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In the Supreme Court of the State of Washington

JOHN GARRETT SMITH)	<u>No. 93923-3</u>
Plaintiff.)	
)	
v.)	
)	Petition for Order to IMMEDIATELY
State of Washington)	RELEASE Petitioner FROM FALSE
)	IMPRISONMENT Unlawfully Adjudicated
Defendant)	Under Fraudulent Absence of Jurisdiction
)	
)	Court of Appeals No. 47205-8-II
)	Clark County Superior No. 13-1-01035-6

Comes now John Garrett Smith before the SUPREME COURT OF WASHINGTON to
Petition the Court for Immediate Release from False Imprisonment due to absence of jurisdiction
that is being arbitrarily, maliciously and unlawfully executed by the State of Washington under
the fraudulent guise of current Washington Supreme Court Case No. 93923-3, Washington Court
of Appeals Case No. 47-205-8-II, and Clark County Superior Court Case No. 13-1-01035-6.

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2. Unlawful to Deliberate
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6. Irrefutable 'Dead-Bang Winners'
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Exhibits

- i. Null Probable Cause / Fraudulent Absence of Jurisdiction
- ii. Materially False Warrant / Reckless and Intentional Deception

Table of Authorities

- Allstate Ins. v. Khani, 75 Wn.App.317 (1994)
- Baldwin, 287 US 156, 166-67 (1932)
- Beck v. Ohio, 379 US 89, 85, S.Ct. 223 (1964)
- Colter v. Lower and Others, 35 Ind. 285, 286-87, 9 Am. Rep. 735 (1871)
- Doral Bank v. DeJesus Maldonado, 2014 PR app.LEXIS 3612, WL 5528237

1 Franks v. Delaware, 438 US 154-156, 57 L.Ed.2d 667,
2 98 S.Ct. 2674 (1978)
3 Lubben, 453 F.2d 645, 649, 1st/1972
4 Mahan v. Adams, 144 Md. 355, 124 A. 901,904 (1924)
5 Noce v. Ritchie, 155 S.E. 127,128 (W.Va. 1930)
6 Orner v. Shalala, 301 F.3d, 1307, 1310 (10/94)
7 Riegel v. Hygrade Seed Co., 47 Fed.Supp. 290, 294
8 Sergeant v. Watson Bros. Transp. Co., 244 Iowa 185,
9 52 N.W.2d 86,91 (1952)
10 Stevirmac Oil & Gas Co. v. Dittman, 62 LED 248, 245 US 210
11 The State of Connecticut against Leach, 7 Conn. Rep. 452 (1829)
12 US v. Throckmorton, 98 US 61 25 L.Ed. 93, 8 otto 61 (1878)
13 VTA Inc. v. Airco Inc., 597, F.2d 220, 224 N.8, 10/79
14 Wright v. Miller, Fed. Pract. & Proced.: Civil Sect. 2862

15

16 **Statutes and Rule**

17 CR 12(b)(6)

18 Criminal Procedure, Section 3.3 at 140, 2d Ed., 1992

19 Federal Rule 4.1(6)(A)

20 United States Constitution, Amendment IV (1791)

21 United States Constitution, Amendment XIV (1868)

22 Washington Constitution, Article 1, Sections 7 and 10

1 The following Significant seven (7) criterion for immediate and total vitiating of this case speak
2 for themselves, *res ipsae loquitur*:

3
4 [1] Proof of Absence of Jurisdiction to Deprive of Liberty

5 Since June 2, 2013, Washington authorities acting under "color of law" have
6 incontrovertibly committed crimes in order to fabricate an offense via the fraudulent manufacture
7 of forensic audio and medical evidence in order to illegally confine the Petitioner. The State's
8 abusive process is especially unlawful because it has been conducted in the sheer absence of
9 probable cause mandated by the US Constitution, Amendment XIV, and so, therefore, the
10 Petitioner remains imprisoned by "a warrant illegally executed" (*Noce v. Ritchie*).

11 The State faked a probable cause (see Exhibit 'i' for proof of its absence by virtue of its
12 unlawful lack of mandatory judge signature per Federal Rule 4.1(6)(A), et. al.) and maliciously
13 proceeded to falsify a search warrant in nefarious disregard for US Constitution, Amendment IV
14 (see Exhibit 'ii') that evinces fraud in order to conceal their *imprimis* case- fixing of a crime that
15 never really occurred.

16 "Probable cause may NOT be established simply by showing that the officer who made
17 the challenged arrest or search objectively believed he had grounds for his actions" as
18 emphasized in *Beck v. Ohio*, "other- wise ... the protection of the 4th Amendment would
19 evaporate" (*Crim. Proced. Sect. 3.3*).

20 The invalid proceedings of the State utterly void of just these initially "indispensable"
21 (*Doral Bank v. DeJesus Maldonado*) checks and balances defy *Franks v. Delaware's* good faith
22 premise that "no warrants shall issue but upon probable cause supported by Oath and

1 affirmation". IT IS AGAINST THE LAW FOR THE PETITIONER TO BE INCARCERATED
2 ANYWHERE IN THE STATE OF WASHINGTON.

3
4 [2] Unlawful to Deliberate

5 Under CR 12(b)(6), it is hereby unlawful for this Court, or ANY tribunal in the State of
6 Washington, to look at the merits of the fraudulent complaint, or to continue with ANY
7 diversionary appeals processes that leave the Petitioner unlawfully restrained. Nevertheless, the
8 void jurisdiction is exacerbated by evidence that clearly verifies rampant, cascading fraud that
9 only commenced with the spurious ruse of mandatory records. On account of the absence of
10 jurisdiction, as well as the copious ensuing fraud, the Petitioner must be released
11 immediately and the void ab initio case vitiated entirely.

12 Because the conviction is void, any applicability to post-conviction relief processes is
13 correspondingly void, leaving the Petitioner logically and legally amenable only to an Order of
14 Immediate Release and Vitiating that is lawfully MANDATORY.

15
16 [3] Extending Liabilities for Illegal Confinement

17 Effective immediately, anyone detaining the Petitioner remains complicit to felonious,
18 malicious imprisonment. "A void judgment is one from which its inception was a complete
19 nullity" (Lubben).

20 "A void process is no process. A person confined ... by virtue of a void warrant is
21 confined illegally". The prosecutor, the judge, the sheriff who executed the "pretended warrant",
22 and the jailer who holds him under it "are all liable for false imprisonment. This is the undoubted
23 common law ... to this day" (The State of Connecticut v. Leach).

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[4] Extra-judicial, Arbitrary Action sans-Legal Authority

The Petitioner remains under vicious imprisonment that is false, "synonymous with unlawful" per Mahan v. Adams. On account of the fact that Washington State continues to hold him "without any legal authority" (Riegel v. Hygrade Seed Co.), this entire case is "extrajudicial without legal process" (Colter v. Lower and Others). Accordingly, it is false imprisonment, which is therefore innately illegal.

The sheer absence of jurisdiction renders the Petitioner not amenable to any further wanton process other than his immediate release contemporaneous with the vitiation of the case in veneration of the US Constitution, Amendments IV and XIV.

[5] Res Judicata for Malicious Prosecution

Extraordinary damages resulting from the brutal deprivation of liberty and property violative of the US Constitution, Amendment XIV, have been made manifest because the Petitioner "was prosecuted without probable cause and with malice" (Sergeant v. Watson Bros. Transp. Co.).

The Court MUST now vacate. "A judgment rendered without jurisdiction... ought to be vacated ... when the court's attention is called thereto" (Stevirmac Oil & Gas Co. v. Dittman).

"Res judicata applies" (Baldwin): "A default judgment entered without proper jurisdiction is void" and this Court must now "fulfill its nondiscretionary duty to vacate a void judgment" (Allstate Insurance v. Khani; see also Wright v. Miller).

[6] Irrefutable 'Dead-Bang Winners'

The State Supreme Court tribunal has been previously notified with extensive proof that

1 the State manufactured spurious 'facts' before, during and after the incident staged to disguise
2 their own real crimes. This case is saturated with Dead-Bang Winners that meet every litmus test
3 for obviousness and significance.

4
5 [7] Accrual of Felony Liabilities by All Complicit Parties

6 The Petitioner must immediately be liberated and this case fully dismissed with
7 prejudice. "When underlying judgment is void, relief is NOT a discretionary matter: it is
8 MANDATORY" (Orner v. Shalala quoting VTA Inc. v. Airco Inc.).

9 Every hour that the Petitioner remains incarcerated, the intentional crime of false
10 imprisonment accrues criminal liabilities to all parties complicit to it. Pursuant to this Petition,
11 taciturn denial is no longer acceptable as an alibi for apathy, but can only be considered as
12 hostility against this Nation's common law.

13 The National reputation of Washington, and especially Vancouver, Clark County, is
14 rapidly achieving worldwide infamy as a place where prosecutors and the courts cling obdurately
15 to the "astonishing" policy that "the police are free to hoke up a case to make sure there is
16 conviction", and that "there is no violation of the Constitution if evidence is fabricated" (Spencer
17 v. Krause). Such savage debauchery and decadence have absolutely no legal place in the United
18 States whose laws Washington remains subject to.

19 This is a simple but profound matter of truth and liberty versus lies and tyranny.
20 Fortunately, the only lawful remedy and honorable next step was well-established
21 nearly 140 years ago by Throckmorton's Razor: "fraud vitiates everything."

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Respectfully submitted on this 10 day of May 2017



John Garrett Smith,
Attorney Pro Se, DOC number 351176

Stafford Creek Corrections Center

191 Constantine Way

Aberdeen, WA 98520

(360) 537-1800

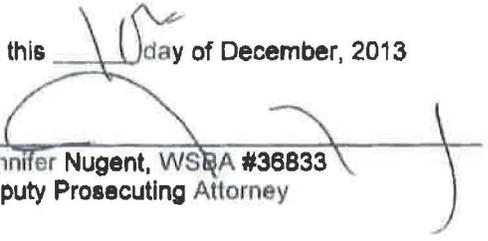
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Domestic Violence No Contact Order Violation (Domestic Violence). Attached is the officer's Probable Cause statement.

Your declarant respectfully requests that the court issue an Order Amending the Information dated June 6, 2013, in State of Washington v. JOHN GARRETT SMITH, Clark County Cause No. 13-1-01035-6.

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

Executed at Vancouver, Washington on this 10th day of December, 2013


Jennifer Nugent, WSPA #36833
Deputy Prosecuting Attorney

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,
v.
JOHN GARRETT SMITH,
Defendant.

No. 13-1-01035-6
ORDER AMENDING INFORMATION

THIS MATTER having come on regularly before the undersigned Judge of the above entitled Court, upon the Motion of the Plaintiff, State of Washington, for an Order Amending the Information dated June 6, 2013 and the Court now being fully advised in the premises, now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Information filed on June 6, 2013, in the case of State of Washington v. JOHN GARRETT SMITH, Clark County Cause No. 13-1-01035-6 be amended.

DONE IN OPEN COURT this ____ day of December, 2013.

THE HONORABLE SCOTT A. COLLIER
JUDGE OF THE SUPERIOR COURT

ORDER TO AMEND INFORMATION - 1

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

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Presented by:



Jennifer Nugent, WSBA #36833
Deputy Prosecuting Attorney

Sean M Downs, WSBA# 39856
Attorney for Defendant

JOHN GARRETT SMITH
Defendant

ORDER TO AMEND INFORMATION - 2

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

Ex-1 pg 4 of 6

ARRESTING OFFICER'S DECLARATION OF PROBABLE CAUSE

DEFENDANT: SMITH, JOHN GARRETT
PRINT LAST

FIRST

V13-8172
MIDDLE

NOTE: When a defendant has been arrested for a new crime, probable cause must be established. In appropriate cases, please describe the property stolen or damaged, including its value, and how it was derived. In controlled substance cases, please list the type and weight of the drug involved, and the method by which it was field tested. In protection order/no contact violations, describe the specific condition that was violated and how the defendant knew of the order. If a defendant is arrested on a new charge and a warrant, probable cause for the new charge must be demonstrated. Failure to provide a statement of probable cause will result in the prisoner's release. Use an extra sheet if necessary.

The undersigned law enforcement officer states that the Defendant was arrested without a warrant on the date and time shown thereon for the crime(s) committed in Clark County, Washington based on the following circumstances. The reverse of this sheet is hereby incorporated by reference.

My information was derived from V1: Sheryl S. Smith W1: Skylar Williams S1: John Garrett Smith (goes by Garrett)

My investigation revealed the following:

As a detective with the Vancouver Police Department Domestic Violence Unit, I completed follow up investigation on an assault against Sheryl S. Smith by her husband; John Garrett Smith (goes by middle name of Garrett). The assault occurred on June 2, 2013 at 14607 SE Rivershore Dr., Vancouver, WA.

On 6/2/13, Sheryl Smith called 911 to report that she was assaulted by Garrett and explained to officers that Garrett punched her in the face several times. The investigation showed Sheryl was knocked unconscious for several minutes and by the time she came around, both of her eyes were swollen shut. From follow up interviews, Sheryl stated to officers that she recalls being punched in the face by Garrett, strangled by Garrett to the point of not being able to breathe, and then being punched again in the face by Garrett. Sheryl's medical records show that she suffered a broken nose and a concussion from the assault. According to Sheryl's care providers, her case was treated as life threatening due to the extent of her injuries, the mechanism of injury and because the injuries were concentrated on her head and face. Sheryl stated to me that she believed Garrett was trying to kill her when he assaulted her and that when she regained consciousness, she had the feeling that if she did not immediately call 911 for help, she would die. Since June, Sheryl has been hospitalized several times due to complications from her injuries to include surgery on her back and extensive physical therapy. Sheryl is still suffering from Post-concussion syndrome.

Skylar Williams, Sheryl's 18 year old daughter, was at the residence prior to the assault and left the residence for about an hour. When she left, the only people present were Garrett and Sheryl. When Skylar returned home she discovered her mother badly beaten and on the phone with 911, reporting that Garrett was responsible for her injuries.

Garrett was located leaving the family home about 3 hours after the assault. Post Miranda, Garrett stated on two separate occasions that he did not assault Sheryl at all and even stated that he remembered her standing upstairs near the second floor banister when he left the residence and she was uninjured at that time. During my interview with Garrett, post Miranda, he asked several times and very specifically if Sheryl was 'going to make it' and 'is she going to be ok'.

On June 2, 2013, while at the residence after the assault, Skylar located a cell phone which she knew belonged to Garrett. Skylar took the phone with her to the hospital and provided it to officers that were further interviewing Sheryl. Skylar advised there was a voice mail on the phone that sounded as if it recorded part of the assault against Sheryl by Garrett.

The phone was seized and pursuant to a search warrant signed by the Hon. Judge Osler, I completed a search of the contents of Garrett's phone. From this I located a voice mail message left from a phone call placed from the home phone line to Garrett's cell phone that appeared to have been recorded by accident. Through my investigation and the context of the statements on the voice mail message, it appears that Garrett had lost his cell phone and was attempting to locate it by calling it from the home phone and following the ringing to where the phone was.

The voice mail message is quite clear and it was easy to determine the recorded altercation was between Garrett and Sheryl Smith. Garrett yells loudly at Sheryl, accuses Sheryl of having an affair, calls her names, and asks Sheryl where his phone is multiple times. Sheryl can be heard calling Garrett by name, crying, telling Garrett to stop, and saying 'look what you did to me'.

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At one point in the recording Garrett can be heard saying very clearly "I will kill you". Sheryl responds by crying and saying "I know" Shortly after this noises can be heard that sound like Garrett hitting/punching Sheryl. Just before the end of the recording there are several seconds of silence. Garrett can then be heard saying something similar to 'I think she stopped breathing'. However, Sheryl begins to yell once again and the recording ends.

Since his arrest, Garrett has continued to send letters to Sheryl Smith in violation of a current/valid/served no contact order, order number V138172, which was served personally on Garrett in open court. Sheryl has received these letters sent by Garrett to her post office box with the address of 13215 SE Mill Plain Bldg C8 Ste 231, Vancouver, WA. Sheryl Smith is the only person with access to this box and she obtained this box prior to her relationship with Garrett. On July 15, 2013 I met with Sheryl Smith and she turned these letters over to me. Sheryl has since communicated with me that there are additional letters that she wishes to turn over to me but has been unable to do so due to ongoing medical treatments, surgeries and hospitalizations.

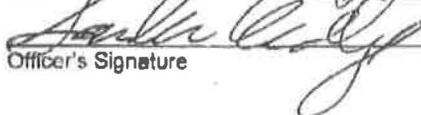
In these letters Garrett often refers to Sheryl by name, addresses the letter to Sheryl, and discusses their reunification and their bond with God. He discusses their mutual business dealings and even his outstanding criminal cases to include this one and one in Multnomah County where he asks her to be a character witness on his behalf. Garrett also often signs the letters with his name or initials. The letters I have received to this date have the following post mark dates:

- 6/21/13;
- 6/26/13;
- 6/27/13 (two letters in one envelope);
- 6/28/13 (two letters in one envelope);
- 7/1/13;
- 7/1/13;
- 7/1/13;
- 7/3/13 (4 separate letters in one envelope to Sheryl and one to Skylar Williams and one to Jordan Williams);
- 7/8/13 (two letters in one envelope)

From my investigation I have developed probable cause to arrest John Garrett Smith for Attempted Homicide 1st degree; RCW 9A.32.030 and nine (9) counts of Violation of a No Contact Order; RCW 26.50.110.

The undersigned declares and certifies under penalty of perjury under the laws of the State of Washington that the preceding statement is true and correct to the best of his/her knowledge.

Signed this 10th day of DECEMBER, 2013 in Vancouver, Clark County, Washington


Officer's Signature

1809
PSN

The Undersigned Judge/Magistrate/Commissioner hereby certifies that I have read or had read to me the above statement of probable cause to arrest and that I find probable cause to arrest is _____ established _____ not established (release defendant).

Signed this _____ day of _____, 20____, in Vancouver, Clark County, Washington.

Time: _____ a.m. / p.m.
Judge/Magistrate

Prebook Form - Revised 10/08/01 - 2

PA Forms Committee MUST authorize any changes to this form

Copies: White - P.A. Yellow - C.B.C. Pink - Arresting Officer

Ex-1 p. 6 of 6

ORIGINAL
FILED

2013 JUL 19 PM 1:32

SCOTT G. WEBER, CLERK
CLARK COUNTY

District Court of Clark County
State of Washington

State of Washington
plaintiff,
VS
John Garrett Smith
Defendant(s)

Search Warrant

13-1-00003-2
mat 98

The people of the State of Washington, to any Sheriff, Police Officer, or Peace Officer in Clark County: Proof by written affidavit, under oath, made in conformity with the State of Washington Criminal Rules for Justice Court, rule 2.3, having been made to me this day by Vancouver Police Detective Sandra Aldridge, of the Domestic Violence Unit, that there is probable cause for the issuance of a search warrant on the grounds set forth in the State of Washington Criminal Rules for Justice Court, rule 2.3, Section (c) for the crime of Assault II DV, RCW 9A.36.021

You are therefore commanded, with the necessary and proper assistance, to make a diligent search, good cause having been shown therefore, of the following described property, within 10 days of the issuance of this warrant:

1. Apple iPhone found in the possession of John Garrett Smith, to be examined and for the recovery of data to include but not limited to identifying information for the phone itself such as SIM, ESN and IMEI numbers, contact lists, incoming and outgoing calls and text messages, graphic/image files in common formats such as JPG, GIF, PNG or in any other data format in which they might be stored, pictures, movies files, emails, spreadsheets, databases, word processing documents, Internet history, Internet web pages, newsgroup information, passwords, encrypted files, documents, software programs, or any other data files, whether in allocated or unallocated space on the media, whether fully or partially intact or deleted, that are related to evidence of the crimes of Assault II DV, RCW 9A.36.021.
- NOT TRUE (suppression of RCW 9.73 violation) misleading*

Are on this date at the following location to be searched:

Said items are currently located at the Vancouver Police Department Evidence Facility located at 2325 West Mill Plain Blvd., Vancouver, WA. Upon authorization of this search warrant, these items will be transferred to the Domestic Violence Prosecution Center, 1101 Broadway St., Vancouver, Washington, 98661 for examination and analysis by qualified personnel.

Are located in the premises described above, and if you find same, or any part thereof, then bring same and items of identification to identify the residents and residence thereof before the Honorable District Court Judge Osler to be disposed of according to law.

This Search Warrant was issued 7/15/13 at 11:54am
by the Honorable Judge Scott Osler
Date and time of execution: 7/15/13 @ 1327 HRS
By Sandra Aldridge 1409

322
AS

Exhibit ii, P. 1/1