

66564-2

66564-2

NO. 66564-2-1

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

STATE OF WASHINGTON,

Respondent,

v.

TERESA D. ORT,

Appellant.

BRIEF OF RESPONDENT

MARK K. ROE
Prosecuting Attorney

JOHN J. JUHL
Deputy Prosecuting Attorney
Attorney for Respondent

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

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I. ISSUES

Whether Detective Baker exceeded the scope of the implied invitation to use the driveway as the access route to the residence when he looked at the wheel well of a vehicle parked adjacent to the driveway?

II. STATEMENT OF THE CASE

A. PROCEDURAL.

On February 11, 2010, Teresa Ort was charged with Hit and Run Fatality Accident. CP 30-31.

On July 2, 2010, Ort filed a Motion to Suppress; her memorandum in support of the motion was filed on August 4, 2010; the State filed a response on August 5, 2010. The motion and evidentiary hearing was held on August 5, 2010. Findings of Fact and Conclusions of Law in Regard to Defense Motion to Suppress were entered on October 7, 2010.¹ CP 24-29; Second Supplemental Designation of Clerk's Papers (SSDCP) Sub. 26, 28; RP 3.6 1.

The case proceeded to trial on November 29, 2010. Ort was found guilty by jury verdict of Hit and Run Fatality Accident on

¹ Attached as Appendix A.

December 3, 2010; she was sentenced on January 13, 2011. Ort filed this appeal on January 18, 2011. CP 1-23; RP I 1.

B. SUBSTANTIVE.²

On October 9, 2009, Paula Stierns was struck by a vehicle while she was walking across the 311th Avenue Bridge in Sultan, WA. Detectives of the Snohomish County Sheriff's Office Collision Investigation Unit (CIU) were assigned to investigate this hit and run fatality. Detective Baker recovered two zip ties and a dirty black piece of plastic from under Ms. Stierns' clothes at the incident scene. The piece of plastic had been ripped or torn from a larger piece. It appeared to have come from the under carriage of the running vehicle. Detective Baker learned that the piece of plastic came from the wheel well liner of either a Chevrolet Tracker or Suzuki Vitara. He then obtained a list of all such vehicles registered to residences in Snohomish County; about 1,200 vehicles. CIU detectives began to canvass the county starting with the area near the incident location. Detective Baker received information that a like vehicle with damage was seen in the area of

² Appellant repeatedly cites to the trial transcripts in her Statement of the Case. Since Appellant does not raise any challenge regarding the trial in her appeal, the numerous cites to the trial transcripts are not relevant to the issues raised in Appellant's brief.

358th Avenue SE, Sultan, WA. CP 24; SSDCP EX 4; RP 3.6, 6-11, 22-23, 33-34.

On the morning of October 29, 2009, Detective Baker drove by 16025 – 358th Avenue SE, Teresa Ort's residence, in a green unmarked van. As he drove by Ort's residence Detective Baker looked down the gravel driveway and observed a green Vitara parked on the property immediately adjacent to the driveway. From the roadway Detective Baker could see that the Vitara had front-end damage. The driveway went from the roadway, alongside and then curved behind the house. The Vitara was parked next to the driveway on the far side of the house facing the road. There were no obstructions in the driveway and no signage. The only access to the residence was through the driveway. It was Detective Baker's impression that the backdoor was used as the primary point of entry to the residence. CP 25; Supplemental Designation of Clerk's Papers (SDCP) EX 1, SSDCP EX 2; RP 3.6 10-13, 16-18, 24-26.

There was no parking along the roadway, so Detective Baker drove up the driveway to get a closer look at the Vitara; he stopped where the driveway began to curve behind the residence. From where he stopped in the driveway Detective Baker could see

that there was extensive front end damage on the Vitara. Detective Baker exited his vehicle and walked about 20 feet to the Vitara; he observed damage to the hood that he recognized as typical of a car-pedestrian collision. Detective Baker walked over to the driver's side of the Vitara and looked at the front wheel well; he observed that part of the wheel well liner was missing. Detective Baker made this observation while standing, he did not touch the Vitara nor did he get on the ground to make this observation. Detective Baker did not have the piece of plastic with him, but was familiar with its distinctive pattern; the missing piece of the Vitara wheel well liner was approximately the same size. Detective Baker took less than 30 seconds to walk up and look at the Vitara and then return to his vehicle; he then backed out of the driveway. CP 25; SDCP EX 9; SSDCP EX 2, 6; RP 3.6 12-17, 22-23, 25-26, 31, 47-49.

Detective Baker contacted other CIU detectives and waited across the street for assistance to arrive, keeping the Vitara in view. While he was waiting Ort approached Detective Baker and agreed to make a statement regarding the Vitara. During the interview Ort stated that in July she had used zip ties to repair some damage to the Vitara. Detective Baker asked Ort if she had heard about the

lady who was hit and killed on the 311th bridge; Ort replied that she had. Detective Baker stated that Ort's Vitara was the vehicle that hit her. Ort asked, "How do you know that?" Detective Baker replied, "Because I have those zip ties and I have part of the car that matched, that probably matches up to your car that was at the scene." After the interview with Ort, Detective Baker relayed the information he obtained to Detective Goffin. Detective Goffin wrote an affidavit for a search warrant and submitted the search warrant to Judge McRae; she approved the warrant. CP 25-26; SDCP EX 8 pages 3-4; SSDCP EX 4³; RP 3.6 19-22, 24, 27-30, 34-36.

III. ARGUMENT

Ort argues that by looking at the wheel well of her Vitara parked next to her driveway Detective Baker violated a reasonable expectation of her privacy. Appellant's Brief at 10.

A. STANDARD OF REVIEW.

1. Findings Of Fact And Conclusions Of Law.

The court reviews a trial court's ruling on a motion to suppress evidence to determine whether substantial evidence supports the trial court's factual findings and whether the factual findings support the trial court's conclusions of law. State v.

³ South District Court Search Warrant, attached as Appendix B.

Winterstein, 167 Wn.2d 620, 628, 220 P.3d 1226 (2009); State v. Garvin, 166 Wn.2d 242, 249, 207 P.3d 1266 (2009). “Evidence is substantial when it is enough ‘to persuade a fair-minded person of the truth of the stated premise.’” Garvin, 166 Wn.2d at 249 (*quoting State v. Reid*, 98 Wn. App. 152, 156, 988 P.2d 1038 (1999)). Any unchallenged findings of fact are verities on appeal. State v. Valdez, 167 Wn.2d 761, 767, 224 P.3d 751 (2009) (*citing State v. Gaines*, 154 Wn.2d 711, 716, 116 P.3d 993 (2005)). Challenged findings are verities if they are supported by evidence of a sufficient quantity to persuade a fair-minded, rational person of their truth. State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994). The trial court's conclusions of law are reviewed *de novo*. Garvin, 166 Wn.2d at 249.

2. Exceptions To The Warrant Requirement.

The court reviews the validity of a warrantless search *de novo*. State v. Parris, 163 Wn. App. 110, 259 P.3d 331, (2011); State v. Kypreos, 110 Wn. App. 612, 616, 39 P.3d 371 (2002). Unless an exception is present, a warrantless search is impermissible under both Article I, Section 7 of the Washington Constitution and the Fourth Amendment to the United States Constitution. Wash. Const. Art. I, § 7; U.S. Const. amend. IV;

Gaines, 154 Wn.2d at 716. One such exception is the “open view” doctrine. State v. Seagull, 95 Wn.2d 898, 632 P.2d 44 (1981); State v. Gibson, 152 Wn. App. 945, 955, 219 P.3d 964 (2009) (the open view doctrine applies when an officer observes a piece of evidence from a non-constitutionally protected area). Generally, the trial court suppresses evidence seized from an illegal search under the exclusionary rule or the fruit of the poisonous tree doctrine. Parris, 163 Wn. App. 110, 259 P.3d 331 (2011); Gaines, 154 Wn.2d at 716–17.

3. The “Open View” Doctrine.

The determination of whether an officer's presence within the cartilage of a residence amounts to an unconstitutional invasion of privacy must be based on all of the facts and circumstances of each case. Seagull, 95 Wn.2d at 902. Police officers on legitimate business are permitted the same license to intrude as a reasonably respectful citizen and may enter an area of curtilage which is impliedly open to the public, such as an access route to a house or a walkway leading to a residence; they may keep their eyes open. Seagull, 95 Wn.2d at 902. A substantial or unreasonable departure from the area or a particularly intrusive method of viewing exceeds the scope of the implied invitation and violates an individual's

constitutionally protected expectation of privacy. Seagull, 95 Wn.2d at 903.

Under the “open view” doctrine, there is no search because a government agent's “observation takes place from a non-intrusive vantage point. The governmental agent is either on the outside looking outside or on the outside looking inside to that which is knowingly exposed to the public.” Seagull, 95 Wn.2d at 902. Accordingly, the object under observation is not subject to any reasonable expectation of privacy and the observation is not within the scope of the constitution. State v. Kennedy, 107 Wn.2d 1, 10, 726 P.2d 445 (1986); State v. Perez, 41 Wn. App. 481, 483, 704 P.2d 625 (1981). “There is no expectation of privacy shielding that portion of an automobile which can be viewed from outside by diligent police officers.” State v. Lemus, 103 Wn. App. 94, 103, 11 P.3d 326 (2000).

Further, under the open view doctrine when an officer is lawfully present in an area his detection of items by using one or more of his senses does not constitute a search within the meaning of the Fourth Amendment. Seagull, 95 Wn.2d at 902. “The ‘open view’ observation is thus not a search at all but may provide evidence supporting probable cause to constitutionally search; in

other words, a search pursuant to a warrant.” Lemus, 103 Wn. App. at 102; see State v. Bobic, 140 Wn.2d 250, 258–59, 996 P.2d 610 (2000) (officer observation of contraband through hole in wall of storage unit, which led to search warrant, held not to be search under open view doctrine).

4. There Is No Reasonable Expectation Of Privacy In The Exterior Of A Vehicle.

Interpreting and applying Article I, Section 7 requires a two-part analysis. State v. Puapuaga, 164 Wn.2d 515, 522, 192 P.3d 360 (2008); State v. Hathaway, 161 Wn. App. 634, 642-643, 251 P.3d 253 (2011). The first step requires determining whether the State “unreasonably intruded into a person’s ‘private affairs.’” State v. Cheatam, 150 Wn.2d 626, 641–42, 81 P.3d 830 (2003) (*quoting State v. Boland*, 115 Wn.2d 571, 577, 800 P.2d 1112 (1990)). Private affairs are those that reveal intimate or discrete details of a person’s life. State v. Jordan, 160 Wn.2d 121, 126, 156 P.3d 893 (2007). Private affairs are determined, in part, by examining the historical treatment of the interest asserted and are not based on a person’s subjective expectation of privacy. Puapuaga, 164 Wn.2d at 522; Hathaway, 161 Wn. App. 642-643. If an historical analysis does not show an interest is protected under Article I, Section 7, we

consider whether the expectation of privacy is one that a citizen of this state is entitled to hold. Puapuaga, 164 Wn.2d at 522. This part of the analysis includes a review of (1) the nature and extent of the information that may be obtained as a result of the governmental conduct, and (2) the extent that the information has been voluntarily exposed to the public. Puapuaga, 164 Wn.2d at 522. If a person's private affairs are not disturbed, our analysis ends and there is no Article I, Section 7 violation. Puapuaga, 164 Wn.2d at 522; Hathaway, 161 Wn. App. at 643. "There is no expectation of privacy shielding that portion of an automobile which can be viewed from outside by diligent police officers." State v. Lemus, 103 Wn. App. at 103.

B. THE TRIAL COURT'S FINDINGS OF FACT ARE VERITIES.

In the present case, Ort does not challenge the trial court's findings; she challenges the court's conclusions of law. Appellant's Brief at 1; see CP 26. Unchallenged findings of fact are treated as verities on appeal. Valdez, 167 Wn.2d at 767. At the suppression hearing Detective Baker testified that Ort's damaged Vitara was visible to the public from the roadway; the driveway went directly from the road to the back of Ort's residence; the backdoor appeared to be used as the primary point of entry to the residence;

the Vitara was parked next to the driveway; damage to the Vitara consistent with a car-pedestrian collision was visible from the driveway; and that he remained on or immediately adjacent to the driveway during the short time he was on the property looking at the Vitara. This testimony is clearly sufficient to support the trial court's findings of fact. CP 24-26.

C. THE FINDINGS OF FACT SUPPORT THE LOWER COURT'S CONCLUSIONS OF LAW.

Ort challenges the lower court's legal conclusion that the driveway, leading directly from the street to the back of the residence, constituted an invitation to the public to use the driveway to access the back of the house; that Ort made no effort to hide the Vitara from public view; and that Detective Baker did not stray from the driveway, but remained in an area impliedly open to the public during his short time on the property inspecting the Vitara. Appellant's Brief at 1; CP 26. The lower court's legal conclusions are supported by the factual findings.

D. DETECTIVE BAKER'S OPEN VIEW OF THE VITARA DID NOT INTRUDE ON A REASONABLE EXPECTATION OF PRIVACY.

In the present case, Detective Baker was on official police business when he observed Ort's Vitara from a public roadway on October 29, 2009. Detective Baker was diligently seeking the

vehicle that had been involved in the October 9, 2009, hit and run fatality accident. The Vitara was parked next to the driveway with damage visible to the public from the roadway. Detective Baker entered the property by the driveway that went directly from the roadway to the back Ort's residence and appeared to be the primary point of entry to the residence. There were no obstructions in the driveway and no signage restricting entry. This route was impliedly open to the public. Damage to the Vitara visible from the driveway was consistent with a car-pedestrian collision. Ort did not have a reasonable expectation of privacy in the outside of her Vitara that was open to public view. Lemus, 103 Wn. App. at 103. Detective Baker remained on or immediately adjacent to the driveway during the short time he was on the property looking at the Vitara; he did not substantially or unreasonably depart from the area impliedly open to the public nor use an intrusive method in viewing the Vitara; he did not exceed the scope of the invitation. Detective Baker's observation was properly used to support obtaining the search warrant. Lemus, 103 Wn. App. at 102. Detective Baker looking at the wheel well while standing next to Ort's Vitara did not violate a constitutionally protected expectation of privacy.

Additionally, Detective Baker's observation of damage indicating that the Vitara had been involved in the hit and run accident, visible from the driveway, was sufficient to support probable cause for the search warrant without his observation of the wheel well. If Detective Baker's observation of the wheel well is excluded, the remedy mandated by Franks v. Delaware, 438 U.S. 154, 98 S.Ct. 2674, 57 L.Ed.2d 667 (1978) and State v. Sweet, 23 Wn. App. 97, 596 P.2d 1080 (1979), is to excise the offending language. If the affidavit contains sufficient raw facts, without the offending language, the search warrant is still valid. State v. Stephens, 37 Wn. App. 76, 79, 678 P.2d 832 (1984).

In the present case the Affidavit For Search Warrant recites the facts of the hit and run collision that caused Paula Stierns death; that two zip ties and a dirty black piece of plastic from a vehicle was located under Ms. Stierns' clothing at the incident scene; that the piece of plastic had been identified as common to three types of vehicle; that 1200 such vehicles were register in Snohomish County; and that Detective Baker had learned from Eric Scott that one such vehicle was seen at a residence up the hill from 35805 – 157th Place SE, Sultan, WA. With Detective Baker's observation of the wheel well excised, the paragraph relating

Detective Baker's observations of the Vitara at Ort's residence, 16025 – 358th Avenue SE, Sultan, WA, reads as follows:

From Eric Scott's information Detective Baker drove to the Skylight Track's development and located a green over silver, Suzuki Grand Vitara, Washington license#254RXJ parked behind a beige with white trimmed house located at 16025 358 Ave SE Sultan, WA. Detective Baker looked at the vehicle and observed damage which was consistent with what I would expect from this hit and run collision. The damage included a dent to the hood that was not caused contact with another vehicle

Additionally, the affidavit stated:

Ms. Ort admitted driving the Vitara when she ran over what she thought was a bag of trash. She said that she continued home. Only after hearing over the next couple of days that a woman had been killed in a hit and run collision, did she realize that she had not run over trash, but had rather run over Mrs. Stierns. Ms. Ort became scared and was afraid to come forward about her involvement in the collision and decided to keep it to herself until she was confronted today by Detective Baker.

Even with Detective Baker's observation of the Vitara's wheel well excised, the affidavit contains sufficient facts to support the search warrant. An appellate court may affirm on any grounds supported by the factual record, regardless whether such grounds were relied upon by the lower court. State v. Avery, 103 Wn. App. 527, 537, 13 P.3d 226 (2000).

E. ORT'S ADMISSION WAS NOT "TAINTED" BY DETECTIVE BAKER'S OBSERVATION OF THE WHEEL WELL.

Ort additionally argues that her admission that she struck Ms. Stierns, made during the October 29, 2009 interview in the van, was inadmissible under the fruit of the poisonous tree doctrine because Detective Baker confronted her with information he obtained while viewing the wheel well of the Vitara. Appellant's Brief at 14-16. The October 29, 2009 interview in the van was recorded and transcribed. SDCP EX 8.

Even if the court excluded Detective Baker's observation of the wheel well, Ort's admission was not tainted. Detective Baker did not confront Ort with information he obtained from viewing the Vitara wheel well. Detective Baker told Ort that he had zip ties and part of a car that probably matches up to her Vitara car that were found at the scene of the hit and run. SDCP EX 8 page 4. Detective Baker had all of this information before he looked at the wheel well.

IV. CONCLUSION

For the reasons stated above the appeal should be denied.

Respectfully submitted on October 6, 2011.

MARK K. ROE
Snohomish County Prosecuting Attorney

By: 

JOHN J. JUHL, WSBA #18951
Deputy Prosecuting Attorney
Attorney for Respondent

APPENDIX "A"

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SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

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THE STATE OF WASHINGTON,

Plaintiff,

No. 10-1-00237-0

v.

FINDINGS OF FACT AND CONCLUSIONS
OF LAW IN REGARD TO DEFENSE MOTION
TO SUPPRESS

ORT, TERESA

Defendant.

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10 The undersigned Judge of the above court hereby certifies that an evidentiary
11 hearing has been held in the absence of the jury pursuant to Rule 3.6 of the Criminal
12 Rules for Superior Court and now sets forth:

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FINDINGS OF FACT

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Detective Baker works in the Collision Investigation Unit (CIU) of the Snohomish
County Sheriff's office. He was assigned to investigate a fatality hit and run case which
occurred on October 9, 2009. A piece of plastic believed to have come from the
undercarriage of the running vehicle was found on the roadway underneath the
deceased's clothes. Baker made an effort to discover what type of vehicle it originated
from. After relaying photographs of the piece to an auto parts dealer in Michigan he
was told it came from the wheel well of either a Chevrolet Tracker or Suzuki Vitara. The
CIU detectives obtained a list of such vehicles registered to residences in Snohomish
County and began to canvass the area for them. Baker had received some information
that a vehicle like that with damage was in the Skylite tracts residential development.

24 On the morning of October 29 Baker drove his unmarked van to the Skylite
25 tracts. It was around 9 a.m. As Baker drove by the defendant's residence he looked up
26 her gravel driveway and saw a green Vitara parked on the other side of the house. It
27 was facing the road with its front end immediately adjacent to the driveway and Baker
28 could see it had front-end damage from the road. The defendant's driveway went from
29 the road along the side of her house and then curved behind the house. The driveway
30 passed by a porch and door. There were no obstructions in the driveway. There was
31 no signage.

32 Baker drove his van along the driveway and stopped at the corner of the
33 defendant's residence where the driveway begins to curve behind the house. He did
34 not stop at the door close to the road. His purpose was to inspect the Vitara. He exited
35 his van and walked about 20 feet to the Vitara. At that time he noticed dents to the
36 hood which Baker recognized as typical of car/pedestrian collisions. He then inspected
37 the driver's side wheel well. He was able to see that it was missing part of its wheel well
38 liner. Baker did not have the plastic piece from the collision scene with him but he was
39 familiar with its distinctive tear pattern. He felt that it would fit into the missing gap of the
40 Vitara's wheel well. Baker did not touch the Vitara nor did he get on the ground to make
41 this observation. It took about a minute. Baker then re-entered his van and drove off
42 the defendant's property without attempting to contact the homeowner. He then
43 contacted other CIU detectives and relayed to Detective Goffin the information he had
44 obtained. Goffin wrote an affidavit for a search warrant based upon this information.
45 Goffin had no independent knowledge of what had occurred that morning. Based upon
46 what Baker told him Goffin represented in the affidavit that the plastic piece was an

47 "exact match" to the missing section of the Vitara's wheel well liner. He also stated in
48 the affidavit that the defendant had eventually come to the conclusion she had struck
49 the victim Paula Stierns. He submitted the warrant (SW 2009-166) to Judge McRae at
50 South District Court. She approved the warrant.

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CONCLUSIONS OF LAW

53 The defendant's driveway leads directly from the street to the back of the
54 defendant's house. This constitutes an invitation to the public to use the driveway to
55 access the back of the house. The defendant made no effort to hide the Vitara from
56 public view. Baker did not stray from this driveway and therefore remained in an area
57 impliedly open to the public throughout his short time on the property. The fact that his
58 intent was to investigate does not alter this conclusion.

59 While it is true that the term "exact match" used in the affidavit of probable cause
60 is not correct, only the word "exact" need be excised. Baker's observations supported
61 the word "match". Thus, read in its proper context the affidavit is accurate in regard to
62 the relationship between the plastic found under the clothing of the deceased and the
63 missing portion of the Vitara's wheel well liner. Likewise, while it is true that the
64 defendant did not explicitly admit striking the victim, if the interview is considered as a
65 whole and in proper context, the affidavit represents an accurate interpretation of her
66 statements. The affidavit establishes probable cause without the use of the term
67 "exact". There were no other material misrepresentations.

68 For the foregoing reasons the court finds that the information included in Search
69 Warrant 2009 -166 was legally obtained by the Sheriff's office and that the

70 representations were materially correct. Thus, the court denies defense's motion to
71 suppress.

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73 DONE IN OPEN COURT this 4th day of October, 2010.

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83 Presented by:

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TOBIN DARROW 17837

87 Deputy Prosecuting Attorney

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90 Approved as to form:

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MARK MESTEL 8350

95 Attorney for Defendant


JUDGE ERIC Z. LUCAS

APPENDIX "B"

hit and run collision. The deputies from the Snohomish County Sheriff's Office responded to the scene, with the first deputy arriving at 2017 hours. Fire department units arrived on the scene at 2020 hours. The fire department medics administered aid to Mrs. Stierns, but she died before air lift could transport her to a hospital. Mr. Daily reported that the vehicle involved in the collision was a late 80's to early 90's green (possibly blue) hatchback car. Ben Hidy said that the car that hit the woman was a red newer car, possibly a trans-am type vehicle.

Another witness, George Doty reported that he was two cars behind Mr. Daily when he saw Paula Stierns run over by a dark colored intermediate sized car. George said that the car almost stopped, but did not and then continued on out of sight.

Collision Investigation Unit members responded to the scene. Upon arrival Detective Baker and Detective Metcalf located in the roadway a formed piece of black plastic that appeared to belong to the under portion of a vehicle. This plastic piece was found under the victim Paula Stierns clothing which had been cut from her body by the medics. Also located were two black zip ties that had been ripped apart. There was also a small patch of denim fibers that were located near the center of the road which by visual examination appeared consistent with having come from Mrs. Stierns blue jeans. The scene was mapped and no other evidence was documented.

Detective Gold responded to Valley General Hospital and waited for Paula Stierns body to arrive by aid car. Mrs. Stierns body was going to wait at the hospital for the Snohomish County Medical Examiner's investigator to arrive. Detective Gold reported that Mrs. Stierns face was severely swollen and according to Snohomish County Medical Examiner's Assistant Deb Hollis, had a fracture of her right femur and small abrasions to her left arm, right arm and left lower torso.

Since this collision, members of the Snohomish County Sheriff's Office Collision Investigation Unit, including affiant, have attempted to identify what type of vehicle the formed black plastic piece came from. We have checked with auto repair shops, vehicle salvage yards and auto dealerships. We have also tracked down potential witnesses and rumors of possible suspect driver's. All have proved fruitless.

SCSO Detective Baker contacted a distributor for Rock Auto Parts in Michigan and asked for their help in identifying what type of vehicle the broken formed plastic piece may have come from, as there was no part or manufacturer number on the piece. Detective Baker emailed the request along with a couple of photos of the distributor. A few hours later the distributor answered back that the part was common to three different vehicles, a 1999-2004 Chevrolet Tracker, a 1999-2005 Suzuki Vitara/Grand Vitara or a 2001-2006 XL7.

Detective Baker ran a DOL request for information on all vehicles that matched the listed vehicle and are registered in Snohomish County. DOL returned with a list of over 1200 vehicles (some were duplicates). Detective Baker and other member of our unit began to search for those vehicles, starting first with those vehicles listed as having registered owner addresses in the Sultan area. From one of the listings Detective Baker called Eric Scott living at 35805 157 Pl SE Sultan, WA. This is the Skylight Track's development. Eric told Detective Baker that he no longer owned the vehicle listed on our report, but that he had seen a Green Tracker at a house up the hill from his house.

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From Eric Scott's information Detective Baker drove to the Skyright Track's development and located a green over silver, Suzuki Grand Vitara, Washington license #254RXJ parked behind a beige with white trimmed house located at 16025 358 Ave SE Sultan, WA. Detective Baker looked at the vehicle and observed damage which was consistent with what I would expect from this hit and run collision. The damage included a dent to the hood that was not caused contact with another vehicle and the missing portion of the left fender inner liner. The missing portion of the left front inner fender liner was an exact match when compared to the piece recovered at the scene of the collision.

There was someone in the house who refused to answer the door. A short time later, Teresa Ort the registered owner of the above car returned home. Detective Baker interviewed her and at 0910 hours Ms. Ort admitted to driving the vehicle when she ran over what she thought was a bag of trash. She said that she continued home. Only after hearing over the next couple of days that a woman had been killed in a hit and run collision, did she realize that she had not run over trash, but had rather run over Mrs. Stierns. Ms. Ort became scared and was afraid to come forward about her involvement in the collision and decided to keep it to herself until she was confronted today by Detective Baker.

Ms. Ort said that Kyle Cathy, her daughter's 37 year old boyfriend is currently in her house. Also on Ms. Ort's property is a silver and gray metal shed/building that is approximately 24'x40' in size. This shed building is on the southeast side of the residence and may contain zip ties that were used to secure the inner fender liner before it was broke off in the collision.

Based on your affiant's training and experience, your affiant is requesting a search warrant be issued to search and seize the following: All evidence of the crime of Hit and Run Accident/Death (RCW 46.52.020.4A). This shall include, but not be limited to the following: a green over silver, 2003, Suzuki, Grand Vitara, Washington license #254RXJ, VIN #JS3TD62VX34103874, currently registered Teresa D. Ort (per D.O.L.), this is the same vehicle that Ms. Teresa Ort admitted to be driving at the time of the collision. Search and seize from property located at 16025 358 Pl SE Sultan, WA (to include her house and outbuildings previously described) any documents of ownership and insurance of the vehicle, any documents that may indicate who resides at Ms. Ort's house and any zip ties that may be similar to those found at the scene.

The items listed will further assist in the investigation of this collision.

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

Joseph W. Goffin III Snohomish County Sheriff's Office #1214

Affiant

Agency, title, and personnel number



AFFIANT

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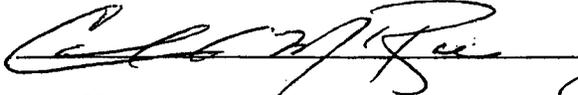
Snohomish County

Sheriff's Office, Deputy, #1214

AGENCY, TITLE,

PERSONNEL NUMBER.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 29 DAY OF October, 2009



ISSUANCE OF WARRANT APPROVED:

CAROL A. MCRAE

JUDGE

Paul Stern

DEPUTY PROSECUTING ATTORNEY

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