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SUPREME COURT  
STATE OF WASHINGTON

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BY RONALD R. CARPENTER

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SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
Respondent,	)	No. 83156-4
	)	
vs.	)	
	)	STATEMENT OF ADDITIONAL
ALEJANDRO GARCIA-	)	AUTHORITIES
SALGADO,	)	
	)	
Appellant,	)	
	)	

Pursuant to RAP 10.8, Respondent respectfully cites the following as additional authority:

- 1) On the issue of whether a sworn affidavit is required by article 1, section 7, to obtain a blood sample pursuant to a court order:

State ex rel. Hodge v. Gordon, 95 Wash. 289, 163 P. 772 (1917)  
 ("It is next contended that the 'probable cause' necessary to be shown before any warrant may issue under section 6262-11 must be stated in the complaint upon which the warrant is issued. There is no such requirement. The only requirement is that probable cause must be shown sufficient to create the belief in the mind of the judge or justice that liquor is being sold or otherwise disposed of contrary to law. The ascertainment of probable cause is under this statute a judicial function involving judicial discretion. . . . That there is 'probable cause' must be determined before the issuance of a warrant, but, being determined to the satisfaction of the judge

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or justice, it is sufficient without its statement or formal charge in the complaint. . . .”)

State v. Fields, 85 Wn.2d 126, 530 P.2d 284 (1975) (recognizing CrR 2.3 as an expansion of search warrant procedures beyond the existing statutory requirements, i.e. RCW )

State v. Malbeck, 69 Wn.2d 695, 697, 419 P.2d 805 (1966) (“A signed affidavit for a search warrant is not required.... RCW 10.79.010 requires only that the application for a search warrant be under oath and that the justice find reasonable cause for the officer's belief.”).

State v. Chenoweth, 160 Wn.2d 454, 467, 158 P.3d 595 (2007) (“Under the early decisional law of Washington, a search warrant need not have been supported by an affidavit specifying the probable cause on which a magistrate relied.”)

2) On the issue of what factual showing is required to obtain a blood sample pursuant to statutory authority:

State v. Meacham, 93 Wn.2d 735, 738-39, 612 P.2d 795 (1980). (“Court ordered blood tests are undoubtedly ‘searches’ within the meaning of the constitution. The Fourth Amendment proscription, however, is directed only to those searches which are unreasonable. An unreasonable search is one unjustified by the circumstances or carried out in an improper manner. Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966). . . . As noted above, orders requiring submission for blood withdrawal in these cases were not entered until after full adversary hearings. Here, the search does not resemble Rochin v. California, 342 U.S. 165, 72 S.Ct. 205, 96 L.Ed. 183 (1952), where violence and substantial bodily intrusion was involved (stomach forcibly pumped to seize swallowed narcotics). These cases more nearly comport with Schmerber. We hold the orders for the withdrawal of blood to be reasonable under the circumstances. . . .”)

State v. Meacham, 93 Wn.2d at 741 (“Neither of these appellants has denied having sexual intercourse with the particular mother concerned at about the time conception is alleged to have occurred. Had such a denial been made, it would have been incumbent upon the court to hold a hearing to determine that issue prior to ordering submission to a blood test. The trial court should be satisfied, at least prima facie, of the fact of sexual intercourse during the appropriate time period as a condition to requiring submission to a blood test. That is, however, not an issue in controversy in these cases.”)

Dated this 28<sup>th</sup> day of June, 2010.

DANIEL T. SATTERBERG  
Prosecuting Attorney

A handwritten signature in black ink, appearing to read "James M. Whisman", written over a horizontal line.

JAMES M. WHISMAN, WSBA #19109  
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Certificate of Service by E-Mail

Today I sent by electronic mail directed to Gregory Link, the attorney for the Petitioner, at [greg@washapp.org](mailto:greg@washapp.org), containing a copy of the Statement of Additional Authorities, in State v. Garcia-Salgado, Cause No. 83156-4, 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.

W Brame

Name Wynne Brame  
Done in Seattle, Washington

6/28/10  
Date 6/28/2010

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