

62277-3

62277-3

NO. 62277-3-I

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

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SNOHOMISH REGIONAL DRUG TASK FORCE AND  
SNOHOMISH COUNTY,

Respondent,

v.

GREGORY P. CARTER, SR.  
Appellant.

2010 MAY 28 AM 10:51

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BRIEF OF RESPONDENT

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MARK K. ROE  
Prosecuting Attorney

Deputy Prosecuting Attorney  
Attorney for Respondent

Snohomish County Prosecutor's Office  
3000 Rockefeller Avenue, M/S #504  
Everett, Washington 98201  
Telephone: (425) 388-3333

**ORIGINAL**

## **I. RELIEF REQUESTED**

COMES NOW the Snohomish County Prosecutor on behalf of the State to respectfully request that the Court deny Petitioner-Appellant Gregory P. Carter's ("Petitioner") request for the return of his personal property that was seized by the Snohomish Regional Drug Task Force ("SRDTF"), to wit, a 1997 Chevy Lumina with Washington license plate number 622-RGW and \$254 in U.S. currency, or compensation for the value thereof.

## **II. EVIDENCE RELIED UPON**

1. Chapter 69.50 RCW
2. Chapter 34.05 RCW
3. The following exhibits attached herein:

Exhibit 1 – Incident Report by Snohomish County  
Sheriff's Deputy Kahler

Exhibit 2 – Incident Report by Snohomish County  
Sheriff's Deputy Gibson

Exhibit 3 – Notice of Seizure and Intended Forfeiture  
with Certification of Service by Deputy Kahler

Exhibit 4 – Notice of Seizure and Intended Forfeiture  
with Certification of Service by M. Vanderwalker

Exhibit 5 – Petitioner’s Claim of Ownership and  
Request for Hearing

Exhibit 6 – Notice of Stay in Proceedings Issued by  
Hearing Officer Galt

Exhibit 7 – Judgment and Sentence of Petitioner

Exhibit 8 – Petitioner’s Request for New Hearing

Exhibit 9 – Decision and Order Entered by Hearing  
Office Galt

Exhibit 10 – Petitioner’s Motion for Reconsideration

Exhibit 11 – Hearing Office Galt’s Order Denying  
Petition for Re-consideration

### **III. STATEMENT OF FACTS**

On October 21, 2007, at approximately 6:09 p.m.,  
Snohomish County Sheriff’s Deputy Kahler was on patrol in  
Snohomish County. Exhibit 1, p.1. He had stopped at a traffic light  
on the I-5 North off-ramp to 44<sup>th</sup> Ave W when he noticed that the  
vehicle in front of him, a 1997 Chevy Lumina with license plate  
number 622-RGW, had expired license tabs. *Id.* at 1 – 2. The  
deputy ran a check on the license plate number and discovered  
that there was an outstanding warrant for the registered owner of

the vehicle, Greg P. Carter. *Id.* at 2. When the light turned green, Deputy Kahler followed the vehicle for a short distance before pulling it over on the on-ramp for I-5 South from 44<sup>th</sup> Ave W and making contact with the driver. *Id.* The driver admitted that he knew his license tabs were expired. *Id.* He also provided a driver's license that identified him as Petitioner. *Id.* The deputy noticed that the address listed on the license was located in Kent, Washington, and asked what Petitioner was doing in the area. *Id.* Petitioner claimed that he had tried unsuccessfully to meet a person named "Paul" who was living on 44<sup>th</sup> Ave W. *Id.*

Deputy Kahler returned to his patrol car, ran a check on Petitioner through the Department of Licensing and found that Petitioner was driving on a suspended license. *Id.* He then re-contacted Petitioner and placed him under arrest. *Id.* While searching Petitioner's person incident to arrest, the deputy found \$253 in U.S. currency in denominations of \$1, \$5, \$10, \$20 and \$50 that were rubber-banded together. *Id.* Deputy Kahler also searched the car and found a fanny pack on the front seat. *Id.* Inside the fanny pack, he found hypodermic needles, a tin cup containing a cotton ball, an unlabeled pill bottle containing several pills, and alcohol wipes. *Id.*

At approximately 6:15 p.m., Snohomish County Sheriff's Deputy Gibson arrived on the scene to assist Deputy Kahler. Exhibit 2, p.2. Deputy Gibson spotted a cap for a hypodermic needle on the rear seat of the vehicle and decided to use the Police Service Dog Justice to search the vehicle for illegal drugs. *Id.* During the search, PD Justice had a reaction to the U.S. currency found on Petitioner's person, the front left corner of the driver's seat and the center console. *Id.* At the front left corner of the driver's seat, Deputy Gibson found several plastic bags containing chunks of chalky-white substance. *Id.* In the center console, the deputy found a small electronic scale stained with white residue. *Id.*

Deputy Kahler advised Petitioner of his Miranda rights, and the Petitioner stated that he understood those rights and was willing to speak to the deputy. Exhibit 1, p.2. Petitioner told Deputy Kahler that the outstanding warrant was for his son. He also admitted that he had driven to Lynnwood in order to buy heroin from "Paul," and that the pill bottle contained Methadone, for which he did not have a prescription. *Id.* When questioned by Deputy Gibson, Petitioner stated that he had been arrested in the past for possession of crack cocaine, but denied knowing anything about the chalky-white substance found in the vehicle. See Exhibit 2, p.2

– 3. Deputy Kahler performed a field test on the chalky-white substance and confirmed that it was cocaine. Exhibit 1, p.3; Exhibit 2, p.3.

Deputy Kahler noticed that Petitioner's cell phone was ringing constantly and that the identity of the callers was displayed on the exterior of the phone as "Sonny" and "Denny." Exhibit 1, p.3. Inside the vehicle, the deputy found a notepad containing a page with a list of names that included "Sonny" and "Denny." *Id.* There were dollar amounts written beside each name and some of the names were crossed out. *Id.* Deputy Kahler saw the words, "No More Credit!" written on the bottom of the page and underlined numerous times. *Id.* He also found \$1 in the vehicle, bringing the total amount of cash recovered to \$254. *See Id.*

Petitioner's vehicle was impounded and he was booked into the Snohomish County Jail on the charge of Manufacture or Delivery of a Controlled Substance. Exhibit, p.1, 3; Exhibit 2, p.3. With the assistance of the Washington State Poison Control, Deputy Kahler identified the pills found inside the vehicle as 10 mg Methadone.

#### **IV. PROCEDURAL HISTORY**

On October 21, 2007, Deputy Kahler personally served Petitioner with a Notice of Seizure and Intended Forfeiture for the 1997 Chevy Lumina and the \$254 in U.S. currency seized by the Snohomish Regional Drug Task Force ("SRDTF") after Petitioner's arrest. Exhibit 3. On October 26, 2007, Petitioner was mailed a copy of the Notice of Seizure and Intended Forfeiture at his residential address, 23706 112<sup>th</sup> Ave SE, Kent, Washington 98030. Exhibit 4. On November 19, 2007, Petitioner requested a hearing over the seizure and forfeiture with the Snohomish County Sheriff's Office. Exhibit 5. On January 24, 2008, Hearing Officer Galt of the Snohomish County Sheriff's Office granted Petitioner's request for a stay in proceedings pending the resolution of the related criminal matter. Exhibit 6.

On May 15, 2008, Petitioner was found guilty of Possession of a Controlled Substance (Methadone) pursuant to the October 21 arrest. Exhibit 7. On June 1, 2008, Petitioner requested a new hearing over the seizure and forfeiture. Exhibit 8. On July 9, 2008, Hearing Officer Galt held a hearing over the seizure and forfeiture and concluded that the 1997 Chevy Lumina and \$254 in U.S.

currency seized by the SRDTF pursuant to the October 21 arrest shall remain forfeited to the agency. Exhibit 9.

On August 12, 2008, Hearing Officer Galt received a Motion for Reconsideration from Petitioner. Exhibit 10. On August 14, 2008, Hearing Officer Galt issued an Order Denying a Petition for Reconsideration. Exhibit 11.

On September 17, 2009, Petitioner filed an appeal against the decision of Hearing Officer Galt with this Court.

#### **V. ARGUMENT**

The Court should deny Petitioner's request because he did not meet the requirement under RCW 34.05.518.

According to RCW 69.50.505(5), if a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right of possession of personal property seized under the authority of the statute, and the person had done so within forty-five days of the seizure, he or she "shall be afforded a reasonable opportunity to be heard as to the claim or right." Furthermore, the section also provides that "the hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4)... " Petitioner did

give notice of his claim of ownership as required under the statute and was afforded the opportunity to be heard on his claim on July 9, 2008. In addition, the hearing was held before Hearing Officer Galt, who is the designee of the Snohomish County Sheriff. Exhibit 9, p.4.

RCW 69.50.505(1) states, in pertinent parts:

“The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

...

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection...

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW...

In his Decision and Order, Hearing Officer Galt concluded that the State had met its burden of showing by a preponderance of the evidence that the 1997 Chevy Lumina and \$254 in U.S. currency were subject to forfeiture under RCW 69.50.505. Exhibit 9, para. 13. Specifically, Hearing Officer Galt considered the following facts – (1) Petitioner admitted that he had driven the 1997 Chevy Lumina from Seattle to Lynnwood in order to acquire heroin;

(2) cocaine, Methadone and other implements usually used to facilitate drug transactions were found in the 1997 Chevy Lumina during the October 21 traffic stop; (3) the police canine had alerted on the currency carried on Petitioner's person; and (4) Petitioner's only source of income was a monthly disability payment of \$339 from DSHS, but he still had \$254 remaining by the 21<sup>st</sup> of the month. *Id.* at para. 7 – 10. Based on the totality of the circumstances, Hearing Officer Galt determined that the 1997 Chevy Lumina and \$254 in U.S. currency were being used or intended to be used to facilitate the sale and/or receipt of controlled substances. *See Id.* at para. 13. He also found that none of the exceptions to forfeiture set forth under RCW 69.50.505(1)(d) and RCW 69.50.505(1)(g) were applicable. *See Id.* at para. 14 – 15.

According to RCW 69.59.505(5), "a hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW" (emphasis added). RCW 34.05.491 requires that the reviewing officer include in the order on review "a description of any further available administrative review or, if none is available, a notice that judicial review may be available." In his Decision and Order, a copy of which was distributed to Petitioner, Hearing Officer Galt included a paragraph that provides that appeal from the

decision and order is governed by the provisions of Chapter 34.05 RCW and that Part V of Chapter 34.05 RCW provides for judicial appeal and establishes the procedures for such an appeal. Exhibit 9, p. 11.

In his order denying the petition for reconsideration, a copy of which was distributed to Petitioner, Hearing Officer stated that any appeal by a person with standing must be filed with the appropriate Superior Court within 30 days of the final order. Exhibit 11, p. 4. ( *emphasis added.* )

RCW 34.05.518 provides, in pertinent parts:

(1) The final decision of an administrative agency in an adjudicative proceeding under this chapter may, except as otherwise provided in chapter 43.21L RCW, be directly reviewed by the court of appeals either (a) upon certification by the superior court pursuant to this section or (b) if the final decision is from an environmental board as defined in subsection (3) of this section, upon acceptance by the court of appeals after a certificate of appealability has been filed by the environmental board that rendered

the final decision.

(emphasis added)

RCW 34.05.542 provides, in pertinent parts:

Subject to other requirements of this chapter or  
of another statute:

...

(2) A petition for judicial review of an order shall  
be filed with the court and served on the agency, the  
office of the attorney general, and all parties of record  
within thirty days after service of the final order.

In appealing the decision and order of Hearing Officer Galt,  
Petitioner did not abide by the requirements of Chapter 34.05  
RCW. First, the decision was not issued from an environmental  
board, thus only subsection (a) of RCW 34.05.518(1) is an  
applicable basis for Petitioner's appeal. Second, more than 30  
days have elapsed since the decision and order entered by Hearing  
Officer Petitioner, and Petitioner has not filed a petition for judicial  
review with the Superior Court, the Office of the Attorney General  
and the State as required under RCW 34.05.542. In effect, the  
Court of Appeals does not have jurisdiction over the personal

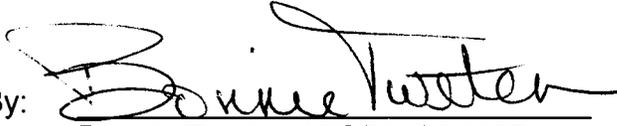
property in question, and Petitioner has lost the right to direct review by the Court of Appeals. Furthermore, Petitioner cannot argue that he was not given adequate notice of the procedural requirements because they have been explained to him in both the Decision and Order and the Order Denying Petition for Reconsideration in clear and unequivocal language. See Exhibit 9, p. 11, Exhibit 11, p.4.

## **VI. CONCLUSION**

For the foregoing reasons, the State respectfully requests that the Court deny Petitioner's request for the return of the 1997 Chevy Lumina and the \$254 in U.S. currency seized and forfeited to the SRDTF pursuant to the October 21, 2007, arrest of Petitioner. The State also respectfully requests that the Court deny Petitioner's request for compensation for the value of the aforementioned personal property seized and forfeited to the SRDTF.

Respectfully submitted on May 26, 2010.

MARK K. ROE  
Snohomish County Prosecuting Attorney

By:   
Bonnie Tweten, WSBA # 24167  
Deputy Prosecuting Attorney  
Attorney for Respondent

# Snohomish County Incident Report **Exhibit 1**

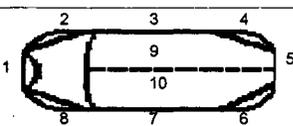
## Snohomish County Sheriff

Case Number  
**SO07-25051**

Incident Classification 1 <b>VUCSA-Narcotics, felonies except marij</b>	<input type="checkbox"/> Attempted	Offense Code <b>VUCSA</b>	Incident Classification 2	<input type="checkbox"/> Attempted	Offense Code
Incident Classification 3	<input type="checkbox"/> Attempted	Offense Code	Type of Report <b>Arrest, Drug Related</b>		
Address/Location of Incident <b>44th Ave W &amp; I-5, Lynnwood, WA 98037</b>			Premise Type/Name <b>Street/Highway/Road/Alley</b>	Code <b>51</b>	
Officer Assault/Safety	Responding To <b>Other</b>	Type of Assignment <b>1 Officer Vehicle -</b>	<input type="checkbox"/> Force <input checked="" type="checkbox"/> No Force	Reporting Area	Beat
Occurred on or From (Date/Time/DOW) <b>10/21/2007 18:09 Sunday</b>		Occurred To (Date/Time/DOW) <b>10/21/2007 18:09 Sunday</b>		Reported On (Date/Time/DOW) <b>10/21/2007 18:09 Sunday</b>	

<small>Known Subjects: C-Other, VP-Victim, P-Police, SU-Suspect, U-Undertaken, RE-Responded, I-Instigational, M-Missing, PE-Petitioner, RO-Registered Owner, G-Guardian, F-Runaway, S-...</small>					
No. <b>A-1</b>	Name (Last, First, Middle) <b>Carter, Gregory Paul</b>	Race <b>B</b>	Ethnicity <b>Non-Hispanic</b>	Sex <b>M</b>	
DOB/Age <b>10/29/1948 58</b>	Height <b>5'09"</b>	Weight <b>205</b>	Hair <b>BLK-Black</b>	Eyes <b>BRO-Brown</b>	
Street Address <b>23706 112th AVE SE, Kent, WA 98030</b>			Residence Phone	Business Phone	
Level <b>F</b>	Charge <b>69.50.401(A) Manufacture/Deliver of Controlled</b>	Citation #	Warrant #	Agency <b>SCSO</b>	

Veh. No. <b>V-1</b>	Status <b>Seized, Suspect</b>	License No. <b>622RQW</b>	License State <b>WA</b>	License Year <b>2007</b>	License Type <b>Passenger Car</b>
VIN/HIN <b>2G1WL52M9V9123168</b>	Year <b>1997</b>	Make <b>Chevy</b>	Model <b>Lumina</b>	Body Style <b>Sedan, 4-Door</b>	
Color <b>Brown</b>	Special Features/Description				Value \$
ORI <b>WA031000</b>	Case No.	Registered Owner Name <b>Carter, Gregory Paul</b>			Residence Phone
Registered Owner's Address <b>23706 112th AVE SE, Kent, WA 98030</b>			Vehicle Disposition <input type="checkbox"/> Left At Scene <input type="checkbox"/> Driven Away <input checked="" type="checkbox"/> Towed		Accepts Liability for Impound/Storage
Locked	Keys In Vehicle	Delinquent Payment	Victim Consent?	Drivable	Estimated Damage \$
Tow Company		Towed To	Hold Requested By		
Release Info Date/Time	Release No.	Releasing Authority	Owner Notified Date/Time	Operator's Name	



**Narrative**

**Summary:**

I stopped a subject for a traffic violation. Upon stopping the subject, I found he had a suspended driver's license. I searched the car and found drug paraphernalia and Deputy Gibson applied his narcotic K9 to the vehicle. The dog indicated on a part of the seat and located crack cocaine. The driver was booked into jail.

**Narrative:**

On 10/21/07 at approximately 1809 hours, I was on patrol in Snohomish County. I had just exited northbound I-5 onto the off-ramp to 44th Ave W. While I was waiting for the light to turn green, I noticed the suspect vehicle in front of me with expired tabs (07/24/2007). I checked the plate through DOL on my MDC and found

Officer Name/Number <b>Kahler, A J #1415</b>		Unit <b>20092</b>	Approved By Number	Date
Clearance <input type="checkbox"/> Arr/A <input type="checkbox"/> Arr/J <input type="checkbox"/> Insuff/Closed	<input type="checkbox"/> Unfounded <input type="checkbox"/> Exc/A <input type="checkbox"/> Exc/J <input type="checkbox"/> Closed/Other	Distribution <input type="checkbox"/> PA <input type="checkbox"/> ADMIN	<input type="checkbox"/> DOC <input type="checkbox"/> CPS <input type="checkbox"/> DSHS	<input type="checkbox"/> HD <input type="checkbox"/> JUV <input type="checkbox"/> MH
<input type="checkbox"/> TRAF <input type="checkbox"/> DET <input type="checkbox"/> PAT	<input type="checkbox"/> PROACT <input type="checkbox"/> Court <input type="checkbox"/> Other	Logged Date: <b>/</b> Initials: <b>900001</b>		
Entered RMS Date: <b>/</b> Initials: <b>/</b>	<input type="checkbox"/> Entered WACIC/NCIC Date: <b>/</b> Initials: <b>/</b>	<input type="checkbox"/> Entered WACIC/NCIC Date: <b>/</b> Initials: <b>/</b>		

# Snohomish County Incident Report

## Snohomish County Sheriff

Incident Classification 1 <b>VUCSA-Narcotics, felonies except marij</b>	Case Number <b>SO07-25051</b>
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the tabs were expired. There was also an attached warrant with the vehicle for Greg P. Carter. The registered owner for the vehicle is Greg P. Carter.

When the light turned green, I followed the vehicle for a short distance, so I could find a safe place to stop. While following the subject, he made a lane change and turned onto the on-ramp for southbound I-5 from 44<sup>th</sup> Ave W.

I stopped the car and contacted the driver. I advised him the reason for the stop. He told me that he knew the tabs were expired. He provided me his driver's license, which identified him as Gregory P. Carter (10/29/48); this was not the same subject on the warrant. While speaking to Gregory, I noticed his address on his license was in Kent. I asked him what he was doing up in the area, he said he was going to meet a guy named "Paul". He said when Paul never answered his phone; he was going to go home. He said he was supposed to meet Paul somewhere on 44<sup>th</sup> Ave W.

I returned to my patrol car and checked Gregory through DOL and found he was DWLS 3<sup>rd</sup>. Deputy Gibson arrived at my location for assistance.

I re-contacted Gregory and advised him he was arrest for DWLS 3<sup>rd</sup>. I placed him in handcuffs and searched him. While searching Gregory, I located some US currency that was folded up and held together with a rubber band. There were dominations of \$1, \$5, \$10, \$20 and \$50.00, resulting in \$253.00.

I started searching the car, incident to his arrest. I located a black fanny pack on the front seat. Inside the fanny pack were notes with Gregory's name on it and business cards. I also located several hypodermic needles, along with a tin cup with a cotton ball inside the tin, unlabeled pill bottle with several pills inside and alcohol wipes in the fanny pack. Deputy Gibson then informed me that he had observed a cap for a hypodermic needle on the rear seat.

Deputy Gibson then informed me that he was going to use his narcotic K9 to search the vehicle (see Deputy Gibson's follow-up for details).

I re-contacted Gregory and advised him of his Constitutional Rights off my Miranda card, which he stated he understood and was willing to waive them to speak to me. Gregory then told me that it was his son who had the warrant. He continued to tell me that he was actually coming up to Lynnwood to buy heroin from Paul. When he was unable to get contact Paul by telephone, he decided to drive back to Seattle. I asked Gregory about the pill bottle, he told me it was Methadone. I knew Methadone was commonly used for heroin addicts to get off of the narcotic. Gregory told me that he got the Methadone from the street; he did not have a prescription for them. I then went and assisted Deputy Gibson with the search of the vehicle.

After Deputy Gibson placed his dog inside the car, Deputy Gibson told me that he found a white/tan chunky substance that resembled crack cocaine. The suspected crack cocaine was located between the cushion of the seat and the plastic piece that surrounds the bottom of the cushion. Deputy Gibson pulled out three plastic baggies from the seat and I placed them into an envelope. Based upon my training and experience I knew the substance was crack cocaine. Deputy Gibson again applied his dog to the inside the car. A few seconds later, Deputy Gibson advised me that he had found a black digital scale, with white residue on it. I took the item and

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Officer Name/Number <b>Kahler, A J #1415</b>	Unit <b>20092</b>	Approved By Number <b>000</b>	Date <b>000</b>
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**INCIDENT REPORT**

**Snohomish County Incident Report**  
**Snohomish County Sheriff**

Incident Classification 1 <b>VUCSA-Narcotics, felonies except marij</b>	Case Number <b>SO07-25051</b>
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placed it into an envelope.

Once the dog completed the search of the car, I looked around. While looking around, I noticed Gregory's cell phone was ringing constantly. I looked at the display on the exterior of the phone and saw the names of "Sonny" and "Denny". As I continued to look through the car, I found a Memo notepad. There were numerous writings and miscellaneous numbers, but I found one page with the names of Randy, Sonny, Danny, Denny and Real. These names all had dollar amounts behind these names and some of the names had been crossed out. At the bottom of the page, someone wrote "No More Credit!" and it was underlined several times. It appeared that the notebook was Gregory's ledger of people who owe him money for narcotic sales. I also located another \$1.00 bill between the center console and the passenger seat. I found another cell phone in the center console, which led me to believe that Gregory was in Lynnwood attempting to sell his narcotics.

Deputy Gibson photographed all of the evidence that we located, prior to us taking the items.

Using a NIK test kit, I tested the suspected crack cocaine and it came back with a presumptive positive test for cocaine.

Based upon the amount drugs found, the money, ledger, his cell phone ringing constantly with the people's name on the ledger and the digital scale found in the car, I believed Gregory was in Possession of the Controlled Substance and was intending to sell them. I seized the money that I found on Gregory, along with the \$1.00 found in the car.

Deputy Gibson waited at the scene for the impound, while I took Gregory to the Snohomish County Jail. When I arrived at the jail, I weighed the crack cocaine on there digital scale (36 grams - 1.3 oz). While at the jail, I provided Gregory with seizure paperwork for his money and I later went back to the jail to serve him seizure paperwork for his vehicle. Gregory's copies were placed in his property at the jail.

After booking Gregory, I finally had to turn off his cell phone, because it was ringing too many times.

The evidence was then taken to the South Pct., where it was booked into evidence. I also contacted the Washington State Poison Control, so I could identify the pills in the bottle that Gregory had in his fanny pack. They told me that it was a Generic Methadone 10 mg.

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

\_\_\_\_\_  
(Date and Place)

\_\_\_\_\_  
(Signature)

000003

Officer Name/Number <b>Kahler, A J #1415</b>	Unit <b>20092</b>	Approved By Number	Date
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**INCIDENT REPORT**



CHRISTINE O. GREGOIRE  
Governor



JOHN R. BATISTE  
Chief

STATE OF WASHINGTON  
WASHINGTON STATE PATROL

2700 116th Street NE Suite P • Tulalip, Washington 98271-9425 • (360) 651-6503 • www.wsp.wa.gov

**CRIME LABORATORY REPORT**

Agency: Snohomish County Sheriff's Office  
Agency Rep: Kahler  
Subject: Suspect - CARTER, GREG P.

Laboratory Number: 407-003273  
Agency Case Number: SO0725051  
Request Number: 0001

**The following evidence was received:**

Item 1

- Three plastic bags holding off-white chunky material. The contents of one bag, net weight 25.2 grams, were analyzed and found to contain COCAINE.

Item 3

- One plastic bottle holding thirty-six white rectangular tablets marked "M/57 71." One tablet was analyzed and found to contain METHADONE.

Item 5

- NOT ANALYZED.

**TEST CERTIFICATION**

The undersigned certifies under penalty of perjury that:

1. I performed the test on the (substance) (object) in question;
2. The person from whom I received the (substance) (object) in question is  
Property & Evidence Custodian Sarah Holmes;
3. The document on which this certificate appears or to which it is attached is a true and complete copy of my official report; and
4. Such document is a report of the results of a test which report and test were made by the undersigned who has the following qualifications and experience:

M.S. Chemistry, B.S. Chemistry, Forensic Scientist since 2005.

Handwritten signature of Daniel R. Van Wyk.

Daniel R. Van Wyk, Forensic Scientist  
Marysville Crime Laboratory  
2700 116th St. NE, Suite P  
Marysville, WA 98271-9425  
(360) 651-6503

12/4/07

Date



# EVIDENCE REPORT

USE FOR EVIDENCE / PROPERTY BOOKED INTO EVIDENCE ROOM

SNOWBUSH COUNTY SHERIFF'S OFFICE REGIONAL EVIDENCE DIVISION		TYPE OF OFFENSE <b>VUCSA</b>		AGENCY NO <b>50</b>	AGENCY CASE NUMBER <b>07-25051</b>
<input type="checkbox"/> VTC <input checked="" type="checkbox"/> SUS <input type="checkbox"/> WIT <input type="checkbox"/> COM <b>Gregory P. Carter</b> DOB: <b>10-29-48</b>		<input type="checkbox"/> VUC <input checked="" type="checkbox"/> SUS <input type="checkbox"/> WIT <input type="checkbox"/> COM DOB: _____		DATE AND TIME OF ORIGINAL REPORT <b>01-06-08   1600</b>	
BROUGHT TO: <input type="checkbox"/> PROPERTY ROOM <input checked="" type="checkbox"/> <b>South</b> PREC. <input type="checkbox"/> OTHER _____		COLLECTING OFFICER: NAME: <b>A. Kahler</b> , 1415 DATE: <b>1-6-07</b> TIME: <b>1600</b> SIGNATURE: <i>[Signature]</i>		TRANSPORTING OFFICER: NAME: <b>Same</b> DATE: _____ TIME: _____ SIGNATURE: _____	
ACTION NUMBER: <b>3 - EVIDENCE; 5 - FOUND; 10 - SAFEKEEPING</b>		EVIDENCE - WILL BE HELD UNTIL COURT DISPOSITION OR AUTHORIZATION FROM OFFICER FOUND - WILL BE HELD FOR 90 DAYS OR 90 DAYS PAST OWNER NOTIFICATION SAFEKEEPING - WILL BE HELD UNTIL REQUEST FROM OWNER			
Item # <b>9</b>	ITEM <b>Writing Exemplar</b>	SERIAL / DAN	BRAND NAME	STORAGE LOCATION	
Action # <b>3</b>	MODEL / CALIBER	WHERE FOUND			
FURTHER DESCRIPTION (IF WEAPON, INDICATE BARREL LENGTH, ACTION, FINISH)		WEIGHT: PROPERTY ROOM ONLY			
OWNER'S NAME		ADDRESS	CITY	ZIP	PHONE #
OTHER REMARKS / ADDITIONAL INFORMATION / SPECIAL INSTRUCTIONS <b>Send to lab and original copy of ledger</b>					
Item #	ITEM	SERIAL / DAN	BRAND NAME	STORAGE LOCATION	
Action #	MODEL / CALIBER	WHERE FOUND			
FURTHER DESCRIPTION (IF WEAPON, INDICATE BARREL LENGTH, ACTION, FINISH)		WEIGHT: PROPERTY ROOM ONLY			
OWNER'S NAME		ADDRESS	CITY	ZIP	PHONE #
OTHER REMARKS / ADDITIONAL INFORMATION / SPECIAL INSTRUCTIONS					
Item #	ITEM	SERIAL / DAN	BRAND NAME	STORAGE LOCATION	
Action #	MODEL / CALIBER	WHERE FOUND			
FURTHER DESCRIPTION (IF WEAPON, INDICATE BARREL LENGTH, ACTION, FINISH)		WEIGHT: PROPERTY ROOM ONLY			
OWNER'S NAME		ADDRESS	CITY	ZIP	PHONE #
OTHER REMARKS / ADDITIONAL INFORMATION / SPECIAL INSTRUCTIONS					
Item #	ITEM	SERIAL / DAN	BRAND NAME	STORAGE LOCATION	
Action #	MODEL / CALIBER	WHERE FOUND			
FURTHER DESCRIPTION (IF WEAPON, INDICATE BARREL LENGTH, ACTION, FINISH)		WEIGHT: PROPERTY ROOM ONLY			
OWNER'S NAME		ADDRESS	CITY	ZIP	PHONE #
OTHER REMARKS / ADDITIONAL INFORMATION / SPECIAL INSTRUCTIONS					
Item #	ITEM	SERIAL / DAN	BRAND NAME	STORAGE LOCATION	
Action #	MODEL / CALIBER	WHERE FOUND			
FURTHER DESCRIPTION (IF WEAPON, INDICATE BARREL LENGTH, ACTION, FINISH)		WEIGHT: PROPERTY ROOM ONLY			
OWNER'S NAME		ADDRESS	CITY	ZIP	PHONE #
OTHER REMARKS / ADDITIONAL INFORMATION / SPECIAL INSTRUCTIONS					

AGENCY CASE NUMBER

**EVIDENCE CONTROL USE ONLY:**

TRANSPORTED BY: _____	RECEIVED BY EVIDENCE CONTROL: _____	HCIC/WACIC <input type="checkbox"/> DATE _____	GUN INV + <input type="checkbox"/> _____ - <input type="checkbox"/> _____
INITIAL: _____	NAME: _____	HCIC/WACIC + <input type="checkbox"/> DATE _____	BIKE INV + <input type="checkbox"/> _____ - <input type="checkbox"/> _____
DATE: _____	DATE: _____ TIME: _____	HCIC/WACIC - <input type="checkbox"/> DATE _____	CAD/RMS CHECKED <input type="checkbox"/>

INPUT  DATE \_\_\_\_\_ LETTER SENT  DATE \_\_\_\_\_ FINAL UPDATE  DATE \_\_\_\_\_

CHRISTINE O. GREGOIRE  
Governor



JOHN R. BATISTE  
Chief

STATE OF WASHINGTON  
WASHINGTON STATE PATROL

2203 Airport Way S, Suite 250 • Seattle, Washington 98134-2045 • (206) 262-6020 • www.wsp.wa.gov

CRIME LABORATORY REPORT

January 26, 2008

AGENCY: Snohomish County Sheriff's Office  
OFFICER: Deputy Andy Kahler  
VICTIM: none listed  
SUSPECT: CARTER, GREGORY P.

LABORATORY NO.: 108-000111  
REQUEST NO.: 0001  
AGENCY CASE NO.: 07-25051

**Items Examined:**

- questioned
- 7 Memo Pad and a Journal.
- known
- 9 Handwriting Exemplar of Gregory P. Carter, dated 01-02-08.

JOHN LOVICK  
SHERIFF, SNOH. COUNTY  
EVERETT, WASHINGTON

2008 MAR 10 P 2:07

RECEIVED

**Procedures:**

The questioned and known writings were analyzed, compared, and evaluated.

**Results:**

There are both fundamental similarities and differences between the questioned and genuine writings.

**Conclusions:**

Gregory P. Carter is not the writer of the "greg...I am grateful....been ungrateful" page of the journal. Gregory P. Carter cannot be identified or excluded as the writer of the other questioned writings.

**Comments:**

The submitted genuine writings of Carter were insufficient for a definitive conclusion. The small quantity of exemplar writing did not permit a thorough assessment of Carter's writing habits. Analysis of additional known writings, including requested and collected, may permit a more definitive conclusion.

 01.26.08  
Timothy P. Nishimura, Forensic Document Examiner



**Snohomish County Follow-Up Report**  
**Snohomish County Sheriff**

Case Number  
**SO07-25051**

**Exhibit 2**

Incident Classification <b>VUCSA-Narcotics, felonies except marij</b>		Name of Original Victim(s)
Report Date <b>10/21/2007</b>	Original Case Report Date <b>10/21/2007</b>	Reclassify To
Connecting Case Numbers		Incident Involved <b>Arrest, Drug Related</b>

**Summary:** Assisted Deputy Kahler with an arrest. Driver Carter was arrested for Driving while license suspended, Drug paraphernalia was located. PD Justice located 36 grams of crack cocaine in the front of the driver's seat.

**Assignment:** On the above date and time, I was employed with the Snohomish County Sheriff's Office, working as a commissioned Deputy Sheriff. I was driving a marked patrol vehicle & wearing and issued uniform. I was working as a K-9 handler in control of Police Service Dog Justice.

I was driving a 2007 Ford Crown Victoria with a push bumper attached to the front bumper, with green reflective strips and lettering on the side of the vehicle and trunk indicating "Snohomish County Sheriff", overhead red and blue strobe lights and oscillating headlamps. I was wearing the standard tan and green colored uniform with green and gold shoulder patches indicating "Snohomish County Sheriff" and a gold colored badge on the left breast of my uniform shirt also indicating "Snohomish County Sheriff", black boots and a black nylon gun belt holding various pieces of law enforcement equipment to include a gun and radio.

I have been Deputy Sheriff with the Snohomish County Sheriff's Office for 16 1/2 years. I graduated from the Basic Law Enforcement academy with training in narcotics investigation and recognition. I have attended 40 hours of Instructor Development and I am currently a Master Canine Trainer with the Washington State Police Canine Association. I have been trained by a certified instructor in the use of the Becton Dickson NIK field test system; have used it many times with a 100% accuracy rate confirmed by Washington State Crime Laboratories. I have also attended a 6 week narcotic detection canine program with canine Justice under the direction of trainer Barbara Davenport, a Master Canine Trainer with over 26 years experience in Narcotic Detection Dog Training.

Police Dog Justice has successfully completed a 6 week course of training for the detection of odors emanating from Marijuana, Cocaine, Crack Cocaine, Heroin and Methamphetamine. This course of training was conducted at McNeil Island Correctional Center on Steilacoom, Washington; under the direction of Master Trainer Barbara Davenport, along with his handler Deputy Jim Gibson, successfully completed the 6 week Detection Dog Handler course. Police Dog Justice is a 3 year old, German Shepherd. We

<b>Status</b>			
Officer Name/Number <b>Gibson, J L #1225</b>	Unit <b>SOK920</b>	Approved By Number	Date
Clearance <input checked="" type="checkbox"/> Arr/A <input type="checkbox"/> Arr/J <input type="checkbox"/> Insuff/Closed <input type="checkbox"/> Unfounded <input type="checkbox"/> Exc/A <input type="checkbox"/> Exc/J <input type="checkbox"/> Closed/Other	Distribution <input type="checkbox"/> PA <input type="checkbox"/> ADMIN <input type="checkbox"/> DOC <input type="checkbox"/> CPS <input type="checkbox"/> DSHS <input type="checkbox"/> HD <input type="checkbox"/> JUV <input type="checkbox"/> MH	<input type="checkbox"/> TRAF <input checked="" type="checkbox"/> DET <input type="checkbox"/> PAT <input type="checkbox"/> PROACT <input type="checkbox"/> Court <input type="checkbox"/> Other	Logged Date / Initials
Entered RMS Date / Initials	<input type="checkbox"/> Entered WACIC/NCIC Date / Initials	<input type="checkbox"/> Entered WACIC/NCIC Date / Initials	

000004

**Snohomish County Follow-Up Report**  
**Snohomish County Sheriff**

Case Number <b>S007-25051</b>
----------------------------------

have met the WAC requirements and are currently accredited by the Washington State Police Canine Association.

Police Dog Justice is trained to give a Passive alert to the presence odors emanating from controlled substances. This alert is described as a change of behavior, characterized by a tail flag, intensive sniffing, mouth closure, and /or focusing on a specific area. This alert phase manifests itself by culminating into a specific alert where Police Dog Justice will search to a pin point at the source of the odor and sit as a final response.

Police Dog and I have performed over 600 applications where controlled substances were discovered and / or the odor of controlled substances was present.

**Incident:**

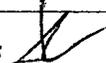
On 10-21-07 at 1815 hours, I assisted Deputy Kahler on a traffic stop on the on ramp to south bound I-5 from 44<sup>th</sup> St SW in Lynnwood, WA.

Deputy Kahler had arrested the Driver, Carter, Greg P dob/10-29-48 for driving while license suspended. As Deputy Kahler had begun to search Carter's fanny pack, he located several needles, a plastic unlabeled bottle with several pills inside and a round tin. I could see a cap for a hypodermic needle on the rear seat. I chose to use PD Justice to search the vehicle for illegal drugs.

I completed a search and safety check of the interior of the vehicle and then applied trained narcotic Police Dog Justice to the exterior/interior of the vehicle. As I walked PD Justice up to the vehicle, Justice demonstrated a change of behavior consisting of mouth closure and intense sniffing on the rolled up United States currency on the rear trunk lid and sat. This alert and final response is consistent with past alerts where narcotics/illegal drugs were found or narcotics/illegal drugs were located. I continued with our search of the exterior of the vehicle. Nothing further was located on the exterior of the vehicle. I applied PD Justice to the driver's side of the vehicle through the driver's door. I closed the door and observed PD Justice inside the vehicle. Justice demonstrated a change of behavior consisting of mouth closure and intense sniffing on the front seat. PD Justice came to a pin point on the front left corner of the driver's seat and went in to a down as a final response. This alert and final response is consistent with past alerts where narcotics/illegal drugs were found or narcotics/illegal drugs were located. I looked in that location and located several plastic bags with a chalky white/tan chunky substance in it. I knew from my past Law Enforcement training and experience that the substance was crack cocaine. PD Justice demonstrated a change of behavior consisting of mouth closure and intense sniffing and pin point on the center console and gave a final response of sitting. This alert and final response is consistent with past alerts where narcotics/illegal drugs were found or narcotics/illegal drugs were located. A small electronic scale was located inside and there was white residue on it.

I advised Deputy Kahler of my findings.

I took photographs of the items in this report and the locations they were located/recovered. I heard Deputy Kahler advise Carter of his Constitutional rights. I spoke to Carter and asked him if I could ask him a few questions and he said, "Yeha.". I asked him if the cocaine my dog found in the driver's seat was his. He said,"No". I asked him if he

Officer Name/Number <b>Gibson, J L #1225</b> 	Unit <b>SOK920</b>	Approved By Number	Date <b>000005</b>
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**Snohomish Regional Drug Task Force**  
 3000 Rockefeller Ave M/S 606  
 Everett, WA 98201 425-388-3479

# Exhibit 3

## NOTICE OF SEIZURE AND INTENDED FORFEITURE

TO: Gregory P. Carter  
Name

23706 112 Ave SE  
Street Address

Kent, WA 98030  
City / Zip

Case Number 07-25051

10-21-07  
Date of Seizure

A. Kahler / 1415  
Name & personnel # of person completing this from

You are hereby notified that the property identified below is being or has been seized under the authority of RCW 69.50.505(a) and (b), and is intended to be forfeited in accordance with the procedures set forth in RCW 69.50.505(c)-(e).

You have a right to a hearing before the Sheriff or his designee to determine if the property should be forfeited. In order to obtain a hearing, you must notify the Snohomish Regional Drug Task Force in writing (by certified mail) of your claim of ownership or right to possession of the seized property within forty-five (45) days from the date of seizure. You may remove these proceedings to a court of competent jurisdiction under RCW 69.50.505(e) if the aggregate value of the article or articles is more than \$500. If your claim is eligible for removal and you desire to remove it to a court of competent jurisdiction, you are responsible for properly removing the matter.

**Failure to notify the Snohomish Regional Drug Task Force of a request for hearing in writing within forty-five (45) days of the date of seizure will result in forfeiture of the property under RCW 69.50.505(d).**

Evidence #	Description	Evidence #	Description
1	1997 Chevy Lumina		
	WA/622RBW		
	EVIN/2G1WL52M9V9123168		

<p><b>Affidavit of Service</b></p> <p>I, <u>A. Kahler</u>, hereby certify that I  <small>(Print Name)</small></p> <p>personally served a copy of this notice on:  <u>Gregory P. Carter</u>  <small>(Printed name of recipient)</small></p> <p>on <u>10-21-07</u> at <u>2230</u>  <small>Date Time</small></p> <p><u>[Signature]</u> #1415  <small>Signature of Officer &amp; #</small></p> <p><u>[Signature]</u>  <small>Signature of Recipient</small></p>	<p><b>Affidavit of Mailing</b></p> <p>I declare under penalty of perjury under the laws of the State of Washington that I mailed a copy of this notice to the addressee by certified mail dated this</p> <p>_____ day of _____, 20____</p> <p>at Everett, Washington.</p> <p>_____  <small>Printed Name &amp; #</small></p> <p>_____  <small>Signature</small></p>
---	--

Is this a lab related vehicle? Yes [ ] No

WHITE COPY: SRDTF  
 YELLOW COPY: Claimant  
 PINK COPY: Attach to Evidence Report  
 FORFEITURE2.doc Revised 03/2004



**Snohomish Regional Drug Task Force**  
 3000 Rockefeller Ave M/S 606  
 Everett, WA 98201 425-388-3479

**NOTICE OF SEIZURE AND INTENDED FORFEITURE**

TO: Gregory P. Carter  
Name  
23706 112 Ave SE  
Street Address  
Kent, WA 98030  
City / Zip

Case Number 07-25051

Seizure Date: 10-21-07

A. Kahler / 1415  
Name & personnel # of person completing this from

You are hereby notified that the property identified below is being or has been seized under the authority of RCW 69.50.505(1) and (2), or RCW 9A.83.020 and is intended to be forfeited in accordance with the procedures set forth in RCW 69.50.505(3)-(5) and/or RCW 9A.83.030.

You have a right to a hearing before the Sheriff or his designee to determine if the property should be forfeited. In order to obtain a hearing, you must notify the Snohomish Regional Drug Task Force in writing (by certified mail) of your claim of ownership or right to possession of the seized property within forty-five (45) days from the date of seizure. You may remove these proceedings to a court of competent jurisdiction under RCW 69.50.505(5) if the aggregate value of the article or articles is more than \$500. If your claim is eligible for removal and you desire to remove it to a court of competent jurisdiction, you are responsible for properly removing the matter.

**Failure to request a hearing in writing within forty-five (45) days of the date of seizure will result in forfeiture of the property under RCW 69.50.505(4) and/or RCW 9A.83.030(4).**

Evidence #	Description	Evidence #	Description
1	US Currency \$254.00		

**Affidavit of Service**  
 I, A. Kahler, hereby certify that I  
(Print Name)  
 personally served a copy of this notice on:  
Gregory P. Carter  
(Printed name of recipient)  
 on 10-21-07 at 2020  
Date Time  
A. Kahler #1415  
Signature of Officer & #  
Gregory Carter  
Signature of Recipient

**Affidavit of Mailing**  
 I declare under penalty of perjury under the laws of the State of Washington that I mailed a copy of this notice to the addressee by certified mail dated this  
 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 at Everett, Washington.  
 \_\_\_\_\_  
Printed Name & #  
 \_\_\_\_\_  
Signature

Is this a lab related vehicle? Yes [ ] No [ ]

WHITE COPY: SRDTF  
 YELLOW COPY: Claimant  
 PINK COPY: Attach to Evidence Report  
 FORFEITURE2.doc 1/18/2006



Snohomish Regional Drug Task Force  
 3000 Rockefeller Ave M/S 606  
 Everett, WA 98201 425-388-3479

# Exhibit 4

## NOTICE OF SEIZURE AND INTENDED FORFEITURE

TO: GREGORY P. CASTER  
Name  
11020 SE 220<sup>th</sup> PL  
Street Address  
KENT, WA 98031  
City / Zip

Case Number 5007-25051

Seizure Date: 10-21-07

M. VANDERWALKER TF 6  
Name & personnel # of person completing this from

You are hereby notified that the property identified below is being or has been seized under the authority of RCW 69.50.505(1) and (2), or RCW 9A.83.020 and is intended to be forfeited in accordance with the procedures set forth in RCW 69.50.505(3)-(5) and/or RCW 9A.83.030.

You have a right to a hearing before the Sheriff or his designee to determine if the property should be forfeited. In order to obtain a hearing, you must notify the Snohomish Regional Drug Task Force in writing (by certified mail) of your claim of ownership or right to possession of the seized property within forty-five (45) days from the date of seizure. You may remove these proceedings to a court of competent jurisdiction under RCW 69.50.505(5) if the aggregate value of the article or articles is more than \$500. If your claim is eligible for removal and you desire to remove it to a court of competent jurisdiction, you are responsible for properly removing the matter.

**Failure to request a hearing in writing within forty-five (45) days of the date of seizure will result in forfeiture of the property under RCW 69.50.505(4) and/or RCW 9A.83.030(4).**

Evidence #	Description	Evidence #	Description
1	1997 CHEVY LUMINA		
	622- RGW WA LIC		
	VIN# 2G1WL52M9V9123168		
1	US CURRENCY \$ 254.00		

**Affidavit of Service**

I, \_\_\_\_\_, hereby certify that I  
(Print Name)  
 personally served a copy of this notice on:  
 \_\_\_\_\_  
(Printed name of recipient)  
 on \_\_\_\_\_ at \_\_\_\_\_  
Date Time  
 \_\_\_\_\_  
Signature of Officer & #  
 \_\_\_\_\_  
Signature of Recipient

**Affidavit of Mailing**

I declare under penalty of perjury under the laws of the State of Washington that I mailed a copy of this notice to the addressee by certified mail dated this  
26 day of OCTOBER, 2007  
 at Everett, Washington.  
M. VANDERWALKER TF 6  
Printed Name & #  
  
Signature

Is this a lab related vehicle? Yes [ ] No

WHITE COPY: SRDTF  
 YELLOW COPY: Claimant  
 PINK COPY: Attach to Evidence Report  
 FORFEITURE2.doc 1/18/2006



Snohomish Regional Drug Task Force  
 3000 Rockefeller Ave M/S 606  
 Everett, WA 98201 425-388-3479

**NOTICE OF SEIZURE AND INTENDED FORFEITURE**

TO: GREGORY P. CASTER  
 Name

Case Number S007-25051

23706 112 AVE SE  
 Street Address

Seizure Date: 10-21-07

KENT, WA 98030  
 City / Zip

M. VANDERWALKER TFG  
 Name & personnel # of person completing this from

You are hereby notified that the property identified below is being or has been seized under the authority of RCW 69.50.505(1) and (2), or RCW 9A.83.020 and is intended to be forfeited in accordance with the procedures set forth in RCW 69.50.505(3)-(5) and/or RCW 9A.83.030.

You have a right to a hearing before the Sheriff or his designee to determine if the property should be forfeited. In order to obtain a hearing, you must notify the Snohomish Regional Drug Task Force in writing (by certified mail) of your claim of ownership or right to possession of the seized property within forty-five (45) days from the date of seizure. You may remove these proceedings to a court of competent jurisdiction under RCW 69.50.505(5) if the aggregate value of the article or articles is more than \$500. If your claim is eligible for removal and you desire to remove it to a court of competent jurisdiction, you are responsible for properly removing the matter.

Failure to request a hearing in writing within forty-five (45) days of the date of seizure will result in forfeiture of the property under RCW 69.50.505(4) and/or RCW 9A.83.030(4).

Evidence #	Description	Evidence #	Description
1	1997 CHEVY LUMINA WA LIC 622-RGW VIN# 2G1WL52M9V9123168		
1	US CURRENCY \$254 <sup>00</sup>		

**Affidavit of Service**

I, \_\_\_\_\_, hereby certify that I  
 (Print Name)  
 personally served a copy of this notice on:  
 \_\_\_\_\_  
 (Printed name of recipient)  
 on \_\_\_\_\_ at \_\_\_\_\_  
 Date Time  
 \_\_\_\_\_  
 Signature of Officer & #  
 \_\_\_\_\_  
 Signature of Recipient

**Affidavit of Mailing**

I declare under penalty of perjury under the laws of the State of Washington that I mailed a copy of this notice to the addressee by certified mail dated this  
26 day of OCTOBER, 2007  
 at Everett, Washington.  
M. VANDERWALKER TFG  
 Printed Name & #  
[Signature]  
 Signature

Is this a lab related vehicle? Yes [ ] No [X]

WHITE COPY: SRDTF  
 YELLOW COPY: Claimant  
 PINK COPY: Attach to Evidence Report  
 FORFEITURE2.doc 1/18/2006

Demand for a Forfeiture Hearing 07-25051

**Exhibit 5**

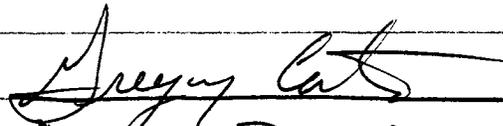
I, Gregory P. Carter, Sr. DOB: 10/29/48  
demand a forfeiture hearing on  
Case # 07-25051, Snohomish County Drug  
Task Force seizure: currency - \$254.00  
Candy Kumona - 1997

Deputy Kahler #1415 Sno. Co. Sheriff's Office.

I claim ownership of the vehicle and the money.  
They were not related to drugs.

I will be in the Snohomish County Jail until 12/07.

11/19/07.



Gregory Paul Carter, Sr

Signed at Snohomish County Jail.

R. R. BART  
SHERIFF, SNOH. COUNTY  
EVERETT, WASHINGTON

2007 NOV 21 A 10:25

RECEIVED

Agency's representative) a written status report within either two (2) weeks of the conclusion of the related criminal proceedings or by close of business on January 23, 2009, whichever comes first, unless you have previously filed a document under Paragraph 1, above.

3. Failure to comply with the requirement of Paragraph 2, above, will constitute sufficient grounds for the Seizing Agency to seek an Order of Forfeiture by Default against you.
4. The Hearing Officer will determine the appropriate course of action after receipt of the material required by Paragraphs 1 or 2, above, or the passage of the deadline established in Paragraph 2, above.

NOTICE issued January 24, 2008.

---

John E. Galt, Hearing Officer  
927 Grand Avenue  
Everett, WA 98201-1305  
Phone/FAX: (425) 259-3144

**ADA NOTICE:** Accommodations for persons with disabilities will be provided upon request. Please make your request at least one week prior to the conference by telephoning the Examiner at (425) 259-3144.

**Distribution:**

**Claimant:**

Gregory Paul Carter, Sr., CIN: 35076  
C/o Snohomish County Jail  
3025 Oakes Avenue  
Everett, WA 98201

(No telephone number provided)

SENT FIRST CLASS BY CERTIFIED MAIL NO.: 7005 3110 0002 0006 4162

**Seizing Agency's Representative:**

Mara Rozzano  
Deputy Prosecuting Attorney  
3000 Rockefeller M/S 504  
Everett, WA 98201  
(360) 657-1563

SERVICE BY E-MAIL REQUESTED BY RECIPIENT

FILED

2008 MAY 29 PM 4: 20

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

Exhibit 7



CL12923182

INELIGIBLE TO CARRY FIREARMS

SUPERIOR COURT OF WASHINGTON  
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

07-1-03205-8

Plaintiff,

JUDGMENT AND SENTENCE

v.

Prison

CARTER, GREGORY PAUL

Jail One Year or Less

First Time Offender

Defendant.

Special Drug Offender Sentencing Alternative

Clerk's Action Required,

restraining order entered para. 4.3

SID: WA10068316

Clerk's action required

If no SID, use DOB: 10/29/1948

firearms rights revoked, para. 4.3 and 5.6

Clerk's action required, para 5.4, 5.3

Restitution Hearing set, Notice of Withholding

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 5/15/2008 by plea of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	Poss. of a Controlled Substance Methadone	69.50.4013	SSO, 0725051	10/21/07
II				
III				
IV				

as charged in the Amended Information.

Additional current offenses are attached in Appendix 2.1.

Date 5/29/08 Clerk JS CC Jail 2  
CC PA 2 CC SCSO 2 DPA Stmt 2/N

AB  
56

- [ ] A special verdict/finding for use of a **deadly weapon** which was a **firearm** was returned on Count(s) \_\_\_\_\_ RCW 9.94A.602, 9.41.010, 9.94A.533
- [ ] A special verdict/finding for use of **deadly weapon** which was not a **firearm** was returned on Count(s) \_\_\_\_\_ RCW 9.94A.602, 9.94A.533
- [ ] A special verdict/finding of **sexual motivation** was returned on Count(s) \_\_\_\_\_ RCW 9.94A.835.
- [ ] A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) \_\_\_\_\_, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter.; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- [ ] A special verdict/finding that the defendant committed a crime involving the manufacture of **methamphetamine**, including its salts, isomers, and salts of isomers, when a **juvenile** was present in or upon the premises of manufacture was returned on Count(s) \_\_\_\_\_ RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.
- [ ] The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030(45)
- [ ] This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [x] The court finds that the offender has a **chemical dependency** which contributed to the offense and imposes as a condition of sentence that defendant shall participate in the rehabilitative program/affirmative conduct:  
A SHAW REPORT FOR COMMUNITY SERVICE WITH 24 HRS  
OF RESTRICTION; SEE § 4.6  
 RCW 9.94A.607.
- [ ] The crime charged in Count(s) \_\_\_\_\_ involve(s) **domestic violence**.
- [ ] The offense in Count(s) \_\_\_\_\_ was committed in a **county jail or state correctional facility**. RCW 9.94A.533(5)
- [ ] The court finds that in Count \_\_\_\_\_ a **motor vehicle** was used in the commission of this felony. The Department of Licensing shall revoke the defendant's driver's license. RCW 46.20.285.
- [ ] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [ ] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A. 525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J		TYPE OF CRIME
				Adult,	Juv.	
1 1 <sup>st</sup> Robbery (4 counts)	8/23/96	King Co., WA		A		A
2 2 <sup>nd</sup> Robbery (2 counts)	8/23/96	King Co., WA		A		B
3 Conspiracy VUCSA-Possession	9/17/07	King Co., WA		A		C
4 VUCSA-Possession	9/25/07	King Co., WA		A		C
5						

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement or community custody (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	8	1	12+-24 months		12+-24 months	5 years

\*Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile Present

- Additional current offense sentencing data is attached in Appendix 2.3.

2.4  **EXCEPTIONAL SENTENCE [For Determinate Sentence].** Substantial and compelling reasons exist which justify an exceptional sentence  above  within  below the standard range for Count(s)

The defendant and state stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentence reform act.

Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4. The jury's interrogatory is attached. The prosecuting attorney  did  did not recommend a similar sentence.

**EXCEPTIONAL MINIMUM TERM [For Maximum and Minimum Term Sentence]** Substantial and compelling reasons exist which justify an exceptional minimum term  above  within  below the standard range for Count(s) \_\_\_\_\_. RCW 9.94A.712(3), 9.94A.535. Findings of fact and conclusions of law are attached in Appendix 2.4. The prosecuting attorney  did  did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753, 10.01.160(3)

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

2.6 The prosecutor's recommendation was 18 months/days on Count 1, \_\_\_\_\_ months/days on Count 2, \_\_\_\_\_ months/days on Count 3, \_\_\_\_\_ months/days on Count 4. The prosecutor recommended counts \_\_\_\_\_ run concurrently/consecutively.

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2  The Court DISMISSES Counts \_\_\_\_\_
- 3.3  The defendant is found NOT GUILTY of Counts \_\_\_\_\_

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RMA	<del>\$15/\$25/\$50</del>	Restitution Monitoring Fee	SCC 4.94.010
		The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations.	RCW 9.94A.760
PCV	<u>\$500</u>	Victim assessment	RCW 7.68.035
CRC	\$ _____	Court costs, including	RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/SRF
		Jury demand fee \$ _____	JFR
		Other \$ _____	
PUB	<u>\$962</u>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/IDV	<u>\$ 2,100.00</u>	Drug enforcement fund of _____	RCW 9.94A.760
FCD/NTF/SAD/SDI	\$ _____		
CLF	\$ _____	Crime lab fee <input type="checkbox"/> deferred due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	<u>\$100</u>	Biological Sample Fee (for offenses committed after 7-1-2002)	RCW 43.43.7541
	\$ _____	Domestic Violence Penalty (for offenses committed after 6-4-2004 - maximum \$100).	RCW 10.99.080
	\$ _____	Other costs for: _____	
	<u>\$ 600.00</u>	<b>TOTAL</b>	<b>RCW 9.94A.760</b>

- The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.
- RESTITUTION. Schedule attached, Appendix 4.1.
- Restitution ordered above shall be paid jointly and severally with:

<u>NAME of other defendant</u>	<u>CAUSE NUMBER</u>	<u>(Victim name)</u>	<u>(Amount-\$)</u>
--------------------------------	---------------------	----------------------	--------------------

RJN

- The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than

\$ 25.00 per month commencing 15 days following arrest  
RCW 9.94A.760

All payments shall be made within 24 months of:  release of confinement;  
 entry of judgment;  Other \_\_\_\_\_

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$50.00 per day unless another rate is specified here \_\_\_\_\_ RCW 9.94A.760(2)

The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.2  HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 206, Everett, WA 98201 within one (1) hour of this order to arrange for the test. RCW 70.24.340

DNA TESTING. The defendant shall have a  blood sample (offenses committed pre 7-1-2002  Biological sample (offenses committed 7-1-2002 and after) drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

4.3 The defendant shall not have contact with \_\_\_\_\_ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for \_\_\_\_\_ years (not to exceed the maximum statutory sentence). EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.

(Check for any domestic violence crime as defined by RCW 10.99.020(3)): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST. ANY ASSAULT, DRIVE-BY SHOOTING, OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.050.

(Check for any harassment crime as defined by RCW 9A.46.060): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 9A.46 AND WILL SUBJECT A VIOLATOR TO ARREST. RCW 9A.46.080.

(For Domestic Violence orders only:) The clerk of the court shall forward a copy of this order on or before the next judicial day to the \_\_\_\_\_ County Sheriff's Office or \_\_\_\_\_ Police Department (where the protected person above-named lives), which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

4.4 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.5 CONFINEMENT OVER ONE YEAR.

CONFINEMENT [Determinate Sentences]. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

18 months on Count I \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
\_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

CONFINEMENT [Maximum Term And Minimum Term]. Defendant is sentenced to total confinement as follows. The maximum and minimum terms of confinement shall be served in a facility or institution operated, or utilized under contract, by the State of Washington. RCW 9.94A.712

Count 1: maximum term of \_\_\_\_\_ years AND minimum term of \_\_\_\_\_ months  
Count \_\_\_\_\_: maximum term of \_\_\_\_\_ years AND minimum term of \_\_\_\_\_ months  
Count \_\_\_\_\_: maximum term of \_\_\_\_\_ years AND minimum term of \_\_\_\_\_ months  
Count \_\_\_\_\_: maximum term of \_\_\_\_\_ years AND minimum term of \_\_\_\_\_ months

FURTHER PROVISIONS APPLICABLE TO ALL SENTENCES:

The minimum term of actual total confinement ordered on all counts cumulatively is \_\_\_\_\_.  
(Add mandatory firearm and deadly weapon enhancement time to run consecutively to other counts. See Sec. 2.3, Sentence Data above.)

The maximum term of total confinement ordered on all counts cumulatively is \_\_\_\_\_.

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon, or sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_  
06-C-06577-4 ; 07-1-02964-4 JSA  
but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:  
\_\_\_\_\_

4.6

**COMMUNITY PLACEMENT [For Determinate Sentences]** is ordered as follows: Count \_\_\_\_\_ for \_\_\_\_\_ months; Count \_\_\_\_\_ for \_\_\_\_\_ months; Count \_\_\_\_\_ for \_\_\_\_\_ months.

**COMMUNITY CUSTODY RANGE [For Determinate Sentences]** is ordered as follows:  
Count \_\_\_\_\_ for a range from \_\_\_\_\_ to \_\_\_\_\_ months;  
Count \_\_\_\_\_ for a range from \_\_\_\_\_ to \_\_\_\_\_ months;  
Count \_\_\_\_\_ for a range from \_\_\_\_\_ to \_\_\_\_\_ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. The combined term of community placement or community custody and confinement shall not exceed the statutory maximum. [See RCW 9.94A for community placement offenses – serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense – RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

**COMMUNITY CUSTODY [For Maximum And Minimum Term Sentences]:** For each count, the defendant is sentenced to community custody under the supervision of the Department of Corrections (DOC) and the authority of the Indeterminate Sentence Review Board for any period of time that the defendant is released from total confinement before expiration of the maximum sentence. In addition to other conditions, the defendant shall comply with any conditions imposed by the Indeterminate Sentence Review Board under RCW 9.94A.713; 9.95.420, .425, .430, .435.

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with orders of the court as required by DOC (7) notify DOC of any change in the defendant's address or employment. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with: \_\_\_\_\_
- Defendant shall remain  within  outside of a specific geographical boundary, to wit: \_\_\_\_\_

The defendant shall participate in the following crime-related treatment or counseling services: \_\_\_\_\_

The defendant shall undergo an evaluation for treatment for  domestic violence  alcohol abuse  controlled substance abuse  mental health  anger management and  fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: \_\_\_\_\_

Other conditions may be imposed by the court or DOC during community custody, or are set forth here:

A MAY NOT CONSUME OR POSSESS ANY CONTROLLED SUBSTANCE W/O A VALID PRESCRIPTION

4.7 [ ] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections:

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4.9 Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

**V. NOTICES AND SIGNATURES**

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5)
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**  
 Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_  
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.750.  
 A restitution hearing shall be set for \_\_\_\_\_  
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

5.6 **FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

If this is a crime enumerated in RCW 9.41.040 which makes you ineligible to possess a firearm, you must surrender any concealed pistol license at this time, if you have not already done so.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the department of licensing along with the date of conviction).

The defendant is ordered to forfeit any firearm he/she owns or possesses no later than \_\_\_\_\_ to \_\_\_\_\_ (name of law enforcement agency) RCW 9.41.098.

Cross off if not applicable:

**5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION, RCW 9A.44.130, 10.01.200.** Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 3 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this State's Department of Corrections.

If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 14 days after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report in person to the sheriff of the county where you are registered on a weekly basis if you have been classified as a risk level II or III, or on a monthly basis if you have been classified as a risk level I. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least 5 years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

Cross off if not applicable:

5.8 ~~RIGHT TO APPEAL. If you plead not guilty, you have a right to appeal this conviction. If the sentence imposed was outside of the standard sentencing range, you also have a right to appeal the sentence.~~

~~This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.~~

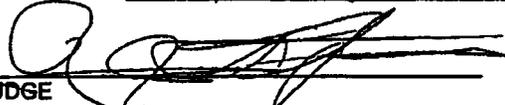
~~If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.~~

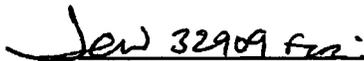
~~If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.~~

5.9 Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the Indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

5.10 OTHER: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date: 5/28/2008

  
 JUDGE  
 Print name: \_\_\_\_\_

  
 FRANCESCA M. YAHYAVI,  
 #31146  
 Deputy Prosecuting Attorney

  
 ANNE C. HARPER, #11844  
 Attorney for Defendant

  
 GREGORY PAUL CARTER  
 Defendant

Interpreter signature/Print name: \_\_\_\_\_  
 I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.  
 CAUSE NUMBER of this case: \_\_\_\_\_

I, Sonya Kraski, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_

Clerk of said County and State, \_\_\_\_\_, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA10068316  
(If no SID take fingerprint card for State Patrol)

Date of Birth: 10/29/1948

FBI No. 835449G

Local ID No:

PCN No. \_\_\_\_\_

DOC: 128184

Alias name, SSN, DOB: \_\_\_\_\_

Race: Black

Ethnicity:

Hispanic

Non-Hispanic

Sex: M

Height: 5'10

Weight: 158

Hair: Black

Eyes: Brown

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: J. McCollum, Deputy Clerk.  
Dated: 5-28-08

DEFENDANT'S SIGNATURE: [Signature]

ADDRESS: DOC

Left four fingers taken simultaneously



Left Thumb



Right Thumb



Right four fingers taken simultaneously



ORDER OF COMMITMENT

**FILED**  
2008 MAY 29 PM 4:20  
SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington, GREETINGS:

WHEREAS, GREGORY PAUL CARTER, has been duly convicted of the crime(s) of Count 1 Possession of a Controlled Substance, Methadone, as charged in the Amended Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to conduct him to the Washington Corrections Center at Shelton, Washington, in Mason County, and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these presents shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable RICHARD J. THORPE, Judge of the said Superior Court and the seal thereof, this 29th day of May, 2008.

Sonya Kraski  
CLERK OF THE SUPERIOR COURT

By: J. McClellan  
Deputy Clerk

# Exhibit 8

Gregory Paul Carter Sr.

Case No.: 5007-25051

Snohomish County Jail

3025 Orkes Ave

Everett, WA 98201

Date: June 1, 2008

John G. Carter

Hearing Examiner/Officer

987 Grand Ave.

Everett, WA 98201

rec'd  
6-3-08

RE: Request to Proceed

I am requesting that this case be set for hearing concerning all property being held by Snohomish County Jail. Snohomish County Jail, represented by Deputy Prosecuting Attorney Matt Kocinski.

The summary matters in State v. Gregory P. Carter, case no. 07-1-03205-8, has been resolved to a Poss. of a Controlled Substance, 2nd Degree, 1st of the-2nd degree.

My Attorney has advised, says she has tried to contact the hearing Agencies representative concerning the status of the property being held in forfeiture. We are still waiting a reply.

Respectfully Submitted June 1, 2008

Gregory Paul Carter Sr.

Gregory Paul Carter Sr.

EXHIBIT: 12  
CASE: 5007-25051

If by unfortunate circumstances I am held to  
answer for any of the above it is not intended that  
it be my answer?

It is not intended that I should be held to the  
resolution of the Board nor the resolution of the public.

The proposed regulations will not be a  
general thing. They will be of a special nature.

Respectfully,  
Yours truly,  
[Signature]

Very truly,  
[Signature]

# Exhibit 9

BEFORE THE DESIGNATED HEARING OFFICER  
for the  
SNOHOMISH COUNTY SHERIFF

**DECISION AND ORDER**

*In re* the forfeiture of: One (1) 1997 Chevrolet Lumina (WLN: 622 RQW<sup>1</sup>; VIN: 2G1WL52M9V9123168) and \$254.00 in U.S. currency (Evidence No. 1)

Case No.: SO07-25051

Statutory Authority: RCW 69.50.505

Claimant: Gregory Paul Carter, Sr., *pro se*

Seizing Agency: Snohomish County Sheriff/Snohomish Regional Drug Task Force, represented by Deputy Prosecuting Attorney Mara Rozzano

Decision Summary: FORFEIT vehicle and currency

Date of Decision: August 1, 2008

A hearing on the above-captioned claim was held before John E. Galt, Designated Hearing Officer, at 11:00 a.m. on Wednesday, July 9, 2008, in the Snohomish County Jail, Professional Visitation Room, 3025 Oakes Avenue, Everett, WA 98201, Washington. At the close of the hearing, Carter requested that the Hearing Officer delay issuance of this Decision and Order until August 1, 2008, to more reliably facilitate Carter's timely receipt of the Decision and Order. The Seizing Agency did not object to Carter's request. The Hearing Officer agreed.

At said hearing witnesses were sworn, testimony was presented, and exhibits were entered. The Hearing Officer, having considered all of said evidence and having considered the pleadings, positions and arguments of both parties and being fully advised in the premises, now makes and enters his:

### FINDINGS OF FACT:

1. On October 21, 2007, the Snohomish Regional Drug Task Force (SRDTF) seized with intent to forfeit one (1) 1997 Chevrolet Lumina (WLN: 622 RQW; VIN: 2G1WL52M9V9123168) and \$254.00 in U.S. currency. The SRDTF personally served Gregory P. Carter on October 21, 2007, with Notices of Seizure and Intended Forfeiture pursuant to RCW 69.50.505, for the forfeiture of

<sup>1</sup> Evidence submitted during the hearing proved that the correct license plate number of the seized vehicle is "622 RQW", not "622 RGW" as previously stated in all procedural documents issued by this Hearing Officer. (Exhibit 20, Bates #000008, top photograph)

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the above-identified property. (Exhibits 2 and 3<sup>2</sup>) The SRDTF served "Gregory P. Caster" [*sic*<sup>3</sup>] by certified mail on or about October 26, 2007, with a Notice of Seizure and Intended Forfeiture pursuant to RCW 69.50.505, for the forfeiture of both the above-identified vehicle and currency. (Exhibit 1)

2. Gregory Paul Carter, Sr. (Carter) filed a timely claim for return of both items of personal property on November 21, 2007. (Exhibit 4) Carter is the registered owner of the seized vehicle; All-City Bail Bonds<sup>4</sup> has a lien on the title. (Exhibit 14, Order ¶ 3)
3. At the time of the seizure, Carter lived in Kent, Washington. (Exhibits 1 – 3) Carter's son, Gregory Paul Carter, Jr. (Carter's son) is presently staying in the Tacoma area. (Testimony)
4. Carter testified that on October 21, 2007, after the end of the Seahawk's football game,<sup>5</sup> he drove to the Lynnwood area to buy heroin from "Paul." (This "Paul" is not Carter's son.) Carter said that when he arrived in the Lynnwood area he called Paul on his cell phone, but got no answer. He said he was in the process of turning around to return to King County when he was stopped by a Snohomish County Sheriff's Deputy. (Exhibit 25, Carter testimony, and Kahler testimony)
5. Snohomish County Sheriff's Deputies Kahler and Gibson, a K-9 handler, were working Directed Patrol duty on the evening of October 21, 2007. Directed Patrol deputies actively seek out persons with outstanding warrants, etc. (Kahler and Gibson testimony)

At approximately 1800 hours (6:00 p.m.) on October 21, 2007, Kahler was on the I-5/44<sup>th</sup> Avenue W northbound off-ramp in Lynnwood waiting for the light to turn green. He observed that the vehicle in front of him had expired license tabs. Upon checking the vehicle's plate through on-line DOL records, Kahler found that the registered owner was Gregory P. Carter and that there was an outstanding arrest warrant for Gregory P. Carter. (Exhibit 25 and Kahler testimony)

When the light changed, Kahler followed the vehicle as it turned back onto I-5 southbound. Kahler stopped the vehicle at that point. Kahler approached the vehicle and told its sole occupant

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<sup>2</sup> Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Hearing Officer considers all relevant documents in the record, typically only major documents are cited. The Hearing Officer's Decision is based upon all documents in the record.

<sup>3</sup> "Caster" is an obvious typographical error in Department of Licensing (DOL) records. (Exhibit 14, Order ¶ 3) The address on both Notices is exactly the same.

<sup>4</sup> The record contains no contact information for All-City Bail Bonds. Therefore, the Hearing Officer cannot mail a copy of this Decision and Order to it. The Hearing Officer must rely on the SRDTF to advise All-City Bail Bonds of the outcome of this claim.

<sup>5</sup> The Hearing Officer takes official notice of the very public fact that the Seahawks hosted the Rams in a home game on October 21, 2007, which was televised on the FOX network beginning at 1:00 p.m..

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the reason for the stop. The driver, Carter, gave Kahler his driver's license. Upon checking that against DOL records, Kahler determined that the arrest warrant was for Carter's son, not Carter, but that Carter was driving on a suspended license 3<sup>rd</sup> degree (DWLS 3<sup>rd</sup>). <sup>6</sup> (Exhibit 25 and Kahler testimony)

6. Gibson arrived on-scene at about this time to provide back-up to Kahler. Kahler arrested Carter on the DWLS 3<sup>rd</sup> violation. During the pat-down search incident to arrest, Kahler found a rubber-banded bundle of currency on Carter's person. The bundle contained \$1, \$5, \$10, \$20, and \$50 denominations. The total was \$254.00. Kahler placed Carter in the rear of his patrol car and the bundle of currency on Carter's vehicle's trunk lid. (Exhibits 3, 20 {Bates #000008, bottom photograph}, and 25 and Kahler testimony)

Kahler searched the vehicle incident to Carter's arrest. He found a black fanny pack on the front seat inside of which were notes and business cards, several hypodermic needles, an unlabelled pill bottle containing pills, and alcohol wipes. (Exhibit 25 and Kahler testimony)

7. Kahler Mirandized Carter. Carter told Kahler that it was his son who had the arrest warrant and that he had come to Lynnwood to buy heroin from Paul. Carter said that he was returning to Seattle since he couldn't contact Paul. Carter told Kahler that the pills were Methadone and that he had no prescription for them. (Exhibit 25 and Kahler testimony)

Carter testified that methadone pills sell for about \$2 each on the street. (Carter testimony)

8. Gibson applied Canine Officer Justice to Carter's vehicle. <sup>7</sup> Justice initially alerted to the currency on the trunk lid. Inside the vehicle, Justice alerted to the left front corner of the driver's seat. Gibson looked in that area and found several plastic bags containing a chunky white substance stuffed between the seat and its frame. Justice also alerted to the center console area. Gibson found a small electronic scale bearing a white residue in the console. (Exhibits 20 {Bates #000010 and 000014} and 26 and Gibson testimony)

9. While the search was underway, a cell phone in the car rang repeatedly. The names "Sonny" and "Denny" were repeatedly displayed on the phone's caller-ID screen. A small memo-type note pad in the vehicle included a page containing names and dollar amounts followed by the notation "No More Credit." Sonny and Denny are among the names on the notepad. (Exhibits 16 and 25 and Kahler testimony) Carter admits knowing persons named Sonny and Denny, but denies knowing persons with any of the remaining names listed on Exhibit 16. (Carter testimony)

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<sup>6</sup> Carter stated that the DWLS 3<sup>rd</sup> warrant was for his son and that the warrant for him was for unpaid King County parking infractions. (Carter testimony) This disagreement is irrelevant to the outcome of this case. The fact is, there was an outstanding warrant for Carter's arrest which provided probable cause for the stop and arrest. Further, as will be emphasized later, the issue here is not Carter's guilt or innocence, but the guilt or innocence of the vehicle and currency.

<sup>7</sup> The participants disagree on the number of times and manner in which Justice was applied to the vehicle. Those differences are immaterial to the outcome of the case. What is material is what the dog found in the vehicle.

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10. The chunky white substance was weighed and tested by the Washington State Patrol Crime Laboratory. It consists of 25.2 grams net weight of crack cocaine. The pills in the bottle were counted and tested by the Crime Laboratory. The 36 pills are Methadone. (Exhibit 17) Carter claims that he did not have 36 Methadone pills with him that evening. (Carter testimony)

The Crime Laboratory also analyzed the writings in the memo note pad to try to determine whether Carter wrote them. The Crime Laboratory concluded that comparative writings “were insufficient for a definitive conclusion.” (Exhibit 27 and Carter testimony)

11. Carter has no reported employment earnings since January 1, 2005. (Exhibit 24) Carter has been on DSHS disability payments since 2005. His current monthly DSHS payment is \$339.00. (Carter testimony)
12. Carter’s son, who has been convicted of possession with intent several times, has driven the subject vehicle in the past. Carter’s son reportedly last drove the vehicle in May or June, 2007. (Carter testimony)
13. A typical quantity of crack cocaine for personal use would be about 1.8 grams. (Gibson and Kahler testimony) Carter testified that 1.8 grams of crack cocaine would cost about \$30 on the street but that he had no knowledge of the crack cocaine in his vehicle. (Carter testimony)
14. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

### LEGAL FRAMEWORK <sup>8</sup>

The Hearing Officer is legally required to decide this case within the framework created by the following principles:

#### Authority

Section 69.50.505(5) RCW provides that timely filed claims involving personal property seized under Chapter 69.50 RCW shall be heard “before the chief law enforcement officer of the seizing agency or the chief law enforcement officer’s designee, except where the seizing agency is a state agency”. The undersigned is the Designated Hearing Officer for the Snohomish County Sheriff.

#### Review Criteria

Personal property which falls into any of seven categories within RCW 69.50.505(1) is “subject to seizure and forfeiture and no property right exists in” it. [RCW 69.50.505(1)] The seven personal property categories are:

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<sup>8</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

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(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in paragraphs (1) or (2), ...

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. ...

[RCW 69.50.505(1), underlining added] Subsections (d) and (g) include “exceptions” to forfeiture (not quoted above). Subsection (d) contains common carrier, innocent owner, misdemeanor marijuana possession, security interest, and untimely seizure exceptions. Subsection (g) contains security interest and innocent owner exceptions.

**Burden of Proof and Standard of Review**

The burden of proof in a personal property forfeiture case under RCW 69.50.505 shifts from one party to the other during the proceedings. The “initial burden is on the claimant to show a lawful right to possession of the property.” Furthermore, without a lawful interest in the property, the claimant has no

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standing to contest forfeiture. [*Irwin v. Mount*, 47 Wn. App. 749, 753 (1987)] “In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.” [RCW 69.50.505(5)] “The burden of proof of any exemption or exception is upon the person claiming it.” [RCW 69.50.506(a)]

**CONCLUSIONS OF LAW:**

1. The Hearing Officer has jurisdiction over the matters and parties in this case. Forfeiture proceedings before the Seizing Agency’s Hearing Officer “shall be under Title 34 RCW.” [RCW 69.50.505(5)]
2. Carter has standing to seek return of the seized vehicle: The parties have stipulated that he is the registered owner. Any disposition adverse to Carter would have to be subject to All-City Bail Bonds’ security interest.
3. Carter also has standing to seek return of the seized currency. Unlike vehicles, currency has no “title.” Absent compelling evidence to the contrary, the Hearing Officer accepts possession of currency as *prima facie* proof of ownership. The seized currency was taken from Carter’s person; no evidence or testimony challenges his ownership of that currency.
4. The SRDTF argues that the vehicle and the currency are subject to forfeiture under either or both of two different theories: They were “intended to be used” in violation of Chapter 69.50 RCW; or they were actually being used in violation of Chapter 69.50 RCW. The Hearing Officer will evaluate each theory separately.
5. Courts, and by extension quasi-judicial decision makers, “do not construe a statute that is clear and unambiguous on its face. We assume that the legislature means exactly what it says, and we give words their plain and ordinary meaning. Statutes are construed as a whole, to give effect to all language and to harmonize all provisions.” [*Ockerman v. King Cy.*, 102 Wn. App. 212, \_\_\_ P.2<sup>nd</sup> \_\_\_ (Div. I, 2000); see also: *Western Petroleum v. Freidt*, 127 Wn.2d 420, 424, 899 P.2d 792 (1995), holding that intent is relevant only if ambiguity exists in the language of the code; *State v. Azpitarte*, 140 Wn.2d 138, 141, 995 P.2d 31 (2000), holding that clear and unambiguous codes are not subject to judicial construction] The use of different terms within a legislative enactment evidences a difference in intent. [*Cazzanigi v. General Electric Credit*, 132 Wn. 2d 433, 446, 938 P.2d 819 (1997)] Intent is determined “from the statutory context as a whole.” [*Peacock v. Public Disclosure Commission*, 84 Wn. App. 282, 287, 928 P.2d 427 (1996)]
6. Subsections 69.50.505(1)(d) and (g) RCW, quoted above, require forfeiture of not only property actually used in illegal drug trafficking, but also of property “intended to be used” in illegal drug trafficking. The statutory language is plain on its face: One does not have to actually use property in violation of Chapter 69.50 RCW for it to be forfeitable, one only has to intend to use property

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in violation of Chapter 69.50 RCW for it to be forfeitable. The legislature used the phrase "intended to be" with respect to both vehicles and currency. Had the legislature not meant it, it would not have said it. That unambiguous language must be given effect, regardless of whether the parties to this proceeding agree with that language.

7. Intent is frequently a nearly impossible thing to prove. Here, however, the record contains Carter's sworn testimony as to his intent that evening: He testified under oath that he drove to Lynnwood on the evening of October 21, 2007, for the express purpose of buying heroin from someone named Paul. Heroin is a Schedule I controlled substance. [RCW 69.50.204(c)(11)]

Carter drove to Lynnwood in the seized vehicle. Therefore, he intended to use the vehicle to facilitate the illegal receipt of the heroin: The vehicle provided the means to get from the Seattle area to Lynnwood to acquire the heroin (and presumably to return to the Seattle area with the heroin). The Seizing Agency has proven (through Carter's own testimony) that the vehicle is subject to forfeiture for that reason alone.

The only money on Carter's possession when he was stopped on October 21, 2007, was the seized \$254.00 in U.S. currency. Since the purpose of Carter's trip to Lynnwood was to illegally buy heroin, he necessarily had to have money to make the purchase. Thus, the currency was intended to be furnished in exchange for the heroin. The Seizing Agency has proven (through Carter's own testimony) that the currency is also subject to forfeiture for that reason alone.

8. The record contains no evidence of actual drug transactions. Thus, the SRDTF is relying entirely on circumstantial evidence to meet its required burden under the second theory of the case – that the property was actually being used in violation of Chapter 69.50 RCW. Circumstantial evidence, if sufficient in quality and quantity, may meet the required burden.
9. Cocaine and Methadone are Schedule II controlled substances. [RCW 69.50.206(b)(5) and (c)(12), respectively] The vehicle was carrying nearly 14 times a typical personal use dose of crack cocaine and had a large number of illegal Methadone pills when it was stopped on October 21, 2007. Coupled with the scale, ledger, and cell phone calls, the preponderance of the circumstantial evidence demonstrates that the vehicle was being used to facilitate the sale and/or receipt of cocaine and/or Methadone. The Seizing Agency has proven that the vehicle is subject to forfeiture for that reason also.
10. Canine Justice alerted to the currency. Such a response demonstrates that the currency had been in close contact with controlled substances within a relatively short time period prior to the dog's alert. Such a fact does not, in and of itself, prove that the money was used or intended to be used to buy illegal drugs or was the proceeds from the sale of illegal drugs.

The totality of the circumstances, however, support forfeiture of the seized currency as proceeds of cocaine and/or Methadone trafficking. Carter's only source of income, according to his

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testimony, is his \$339.00 monthly DSHS disability payment. That is a very small amount of money on which to exist for a month in the U.S. That Carter would have had \$254.00 left on the 21<sup>st</sup> of the month begs belief.

11. Aspects of Carter's explanations are simply not believable. While his honesty in admitting the purpose of his trip to Lynnwood is admirable, other aspects of his explanations defy logic. It makes no sense that he would drive all the way to Lynnwood to buy heroin from Paul without first calling Paul to see if he was at home. The notion that he drove to Lynnwood and then called Paul is not believable.

The suggestion that he knew nothing about the cocaine in the seam of the driver's seat of his car belies belief. If we are to believe that perhaps his son put it there, then we would have to believe that his son would "hide" 14 doses of crack cocaine in Carter's vehicle for a period of nearly five months without retrieving it.

12. Carter made much of the fact that he was criminally convicted of only possession of one Methadone pill as a result of the October 21, 2007, incident. (Exhibit 23) This claim is an *in rem* proceeding, not an *in personam* proceeding. The question here is not "What can the Seizing Agency prove beyond a reasonable doubt Carter did?", but "What can the Seizing Agency prove by a preponderance of the evidence Carter's vehicle and currency did?" The issues are different; the standard of proof is different.

13. The vehicle and currency are subject to forfeiture under either or both of two theories: Intended use to facilitate a heroin purchase; and/or actual use, based upon a preponderance of circumstantial evidence, to facilitate the sale or receipt of crack cocaine and Methadone.

14. Forfeiture of a vehicle under RCW 69.50.505(1)(d) is subject to five exceptions. The burden of proving any exception is upon the person claiming it. [RCW 69.50.506(a)] Carter presented no evidence or testimony to support any exception to forfeiture. A claimant cannot prove an exception without presenting testimony or evidence addressing the subject of the exception. Carter has, therefore, failed to meet the required burden. That notwithstanding, the available evidence shows that none of the listed exceptions would apply in any event:

- A. The first exception (Subsection (i)) pertains to common carriers (like busses; trains, commercial airplanes, etc.) and is inapplicable here.
- B. The second exception (Subsection (ii)) is commonly referred to as the "innocent owner" exception. Carter is the registered owner of the vehicle. Carter was the driver of the vehicle on October 21, 2007. Carter could not in good conscience claim that he had no idea why he was driving to Lynnwood. Such an argument, had it been made, would have stretched credulity beyond the breaking point. The exception does not apply.

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- C. The third exception (Subsection (iii)) prevents forfeiture if the seized vehicle was “used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014”. This case does not involve marijuana. The exception does not apply.
  - D. The fourth exception (Subsection (iv)) protects holders of “a bona fide security interest” from losing their security in a forfeiture proceeding. The exception does not bar forfeiture; rather, it protects the secured party’s interest if forfeiture is ordered. The exception requires that All-City Bail Bonds’ secured interest be protected.
  - E. The fifth exception (Subsection (v)) provides that forfeiture may not occur “When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW ... unless it is seized or process is issued for its seizure within ten days of the owner’s arrest”. The seizure was initiated the day Carter was arrested. The seizure occurred within the required time period. The exception does not apply.
15. Forfeiture of currency under RCW 69.50.505(1)(g) is subject to two exceptions. The burden of proving any exception is upon the person claiming it. [RCW 69.50.506(a)] Carter presented no evidence or testimony to support any exception to forfeiture. A claimant cannot prove an exception without presenting testimony or evidence addressing the subject of the exception. Carter has, therefore, failed to meet the required burden. That notwithstanding, the available evidence shows that neither of the listed exceptions would apply in any event:
- A. The first exception pertains to “property encumbered by a bona fide security interest”. As with the parallel vehicle exception, this exception does not bar forfeiture; rather, it protects the secured party’s interest if forfeiture is ordered. The evidence does not disclose any security interest in the currency. The exception does not apply.
  - B. The second exception is commonly referred to as the “innocent owner” exception. Carter had the currency on his person in the vehicle on October 21, 2007. Carter could not in good conscience claim that he had no idea why he was driving to Lynnwood. Such an argument, had it been made, would have stretched credulity beyond the breaking point. The exception does not apply.
16. Forfeiture of the vehicle is subject to All-City Bail Bonds security interest. The Seizing Agency will have to resolve the lien with All-City Bail Bonds. The Hearing Officer need not resolve that issue. (In fact, the record lacks information which would be necessary to resolve that issue.)
17. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

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- B. Petitions for a stay of effectiveness of this Order will not be accepted or granted; PROVIDED, that the timely filing of a Petition for Reconsideration shall automatically stay the effectiveness of this Decision and Order until that Petition has been finally disposed of by the Hearing Officer.
- C. Appeal from this Decision and Order is governed by the provisions of Chapter 34.05 RCW. [RCW 69.50.505(5)] Part V of Chapter 34.05 RCW provides for judicial appeal and establishes procedures for such appeal. All administrative remedies must be exhausted prior to filing of a judicial appeal. In summary, any appeal by a person with standing must be filed with the appropriate Superior Court within 30 days after service of the final order. Chapter 34.05 RCW, Part V, should be consulted for specific requirements.

Distribution:

**Claimant:**

Gregory Paul Carter, Sr., DOC: 128184

R-1 D-7

C/o Washington Corrections Center

P.O. Box 900

Shelton, WA 98584

(No telephone number available)

SENT FIRST CLASS BY CERTIFIED MAIL NO.: 7005 3110 0002 0006 4773

**Seizing Agency's Representative:**

Mara Rozzano

Deputy Prosecuting Attorney

3000 Rockefeller M/S 504

Everett, WA 98201

(360) 657-1563

SERVICE BY E-MAIL REQUESTED BY RECIPIENT

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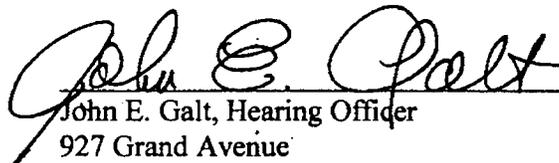
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**NOW, THEREFORE**, on the basis of the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer issues the following

**ORDER:**

1. One (1) 1997 Chevrolet Lumina (WLN: 622 RQW; VIN: 2G1WL52M9V9123168) is and shall remain forfeited to the Seizing Agency which may convert for use or dispose of the vehicle in compliance with applicable state law; SUBJECT TO resolution of the lien against the vehicle in favor of All-City Bail Bonds. Any and all personal possessions of the previous owner, not to include appurtenances, which are still located within the vehicle shall be promptly returned to the previous owner (unless otherwise restricted due to hazardous contamination). Please contact the Seizing Agency's Administrative Lieutenant at (425) 388-3479 to make arrangements to retrieve personal property from the vehicle.
2. \$254.00 in U.S. currency (Evidence No. 1) is and shall remain forfeited to the Seizing Agency which may convert for use or dispose of the money in compliance with applicable state law.

**DECISION and ORDER** issued August 1, 2008, as requested by Claimant Carter.



John E. Galt, Hearing Officer  
927 Grand Avenue  
Everett, WA 98201-1305  
Phone/FAX: (425) 259-3144

**HEARING PARTICIPANTS**

Mara Rozzano, Deputy Prosecuting Attorney  
Deputy Jim Gibson

Deputy Andy Kahler  
Gregory Paul Carter, Sr., Claimant

**\*\*\* NOTICE \*\*\***

- A. Any party may seek reconsideration of this Decision and Order by filing a written Petition for Reconsideration both with the Designated Hearing Officer, 927 Grand Avenue, Everett, Washington 98201, **and with the opposing party at its address of record** within ten (10) days of the service (date of mailing) of this Decision and Order. Any such Petition must state the specific grounds upon which relief is requested, and will be processed in accordance with the provisions of § 34.05.470 RCW and Rule of Procedure PF15.

# Exhibit 10

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION

*rec'd  
8-12-08  
JCP*

STATE OF WASHINGTON, )

Respondent, )

vs. )

Appellant. )

Gregory P. Carter Sr. )

No.

MOTION FOR  
RECONSIDERATION

I. IDENTITY OF MOVING PART

Gregory Paul Carter Sr. #128184 R-1 B-052  
Washington Corrections Center  
P.O. Box 900  
Shelton, WA 98584

II. STATEMENT OF RELIEF SOUT

I would like my property and  
money returned to that of my person  
or my designee

### III. FACTS RELEVANT TO MOTION

There was no Heroin found or any  
proof of Heroin being purchased before  
or at time of arrest. Stated by  
yourself, see conclusion of Law (11).

Fact #2: Whether is there any conviction  
or conviction of violation for section (1)(a)(b)  
of 18.50.505, which is the whole basis  
of the seizure and detention.

This is evident in section (d)(i)  
in the guilty finding of defendant  
Barber of being a consenting party  
or proxy of such a violation as is  
intended of this portion of this Chapter.

Maintenance is not mentioned in  
this Chapter, 18.50.4012 is not  
applicable to seizure or forfeiture  
for which I've pleaded guilty to.

I'm is a violation of my VI & XIV Amendment  
right and would be violation of my  
right to be innocent until being proven  
guilty.

IV. GROUNDS RELIEF AND ARGUMENT

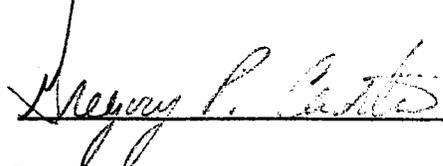
By way of right and law under section  
69.50.505 (1)(h), (ii) " The bona fide gift  
of a controlled substance, legend drug, or  
imitation controlled substance shall not  
result in the forfeiture of real property..."  
It is clear and established that the  
defendant was in possession of a  
controlled substance, but not that  
which is consistent with the provisions  
of this chapter sections (a), (b) nor  
anywhere therein. Therefore the  
defendant is not subject to forfeiture  
or seizure. It is clearly established  
in section (2)(b) that to subject a  
defendant's property to such a seizure  
that a prior judgment in favor of  
the State must have been achieved.  
or forfeiture proceeding based upon this  
chapter, to date none has been recorded.

V. CONCLUSION

For the reasons stated above, this Court should reconsider and modify its opinion.

DATED THIS 9<sup>th</sup> day of August, 2007.

Respectfully Submitted,

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Printed / Typed Name

D.O.C. # 128184

Unit # R-1 Cell # B-05L

Washington Correction Center

PO Box 900

Shelton, WA 98584



# Exhibit 11

BEFORE THE DESIGNATED HEARING OFFICER  
for the  
SNOHOMISH COUNTY SHERIFF

**ORDER DENYING A PETITION FOR RECONSIDERATION**

*In re* the forfeiture of: One (1) 1997 Chevrolet Lumina (WLN: 622 RQW; VIN: 2G1WL52M9V9123168) and \$254.00 in U.S. currency (Evidence No. 1)

Case No.: SO07-25051

Statutory Authority: RCW 69.50.505

Claimant: Gregory Paul Carter, Sr., *pro se*

Seizing Agency: Snohomish County Sheriff/Snohomish Regional Drug Task Force, represented by Deputy Prosecuting Attorney Mara Rozzano

**WHEREAS**, on August 1, 2008, the Hearing Officer issued a Decision and Order (Decision) in the above-entitled matter which forfeited the seized property to the Seizing Agency (Exhibit 32 for identification<sup>1</sup>); and

**WHEREAS**, on August 12, 2008, Carter filed a Motion for Reconsideration (Motion; Exhibit 33 for identification); and

**WHEREAS**, the Hearing Officer has considered Carter's Motion and concludes that there is no reason to change the Decision as issued for the following reasons:

1. Carter's Motion is untimely. Forfeiture proceedings before the Seizing Agency's Hearing Officer "shall be under Title 34 RCW." [RCW 69.50.505(5)] Subsection 34.05.470(1) RCW requires that a Motion for Reconsideration must be filed "within ten days of the service" of the Decision. "Service by mail is complete upon deposit in the United States mail." [RCW 34.05.010(19)] That provision of the law was expressly stated in the Decision:

Any party may seek reconsideration of this Decision and Order by filing a written Petition for Reconsideration both with the Designated Hearing Officer, 927 Grand Avenue, Everett, Washington 98201, and with the

<sup>1</sup> The Hearing record contains 27 exhibits. Correspondence from and to Carter subsequent to the close of the hearing but prior to issuance of the decision, the decision, and the Motion have been assigned sequential exhibit numbers for identification purposes.

**opposing party at its address of record** within ten (10) days of the service (date of mailing) of this Decision and Order.

(Exhibit 32 for identification, p. 10, Notice ¶ A; bold in original <sup>2</sup>)

The Hearing Officer mailed the decision by first class certified mail on August 1, 2008. It was signed for on or about August 5, 2008. (Exhibit 32 for identification) Under the applicable statute, service was effective on August 1, 2008.

The tenth day after August 1, 2008, was Monday, August 11, 2008, a routine business day. Carter mailed his Motion on August 11, 2008; the Hearing Officer received it on August 12, 2008. (Exhibit 33 for identification)

A document is "filed" when it is received, not when it is mailed. Therefore, Carter's Motion was filed one day late. An untimely filed motion conveys to the Hearing Officer no jurisdiction to consider its merits; it must be denied.

Nevertheless, the Hearing Officer will consider the merits of Carter's Motion in the unlikely event that a reviewing court were to conclude that the Motion had been timely filed.

2. Carter first argues that "There was no Heroin found or any proof of Heroin being purchased before or at time of arrest." (Exhibit 33 for identification, p. 2, § 3, ll. 1 – 3)

Carter is correct; the Decision does not hold otherwise. However, Carter misses the point: The first basis under which the Hearing Officer found the vehicle and currency to be subject to forfeiture was not actual use to buy or sell controlled substances, but Carter's sworn testimony that he drove to Lynnwood with the intent to buy heroin. (Exhibit 32 for identification, Finding of Fact 4 and Conclusions of Law 4, 6, and 7) Intent, by definition, does not require actual trafficking.

3. Carter next argues that he was not convicted of violating RCW 69.50.505(1)(a) or (b). (Exhibit 33 for identification, p. 2, § III, ll. 5 – 8 and 14 - 21) He also makes reference to "the guilty finding of defendant Carter". (Exhibit 33 for identification, p. 2, § III, ll. 9 – 13)

Carter here is confusing this *in rem* civil forfeiture proceeding with his related *in personam* criminal proceeding. The issue before the Hearing Officer was not Carter's guilt or innocence, but the guilt or innocence of the seized vehicle and currency. The processes are different; the standard of review is different. Conviction of trafficking is not a necessary precursor to forfeiture of personal property anymore than would the reverse be true. The Hearing Officer discussed that distinction in Conclusion of Law 12. (Exhibit 32, p. 8) Nothing more need be added.

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<sup>2</sup> The Hearing Officer cannot tell from Exhibit 33 for identification whether Carter filed his Motion with the Seizing Agency as required. Whether he did or not is immaterial to the analysis and conclusions contained herein.

4. Carter then asserts that "Methadone is not mentioned in this chapter". (Exhibit 33, p. 2, § III, ll. 14 and 15)

On the contrary, Methadone, as stated in Conclusion of Law 9, is a Schedule II controlled substance, listed at RCW 69.50.206(c)(12). (Exhibit 32 for identification, p. 7)

5. Carter next cites RCW 69.50.505(1)(h)(ii). (Exhibit 33 for identification, p. 3, § IV, ll. 1 – 5)

This section of the law is totally inapplicable to the present case. The cited section applies specifically to "real property". Vehicles and currency are "personal property," not "real property." Statutory provisions specifically relating to real property cannot be applied to personal property and vice versa.

6. Carter next cites RCW 69.50.505(2)(b), apparently believing that section requires that he must have first been convicted of violation of Chapter 69.50 RCW in order for his property to be forfeited. (Exhibit 33 for identification, p. 3, § IV, ll. 13 – 19)

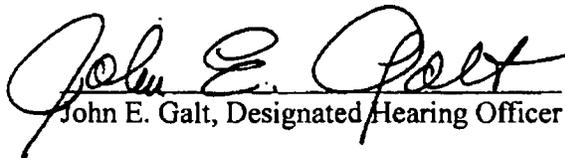
Carter misreads the function of RCW 69.50.505(2)(b). That subsection appears in a section addressing the process used to seize property, real or personal, as distinguished from the process and criteria used to determine if seized property is subject to forfeiture. Subsection (b) follows this sentence fragment: "Seizure of personal property without process may be made if:" The word "process" means issuance of a warrant. [RCW 69.50.505(2), introductory paragraph, sentence 1] Subsection (b) contains one of the four conditions under which property may be seized without prior issuance of a warrant: (a) = incident to arrest or search under a search warrant; (b) = subject of a prior judgment against the property (not the person who owns the property); (c) = probable cause to believe the property is dangerous; and (d) = probable cause to believe the property was used or intended to be used in violation of Chapter 69.50.505.

Thus, Subsection (2)(b) allows initial seizure of property against which a judgment has been issued. The Seizing Agency did not seize Carter's personal property under authority of this subsection. Carter's property was seized under either Subsection (2)(a) and/or (2)(d).

Subsection (2)(b) does not establish any criterion or standard related to the forfeiture of property which has been seized. The subsection is simply not at all applicable to the Decision.

**NOW, THEREFORE,** the Hearing Officer **DENIES** the Motion for Reconsideration.

**ORDER** issued August 14, 2008.

  
John E. Galt, Designated Hearing Officer

**\*\*\* NOTICE \*\*\***

Appeal from this Order is governed by the provisions of Chapter 34.05 RCW. [RCW 69.50.505(5)] Part V of Chapter 34.05 RCW provides for judicial appeal and establishes procedures for such appeal. In summary, any appeal by a person with standing must be filed with the appropriate Superior Court within 30 days after service of the final order. Chapter 34.05 RCW, Part V, should be consulted for specific requirements.

**Distribution:**

**Claimant:**

Gregory Paul Carter, Sr., DOC: 128184

R-1 B-05L

C/o Washington Corrections Center

P.O. Box 900

Shelton, WA 98584

(No telephone number available)

SENT FIRST CLASS BY CERTIFIED MAIL NO.: 7005 3110 0002 0006 4896

**Seizing Agency's Representative:**

Mara Rozzano

Deputy Prosecuting Attorney

3000 Rockefeller M/S 504

Everett, WA 98201

(360) 657-1563

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IN THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON  
DIVISION I

SNOHOMISH REGIONAL DRUG  
TASK FORCE AND SNOHOMISH  
COUNTY,

Respondent,

v.

GREGORY P. CARTER, SR.

Appellant

No. 62277-3-I

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that on the 27th day of May, 2010, affiant deposited in the mail of the United States of America a properly stamped and addressed envelope directed to:

THE COURT OF APPEALS - DIVISION I  
ONE UNION SQUARE BUILDING  
600 UNIVERSITY STREET  
SEATTLE, WA 98101-4170

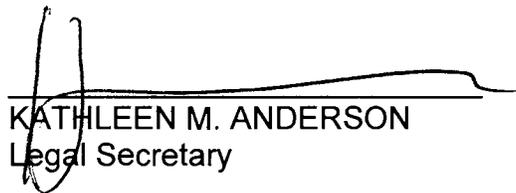
GREGORY P. CARTER, SR.  
33222 26<sup>TH</sup> AVENUE SW  
FEDERAL WAY, WA 98023

containing an original and one copy to the Court of Appeals, and one copy to the Pro Se Appellant of the following documents in the above-referenced cause:

BRIEF OF RESPONDENT

I certify under penalty of perjury under the laws of the State of Washington that this is true.

Signed at the Snohomish County Prosecutor's Office this 27<sup>th</sup> day of May, 2010.

  
KATHLEEN M. ANDERSON  
Legal Secretary