisman*, 100 Wn.2d 814, 818, 676 P.2d 419 (1984); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971). A search incident to a lawful arrest is a recognized exception to the warrant requirement. *State v. Boursaw*, 94 Wn. App. 629, 632, 976 P.2d 130 (Div. 1, 1999). The only legitimate purposes of such a search are to look for weapons and to prevent the destruction of evidence. *Chimel v. California*, 395 U.S. 752, 763 (1969); *State v. McKenna*, 91 Wn. App. 554, 560-61, 958 P.2d 1017 (Div. 2, 1998).

The timing of a search incident to arrest is important in determining its validity. First, the police must have probable cause to arrest *prior* to conducting the search. *McKenna*, 91 Wn. App. at 560. Second, the search must be contemporaneous with the arrest. *Id.* It is not absolutely necessary that a formal arrest occur prior to the search, but the two events must be reasonably related in time and place. *Id.*; *State v. Smith*, 88 Wn.2d 127, 138, 559 P.2d 970, *cert. denied*, 434 U.S. 876 (1977). Thus, a search incident to arrest is not permitted once the arrestee has been removed from the scene to be searched. *Boursaw*, 94 Wn. App. at 633 (citing *State v. Boyce*, 52 Wn. App. 274, 279, 758 P.2d 1017 (Div. 1, 1988)).

The nature of the arrest is also important in evaluating the validity of the search. When an arrest is noncustodial, the justification for a search is absent because the encounter will likely be brief, and the motivation to destroy evidence or use a weapon will be slight. *McKenna* 91 Wn. App. at 561. As a result, "[a]lthough an officer may search incident to a lawful custodial arrest, he or she may not search incident to a lawful noncustodial arrest." *Id.*; *See also State v. Stortroen*, 53 Wn. App. 654, 659, 769 P.2d 321 (Div. 1, 1989) *overruled on other grounds in State v. Reding*, 119 Wn.2d 685, 694 (1992) ("Where a custodial arrest is not justified, no warrantless search pursuant to that arrest may be upheld.") *Accord Knowles v. Iowa*, 525 U.S. 113 (1998) (search not permitted incident to

noncustodial arrest for traffic infraction even where custodial arrest for infraction permitted by statute).

Moreover, the right to conduct a search incident to arrest ends the moment the officer decides to release the arrestee rather than book him into jail. *McKenna*, 91 Wn. App. at 561-562; *See also, State v. Carner*, 28 Wn. App. 439, 445, 624 P.2d 204 (Div. 2, 1981). Similarly, if the officer never manifests an intention to make a custodial arrest, there can be no search incident to arrest. *See McKenna*, 91 Wn. App. at 562.

In the instant case Trooper Brandt's search of Mr. Galvan's person does not appear to have been a frisk for weapons. Had it been, it clearly would have exceeded the scope of an authorized frisk since the Trooper was emptying Mr. Galvan's pockets. Mr. Galvan was released and there is no indication that the Trooper intended to book him into jail or arrest him for driving under the influence so there was no need for an inventory search of Mr. Galvan's person. The search was not incident to a lawful arrest and because the Trooper had no intention of taking Mr. Galvan into custody there was no need for more than a brief frisk for weapons. It was an exploratory search for additional incriminating evidence against Mr. Galvan, the results of which should have been suppressed.

2. The search of the locked compartments exceeded the scope of the search warrant and the search warrant itself failed to meet the particularity requirement of the Fourth Amendment.

A trial court's denial of a suppression motion to determine whether substantial evidence supports the challenged findings of fact and whether these findings support the trial court's conclusions of law. *State v. Mendez*, 137 Wn.2d 208, 214, 970 P.2d 722 (1999), *overruled on other grounds by Brendlin v. California*, 551 U.S. 249, 127 S.Ct. 2400, 168 L.Ed.2d 132 (2007). When the appellant does not challenge any of the trial court's findings of fact, they are considered verities on appeal. *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). The appellate court reviews the court's suppression hearing conclusions de novo. *State v. Johnson*, 128 Wn.2d 431, 443, 909 P.2d 293 (1996).

The Constitution does not condone general exploratory searches. *State v. Thein*, 138 Wn.2d 133, 149, 977 P.2d 582 (1999). Accordingly, a valid search warrant must comply with the particularity clause of the Fourth Amendment by specifically identifying both the location to be searched and the items to be seized. The words of the Fourth Amendment itself require that warrants "particularly describ[e] the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV.

"To comply with the mandate of the Fourth Amendment particularity clause, a search warrant must be sufficiently definite so that the officer executing the warrant can identify the property sought with reasonable certainty." *State v.*

Stenson, 132 Wn.2d 668, 691-92, 940 P.2d 1239 (1997). The description of the items sought in the search must be as specific as circumstances permit. *Stenson*, 132 Wn.2d at 692. A general description will suffice only if a more specific description is not possible. *Stenson*, 132 Wn.2d at 692; *State v. Perrone*, 119 Wn.2d 538, 547, 834 P.2d 611 (1992) ("the use of a generic term or general description is constitutionally acceptable only when a more particular description of the items to be seized is not available at the time the warrant issues"); *State v. Klinger*, 96 Wn. App. 619, 627 n.3, 980 P.2d 282 (Div. 2, 1999) (generic boilerplate-type affidavits are frowned upon). There was no excuse for the Trooper to fail to include a more definite description of the items to be searched.

With respect to the items to be seized, the particularity requirement serves the dual purpose of limiting police discretion and informing the subject of the search as to what may be legally taken. *State v. Riley*, 121 Wn.2d 22, 29, 846 P.2d 1365 (1993). The personal knowledge of the executing officer cannot cure a defect in this regard. *Riley*, 121 Wn.2d at 29. A search pursuant to a warrant exceeds the scope authorized if officers seize property not specifically described in the warrant. *State v. Kelley*, 52 Wn.App. 581, 585, 762 P.2d 20 (Div. 2, 1988).

In *State v. Monaghan*, Division 1 analyzed the scope of consent search of a vehicle. *State v. Monaghan*, 165 Wn.App. 782, 266 P.3d 222 (2012). Although this case dealt with evaluation of the scope of a search based on

consent, it is well settled that “exceeding the scope of consent is equivalent to exceeding the scope of a search warrant.” *State v. Cotton*, 75 Wn.App. 669, 680, 879 P.2d 971 (Div. 2, 1994). In *Monaghan*, it was undisputed that there was voluntary consent to search the passenger compartment and trunk of the vehicle, that Monaghan neither withdrew his consent to the searches, nor limited them in any way. *Monaghan*, 165 Wn.App. at 789. The issue on appeal was solely “whether the search of the locked safe exceeded the scope of the consent...to search the trunk of his car.” *Id.* Law enforcement did not request to search the inside of the locked container. *Id.* at 791. This particular piece of information was deemed especially significant because:

In *State v. Stroud*, the supreme court gave locking articles within a container of a vehicle additional privacy expectations under Article 1, Section 7. This is in marked contrast to the federal standard under the Fourth Amendment, which permits a warrantless search of both locked and unlocked containers. Furthermore, this additional privacy expectation of the Washington constitution has withstood the test of time. For example, in *State v. Vrieling*, the supreme court stated that officer’s may not unlock and search a locked container or locked glove compartment without obtaining a warrant. (Internal citations omitted)

Id., citing, *State v. Stroud*, 106 Wn.2d 144, 720 P.2d 436 (1986), *overruled on other grounds by State v. Valdez*, 167 Wn.2d at 777, 224 P.3d 751 (2009); *State v. Vrieling*, 144 Wn.2d 489, 28 P.3d 762 (2001).

The case at hand is distinguishable from *State v. Campbell*, 166 Wn.App. 464, 272 P.3d 859 (Div. 3, 2011). Officers in *Campbell* requested

permission to search the entire “vehicle and all of its contents.” *Id* at 469, 474. In the case at hand, this broad and encompassing wording was never used on the affidavit requesting a search warrant. Additionally, in *Campbell* the court does not at any point refer to the particularity requirement or the specificity requirement at issue in this case. In fact, the court in *Campbell* characterized the issue before it as “whether officers also had the authority to deny Ms. Campbell access to her purse left in the vehicle while the warrant was sought.” *Id* at 472. Despite these distinguishing characteristics between *Campbell* and the case at hand, perhaps the most obvious distinguishing fact is that a purse, specifically connected to a controlled drug buy, is distinguishable from a locked glove box requiring a key to access or padlocked container requiring wire-cutters to open.

In the instant case the affidavit for the warrant does not state with particularity that locked containers within the vehicle are subject to search. 05/31/12 RP 12; CP 74-75. The search warrant itself may contain these particular specifics but those specifics had to be excised from the warrant on the basis that Trooper Brandt did not put that information in the affidavit and therefore it was never approved by Judge Kathryn who telephonically agreed to significantly different search parameters. 05/31/12 RP 12-15; CP 104. The search of the locked glove compartment and the padlocked case violated the Washington Constitution and the evidence discovered therein must be suppressed.

3. The statements made by Mr. Galvan were not made after a knowing, intelligent and voluntary waiver of his rights.

Conclusions of law are reviewed de novo. *State v. Johnson*, 128 Wn.2d 431, 443, 909 P.2d 293 (1996). A defendant may waive *Miranda* rights if the waiver is knowing, voluntary, and intelligent. *Miranda v. Arizona*, 384 U.S. 436, 444, 86 S.Ct. 1602 (1966); *State v. Bradford*, 95 Wn.App. 935, 944, 978 P.2d 534 (Div. 3, 1999). The State bears the burden of proving voluntariness by a preponderance of the evidence. *State v. Braun*, 82 Wn.2d 157, 162, 509 P.2d 742 (1973); *see also Miranda*, 384 U.S. at 475. In determining whether a defendant voluntarily waived *Miranda* rights, appellate courts consider the totality of the circumstances. *State v. Allen*, 63 Wn.App. 623, 626, 821 P.2d 533 (Div. 3, 1991).

The test for voluntariness is whether the defendant made the free and unconstrained choice to make the confession. *State v. Thompson*, 73 Wn.App. 122, 131, 867 P.2d 691 (Div. 2, 1994). Factors that a court considers in assessing the totality of the circumstances include the defendant's physical condition, age, mental abilities, experience, and the conduct of the police. *State v. Aten*, 130 Wn.2d 640, 664, 927 P.2d 210 (1996).

Under *Miranda*, the state must show that warnings concerning the defendant's constitutional rights were first given, second, that the statements were voluntarily made and third, that the defendant waived his rights to remain

silent. *State v. Haverty*, 3 Wn.App. 495, 498, 475 P.2d 887 (Div. 1, 1970). See *State v. Davis*, 73 Wn.2d 271, 438 P.2d 185 (1968); *Seattle v. Gerry*, 76 Wn.2d 689, 458 P.2d 548 (1969); *State v. Collins*, 74 Wn.2d 729, 446 P.2d 325 (1968). Waiver need not be express; it may be implied by the facts and circumstances under which the statement is made. *Haverty* 3 Wash.App. at 498; *see also United State v. Hayes*, 385 F.2d 375 (4th Cir. 1967). However, *Miranda* as interpreted by Washington, requires more than the admission of warnings followed by a voluntary statement to show waiver. Rather, additional evidence is required to show that the defendant understood his rights and relinquished them ‘voluntarily, knowingly and intelligently. *Haverty* 3 Wn.App. at 499.

Trooper Brandt testified that his narrative regarding the stop and investigation of Mr. Galvan was written shortly after the incident itself, within a day or two after. 05/31/12 RP 19. He testified that the reason behind doing so is because his recollection at the time of the report was better than it was in court, over a year after the initial stop. 05/31/12 RP 19. Trooper Brandt also testified that he has been trained to include details about all relevant and important information in his reports, for this very reason. 05/31/12 RP 19.

However, Trooper Brandt testified that he did not include any information about Mr. Galvan acknowledging his rights after they were read to him in his report. 05/31/12 RP 19. Both the report and the affidavit given by Trooper Brandt states only that he “read Mr. Galvan his Constitutional rights

from an issued rights card.” 05/31/12 RP 19; CP 74-75 & 79-80. It is completely illogical for a Trooper to write a very detailed and complete report but leave out an exceptionally important detail such as waiver of constitutional rights but then fill in the holes over a year after the event. Trooper Brandt stops hundreds of cars a year. There is a reason why law enforcement officers are trained to put important details such as waivers of rights, in their reports.

There was no indication that Mr. Galvan acknowledged these rights, let alone knowingly and voluntarily waived them and in fact Mr. Galvan supplied an affidavit indicating that he did not acknowledge or waive these rights. CP 5-6. To the contrary, it appears that immediately after reading Mr. Galvan his rights, Trooper Brandt began interrogating him with questions designed to elicit incriminating responses. 05/31/12 RP 19; CP 74-75 & 79-80. Mr. Galvan’s actions clearly indicated he did not wish to speak with Trooper Brandt. He would not look at the trooper, he avoided responding and when the Trooper continued to barrage him with questions he would give minimal responses. 05/31/12 RP 7, 9 10; CP 79-80 The trooper characterized these responses as the defendant being evasive or untruthful, but it was clear even to him that the defendant didn’t want to answer his questions. *Id.*

Initially, in their original reply, the State failed to respond to Mr. Galvan’s assertion and argument that his statements were obtained in violation of his Constitutional rights. CP 22-65. The State failed to carry their burden in

proving these statements were made after a knowing, intelligent and voluntary waiver of Mr. Galvan's rights and therefore the court erred in denying the defendant's motion to suppress these statements.

E. CONCLUSION

The trial court erroneously admitted evidence obtained in violation of the Washington Constitution as well as the United State Constitution. Based on the forgoing, Mr. Galvan respectfully requests that this Court reverse his convictions and remand.

January 4, 2013

Respectfully submitted,
RODRIGUEZ & ASSOCIATES, P.S.


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PROOF OF SERVICE

I, Michelle Trombley, being over the age of 18, hereby declare that on the 4th day of January, 2013, I caused a true and correct copy of the Appellant's Brief – No. 310001 to be served on the following in the manner indicated below:

<u>Counsel for Respondent</u>	<input type="checkbox"/>	U.S. Mail
Andy Miller	<input type="checkbox"/>	Hand Delivery
Benton County Prosecutor	<input type="checkbox"/>	Fax
7122 West Okanogan Place Bldg A	<input type="checkbox"/>	e-mail
Kennewick, Wa 99336-2359	<input checked="" type="checkbox"/>	Legal Messenger
<u>Washington Court of Appeals –Div III</u>	<input checked="" type="checkbox"/>	U.S. Mail
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	<input type="checkbox"/>	Legal Messenger
<u>Defendant/Appellant</u>	<input checked="" type="checkbox"/>	U.S. Mail
Rodolfo Galvan	<input type="checkbox"/>	Hand Delivery
1055 E 27 th Ave		
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I declare under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

Dated this 4 day of January, 2013

By: 
Michelle Trombley, WSBA 42912