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BY COURT CLERK
CITRER

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)
)
 Respondent,) No. 77719-5
)
 vs.)
) STATEMENT OF ADDITIONAL
 NATHAN KIRKPATRICK,) AUTHORITIES AND
) RETRACTION OF CITATION
 Appellant,) TO UNPUBLISHED CASES
)
)
)
)
)
)

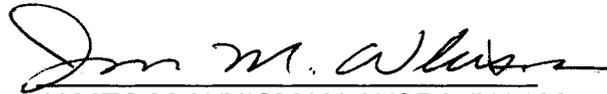
Pursuant to RAP 10.8, Respondent respectfully cites the following as additional authority:
Sproule v. State, 927 So.2d 46 (Fla. App. 4th Dist. 2006) (driving record is not testimonial); United States v. Cantellano, 430 F.3d 1142 (11th Cir. 2005) (warrant of deportation is a public record and not testimonial); Fencher v. State, 931 So.2d 184 (Fla. Dist. Ct. App. 5th Dist. 2006) (record of evidence gathered from rape kit was business record).

Additionally, it should be noted that Respondent recently discovered that three cases cited in its supplemental brief have not

been approved for publication. See Supp. Br. of Respondent at 21, n. 8. The cases are United States v. Evans, No. 04-10239, 2006 WL 1217901 (9th Cir. May 8, 2006); Acuna v. Commonwealth, No. 1396-05-4, 2006 WL 1888703 (Va. App. July 11, 2006); Johnson v. State, 2006 WL 1738288 (Tex. Crim. App. June 27, 2006). Pursuant to RAP 10.4(h), Respondent withdraws its reliance on those cases.

Dated this 8th day of September, 2006.

Norm Maleng
Prosecuting Attorney



JAMES M. WHISMAN, WSBA #19109
Senior Deputy Prosecuting Attorney
Attorneys for Respondents

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Certificate of Service by Mail

Today I sent by electronic mail, and deposited in the mail of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to Dana Lind, the attorney for the appellant, at Nielsen Broman & Koch, P.L.L.C., 1908 E. Madison Street, Seattle, WA 98122, containing a copy of the Statement of Additional Authorities and Retraction of Citation to Unpublished Cases, in STATE V. NATHAN KIRKPATRICK, Cause No. 77719-5, in the Supreme Court of the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

U Brame

Name

Done in Seattle, Washington

9/8/06

Date 9/8/06