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STATE OF WASHINGTON  
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Supreme Court No. \_\_\_\_\_  
COA No. 86018-6-I Case #: 1041713

IN THE SUPREME COURT OF  
THE STATE OF WASHINGTON

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STATE OF WASHINGTON,

Respondent,

v.

CALEB D. BELL,

Petitioner.

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ON APPEAL FROM THE SUPERIOR COURT OF  
THE STATE OF WASHINGTON FOR  
KING COUNTY

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PETITION FOR REVIEW

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### **A. IDENTITY OF PETITIONER**

Caleb Bell, the petitioner here and appellant below, asks this Court to accept review of the Court of Appeals' decision termination review. RAP 13.3, 13.4.

### **B. COURT OF APPEALS DECISION**

Mr. Bell seeks review of the Court of Appeals' decision dated April 21, 2025, attached as an appendix.

### **C. ISSUES PRESENTED FOR REVIEW**

Under the federal and state constitutions, law enforcement cannot arrest someone unless they have probable cause to believe the person committed a crime. Law enforcement does not have probable cause to arrest a driver of a car simply because the car had been reported stolen. Deputy Jeffrey Durrant saw Mr. Bell with a car that had been reported stolen. Without gathering corroborating information or confirming that the car had, in fact, been stolen, Deputy Durrant arrested Mr. Bell. Even though

Deputy Durrant failed to acquire probable cause, the trial court denied Mr. Bell's motion to suppress.

The Court of Appeals affirmed Mr. Bell's conviction based on the "fellow officer" rule. This Court has never adopted such a rule under the article I, section 7 of the Washington Constitution. This Court should grant review and determine whether a vague, uncorroborated stolen vehicle report creates probable cause to arrest. RAP 13.4(b)(3).

#### **D. STATEMENT OF THE CASE**

Helena Matheson lived at her parents' house in Forest Park. RP 440-41. Over the Thanksgiving weekend, she and her parents traveled to Arizona to be with family. RP 445. Ms. Matheson left her Mazda CX-5 in the driveway while she was away. RP 447.

When Ms. Matheson returned, her keys were gone from the house and her car was no longer in the driveway. RP 455. She checked surveillance cameras that were

positioned in and around the house. RP 458. On one of the days she and her parents were gone, the cameras recorded an unknown man trying to get into the house. RP 458–59. While the cameras did not record him gaining entry, they recorded the same man inside the house. RP 458–59. The footage depicted the man taking Ms. Matheson's keys from the house, getting in the Mazda, and driving away. RP 459. In total, the man took a check addressed to Ms. Matheson's stepfather and the Mazda. RP 459, 468.

A few weeks later, two police officers were having lunch when one of them, Deputy Jeffrey Durrant, noticed an Audi A6 parked near a pawnshop. RP 125–26, 129–30. Deputy Durrant observed the driver going through the contents of the car. RP 126. As they ate lunch, the officers noticed the driver was going in and out of the pawnshop. RP 141.

After he finished lunch, Deputy Durrant checked the Audi's plates and learned it had been reported stolen. RP



128. He immediately went inside the pawnshop and arrested the driver, who turned out to be Mr. Bell. RP 125, 133. As Deputy Durrant was driving Mr. Bell to jail, he remembered seeing a report about a stolen Mazda CX- 5. RP 119–20, 139, 574–75. Deputy Durrant believed the suspect in that report wore similar clothing to Mr. Bell. RP 140. To investigate that suspicion, Deputy Durrant looked through Mr. Bell’s wallet and found the check that was taken from Ms. Matheson’s house. RP 140.

Believing Mr. Bell was responsible for the burglary of Ms. Matheson’s house, the State charged him with one count of residential burglary and one count of theft of a motor vehicle. CP 1.

At the CrR 3.6 hearing, Deputy Durrant testified that he first noticed the Audi because it looked “kind of out of place.” RP 127. He was suspicious because the Audi had a “gas can on top” of it and the driver was “milling around the car – it was loaded with a bunch of stuff in it.” RP 127. At

that point, Deputy Durrant did not notice anything else suspicious about the Audi or its driver, and he did not immediately investigate further. RP 127, 141.

After he finished lunch, Deputy Durrant checked the license plate of the Audi and found a report listing the car as stolen. RP 128. The report was basic; it only indicated that the vehicle had been reported stolen without indicating when that report was filed or providing other contextual information. RP 128, 146–47.

The officers did not further investigate the vehicle for any possible “obvious signs that it might have been stolen.” RP 149. They did not see any indication the ignition had been “punched out,” they did not see any “shaved keys,” nor did they find any other suggestion the vehicle had been “tampered with in any way.” RP 149.

Once they learned of the stolen vehicle report, Deputy Durrant and his partner immediately went inside the pawnshop and found Mr. Bell at the “front desk” of the

store. RP 131–32. Deputy Durrant admitted he went into the store with “the intent . . . to arrest” the driver for possession of a stolen vehicle. RP 143.

Deputy Durrant put his hand on Mr. Bell’s shoulder and asked to talk about the Audi. RP 133. Mr. Bell responded that they never saw him in any car. RP 133. Without hesitation, Deputy Durrant and his partner put Mr. Bell’s hands behind his back and placed him in handcuffs. RP 133. Deputy Durrant testified that he did this “to effectuate [an] arrest” of Mr. Bell. RP 144.

The officers placed Mr. Bell in a patrol car. RP 138. Deputy Durrant then contacted the “Data Control Unit” and confirmed the Audi was still reported as stolen and had not been recovered by its owner. RP 138. Deputy Durrant acknowledged he only confirmed this information after he arrested Mr. Bell. RP 148.

The trial court refused to suppress any evidence gained from Deputy Durrant’s arrest of Mr. Bell. CP 87. It first

found Deputy Durrant's "initial contact" with Mr. Bell was "an arrest." CP 86; RP 178. However, the court found Deputy Durrant "was entitled to rely on the report of stolen vehicle supporting probable cause." CP 87. Because the officers also observed Mr. Bell inside the reportedly stolen car, the court concluded that the officers had probable cause to arrest Mr. Bell. CP 87; RP 179. The court found that Mr. Bell's statement about the officers not seeing him in a car further justified the arrest. RP 179–80. The jury eventually found Mr. Bell guilty of residential burglary and theft of a motor vehicle. CP 82–83.

On appeal, Mr. Bell argued the court violated article I, section 7 by admitting evidence gained from the unconstitutional arrest of Mr. Bell. The Court of Appeals affirmed, holding Deputy Durrant had probable cause based on the stolen vehicle report. Slip Op. at 6.

## E. LAW AND ARGUMENT

**This Court should grant review to determine whether the fellow officer rule exists in Washington and, if so, whether a vague, unverified report creates probable cause.**

Deputy Durrant lacked probable cause when he placed Mr. Bell under arrest for possession of a stolen vehicle. The evidence Deputy Durrant had prior to this arrest—that Mr. Bell was in a reportedly stolen car—was insufficient to support the arrest. The Court of Appeals concluded otherwise, holding Deputy Durrant had probable cause because of the conclusory, unverified stolen vehicle report.

This Court has never endorsed the “fellow officer” rule under article I, section 7 of the Washington Constitution. While trusting a fellow officer’s report may assist an investigation, officers cannot arrest a person based on a vague report without conducting some independent investigation. If the fellow officer rule has any vitality in

Washington, it must not be construed to justify Mr. Bell's arrest. This Court should grant review. RAP 13.4(b)(3).

*1. The police must possess probable cause before arresting a person without a warrant.*

Police generally must possess a warrant before they can arrest an individual. U.S. Const. amend IV; Const. art. I, § 7. This Court must presume a warrantless arrest is invalid and unconstitutional unless one of the “narrow set” of exceptions applies. *State v. Tibbles*, 169 Wn.2d 364, 369, 236 P.3d 885 (2010). “The burden is on the State to show one of those exceptions applies, such as probable cause that a crime is being committed.” *State v. Grande*, 164 Wn.2d 135, 141, 187 P.3d 248 (2008).

It is axiomatic that an arrest unsupported by probable cause is unlawful. *Dunaway v. New York*, 442 U.S. 200, 208, 99 S. Ct. 2248, 60 L. Ed. 2d 824 (1979) (noting that, while a warrantless arrest was sometimes permissible, “the requirement of probable cause, as elaborated in numerous

precedents, was treated as absolute”). “Probable cause for a warrantless arrest exists when facts and circumstances within the arresting officer’s knowledge are sufficient to cause a person of reasonable caution to believe that a crime has been committed.” *State v. Huff*, 64 Wn. App. 641, 646, 826 P.2d 698 (1992).

The existence of probable cause is determined by an objective standard. *State v. Graham*, 130 Wn.2d 711, 724, 927 P.2d 227 (1996). “Probable cause to arrest must be judged on the facts known to the arresting officer before or at the time of arrest.” *State v. Gillenwater*, 96 Wn. App. 667, 670, 980 P.2d 318 (1999).

“At the time of arrest, the arresting officer need not have evidence to prove each element of the crime beyond a reasonable doubt.” *State v. Gaddy*, 152 Wn.2d 64, 70, 93 P.3d 872 (2004). That said, the officer still must “have knowledge of facts sufficient to cause a reasonable person to believe that an offense had been committed.” *Id.*

This requires the officer to have sufficient evidence that the act satisfies all the elements of a crime, which includes evidence that the person possessed the requisite mens rea for the offense. *E.g.*, *Williams v. City of Alexander, Ark.*, 772 F.3d 1307, 1312 (8th Cir. 2014) (“For probable cause to exist, there must be probable cause for all elements of the crime, including mens rea.”); *Dollard v. Whisenand*, 946 F.3d 342, 362 (7th Cir. 2019) (“Since at least 1986, it has been clear to reasonable officers in this Circuit that they must harbor ‘some evidence’ of a crime’s mens rea to support probable cause to arrest.”).

This Court reviews “a trial court’s conclusions of law on a motion to suppress evidence de novo, and we review application of the law to unchallenged or undisputed facts de novo.” *State v. Garner*, 26 Wn. App. 2d 654, 659–60, 529 P.3d 1053 (2023). Applying that standard of review here reveals that Deputy Durrant lacked probable cause to arrest Mr. Bell.



2. *Deputy Durrant did not have probable cause to arrest Mr. Bell, and the Court of Appeals erred by concluding otherwise.*

Deputy Durrant knew three things when he arrested Mr. Bell for possession of a stolen vehicle: the Audi had been reported stolen, Mr. Bell was seen inside the Audi, and Mr. Bell denied being in any vehicle. These facts do not give rise to probable cause, rendering Deputy Durrant's warrantless arrest of Mr. Bell unconstitutional.

For the crime of possession of a stolen vehicle, the act of possessing the vehicle alone does not demonstrate mens rea. *See State v. Couet*, 71 Wn.2d 773, 775, 430 P.2d 974 (1967). Officers may not arrest an individual solely because they are seen inside a reportedly stolen vehicle. *State v. Sandholm*, 96 Wn. App. 846, 848, 980 P.2d 1292 (1999) (“[E]xclusive reliance on the WACIC stolen vehicle report would not have provided sufficient basis for the State to establish probable cause to arrest[.]”). Instead, there must be

other corroborative evidence to demonstrate the mental element. *Couet*, 71 Wn.2d at 776.

The Court of Appeals erred by concluding otherwise. It held Deputy Durrant had probable cause because he relied on the stolen vehicle report. Slip Op. at 6. It emphasized that a different officer, Officer Xu, testified about the reliability of the stolen vehicle report. Slip Op. at 6.

The court's brief holding ignores the issue with Deputy Durrant's approach. Deputy Durrant saw the vehicle report, but the report only indicated the Audi had been reported stolen. It did not provide other contextual information, such as when the vehicle was stolen. RP 128, 146–47. Officer Durrant admitted that, based on the report, the Audi could have been reported stolen a year beforehand and he would not have known. RP 147.

Deputy Durrant did not gather any corroborating facts before he arrested Mr. Bell. There was no indication Mr. Bell was driving a car with a modified ignition, using shaved

keys, or had otherwise tampered with the vehicle. RP 149. Indeed, Deputy Durrant admitted he did not independently look for any signs that the vehicle was stolen or that Mr. Bell knew the vehicle was stolen before the arrest. RP 149–50.

Deputy Durrant also admitted he could have called the “Data Unit” at his police department to confirm the vehicle was still reported as stolen. RP 147. Deputy Durrant did not make this call until after he arrested Mr. Bell. RP 147. There is no evidence that some exigency existed that would have justified Deputy Durrant arresting Mr. Bell before he could confirm the occurrence of a crime. *See State v. Gonzalez*, 46 Wn. App. 388, 396, 731 P.2d 1101 (1986) (finding the officers did not have probable cause because they only confirmed a crime occurred after they arrested the defendant).

According to the Court of Appeals, the fellow officer rule “permits probable cause to be determined upon the information possessed by the police as a whole when they

are *acting in concert*.” *State v. Maesse*, 29 Wn. App. 642, 647, 629 P.2d 1349 (1981) (emphasis added). There is no evidence the officers were “acting in concert” here, as Deputy Durrant only relied on the conclusory vehicle report without speaking to other officers or conducting any independent investigation.

While a stolen vehicle report can provide suspicion, officers cannot haphazardly rely on the report without investigating further. *See State v. O’Cain*, 108 Wn. App. 542, 552, 31 P.3d 733 (2001). This requirement “impliedly acknowledges the rapidity with which information in the database can change and the importance of confirming such data before depriving an individual of his or her liberty.” *Com. v. Maingrette*, 20 N.E.3d 626, 633 (Mass. App. Ct. 2014). “After all, the ease and speed with which a police officer may confirm the validity of an arrest warrant is an appropriate and easily executed buffer to protect the

department from subsequent claims of wrongdoing, to say nothing of an individual's right to liberty." *Id.*

The officers here elected expedience over propriety. *See Almedia-Sanchez v. United States*, 413 U.S. 266, 274, 93 S. Ct. 2535, 37 L. Ed. 2d 596 (1973) (noting notions of governmental expediency cannot justify the infringement of the Fourth Amendment's protections). They arrested Mr. Bell without confirming he was in possession of a stolen vehicle. As a result, the officers lacked probable cause, and the trial court should have suppressed all the evidence they gathered after this unconstitutional arrest.

This Court has considered the fellow officer rule twice. *State v. Ortega*, 177 Wn.2d 116, 126, 297 P.3d 57 (2013); *State v. Gaddy*, 152 Wn.2d 64, 70–71, 93 P.3d 872 (2004). On both occasions, it declined to adopt the rule. *Ortega*, 177 Wn.2d at 126; *Gaddy*, 152 Wn.2d at 70–71. This Court should grant review and establish if, and to what extent, the fellow officer rule exists in Washington. Even if this rule is valid, it cannot

justify an arrest based on vague, unverified police reports.

Review is warranted to ensure courts do not continue admitting evidence taken in violation of article I, section 7 of the Washington Constitution. RAP 13.4(b)(3).

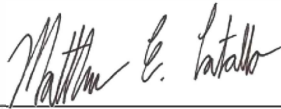
#### **F. CONCLUSION**

Mr. Bell respectfully asks this Court to accept discretionary review. RAP 13.4(b).

This petition is 2,635 words long and complies with RAP 18.7.

DATED this 12th day of May 2025.

Respectfully Submitted



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**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

THE STATE OF WASHINGTON,

Respondent,

v.

CALEB DANE BELL,

Appellant.

No. 86018-6-I

DIVISION ONE

UNPUBLISHED OPINION

MANN, J. — Caleb Bell appeals his conviction for residential burglary and theft arguing that the trial court violated the Fourth Amendment of the United States Constitution and article I, section 7 of the Washington State Constitution by admitting evidence gained from an unconstitutional arrest that lacked probable cause. We affirm.

I

On November 25, 2021, video surveillance showed a man enter Helena Matheson's home and then leave in her Mazda that was parked in the driveway. Matheson was out of town on vacation at the time. When Matheson returned, she discovered her Mazda and the keys were missing along with a check issued to one of the other house occupants. A bulletin was distributed to King County Sheriff's Office (KCSO) detectives that showed screenshots of the incident.

On November 30, 2021, Seattle Police Officer Yang Xu was dispatched to a residence in Northeast Seattle in response to a report of a residential burglary. Xu spoke with a contractor working at the residence who reported that his tools and a friend's car key were missing from the home along with his friend's car, a 2015 Audi A6, that had been parked outside the property. Xu reported a missing 2015 black Audi A6 with a California license plate.

On December 4, 2021, Deputy Jeff Durrant and Deputy Daniel Koontz were at lunch when they observed an individual, later identified as Bell, seated in the driver's seat of a black Audi A6 with California license plates. Durrant and Koontz observed Bell getting in and out of the vehicle with various items. Officers ran the license plate number and learned the vehicle was reported stolen.

Officers followed Bell into a nearby pawn shop to make contact. They placed their hands onto Bell's shoulder and mentioned wanting to talk to him about the car outside. Bell responded that the officers had not seen him in any cars. Deputy Durrant placed Bell in handcuffs.

Once at the patrol car, Deputy Koontz searched Bell incident to his arrest. Bell protested his arrest and made statements including threats to kill the deputies during the search. While searching Bell's wallet, Deputy Durrant found the missing check from Matheson's home. After the arrest, Deputy Durrant recalled the police bulletin from the burglary at Matheson's home and determined that Bell closely resembled the individual in those images.

The State charged Bell with one count of residential burglary and one count of theft of a motor vehicle.



Bell moved pretrial to suppress all physical evidence seized under CrR 3.6. Bell argued the evidence was the result of an unlawful arrest because the officers did not have probable cause. The trial court entered findings and conclusions after a CrR 3.6 hearing. The trial court relied on State v. Mance, 82 Wn. App. 539, 918 P.2d 527 (1996), and concluded that Deputy Durrant was entitled to rely on the report of the stolen vehicle as probable cause. The trial court concluded that before contacting Bell, Deputy Durrant was aware that the vehicle had been stolen and that Bell was inside the vehicle. Accordingly, the trial court concluded that those two facts were sufficient for a reasonable officer to suspect Bell had committed a crime. The trial court denied Bell's CrR 3.6 motion.

A jury found Bell guilty of one count of residential burglary and one count of theft of a motor vehicle.

Bell appeals.

## II

Bell argues that the trial court violated the Fourth Amendment of the United States Constitution and article I, section 7 of the Washington State Constitution by admitting evidence gained from an unconstitutional arrest that lacked probable cause. We disagree.

## A

The Fourth Amendment of the United States Constitution and article I, section 7 of the Washington State Constitution prohibit unreasonable searches and seizures without a warrant, unless one of the few exceptions to the warrant requirement applies. U.S. CONST. amend IV; CONST. art I, § 7; State v. Day, 161 Wn.2d 889, 894, 168 P.3d

1265 (2007). One such exception to the warrant requirement is a search incident to arrest. State v. O'Neill, 148 Wn.2d 564, 583, 62 P.3d 489 (2003). A lawful custodial arrest is a constitutionally required prerequisite to any search incident to arrest exception to the warrant requirement. O'Neill, 148 Wn.2d at 585. The lawfulness of an arrest depends on the existence of probable cause. State v. Moore, 161 Wn.2d 880, 885, 169 P.3d 469 (2007).

We determine whether there was probable cause under an objective standard. State v. Gaddy, 152 Wn.2d 64, 70, 93 P.3d 872 (2004). "Probable cause exists when the arresting officer is aware of facts or circumstances, based on reasonably trustworthy information, sufficient to cause a reasonable officer to believe a crime has been committed." Gaddy, 152 Wn.2d at 70. The State bears the burden to establish probable cause for an arrest. State v. Grande, 164 Wn.2d 135, 141, 187 P.3d 248 (2008).

Lastly, the "fellow officer rule" allows a court to consider the cumulative knowledge of police officers in determining whether there was probable cause for an arrest. State v. Ortega, 177 Wn.2d 116, 126, 297 P.3d 57 (2013). Under this rule, the arresting officer who does not personally possess sufficient information to constitute probable cause may still make a warrantless arrest if the officer acts on the direction or communication with another officer. State v. Maesse, 29 Wn. App. 642, 646, 629 P.2d 1349 (1981). The fellow officer rule justifies an arrest on the basis of a police bulletin. Mance, 82 Wn. App. at 542.

B

Bell argues that it was insufficient for officers to rely on the stolen vehicle report to support probable cause for his arrest. Bell relies on State v. Gonzalez, 46 Wn. App. 388, 731 P.2d 1101 (1986). In that case, an officer was patrolling an area that had been subject to several recent burglaries. Gonzalez, 46 Wn. App. at 391. The officer observed an unfamiliar vehicle and pulled the vehicle over after noting the registration was expired. Gonzalez, 46 Wn. App. at 391. The passenger in the vehicle exited the car and kicked an unopened package addressed to someone other than the passengers onto the road. Gonzalez, 46 Wn. App. at 392. At this point, both the driver and the passenger were arrested. Gonzalez, 46 Wn. App. at 392. There was no confirmation that the package was stolen or linked to a burglarized home until after the defendant was arrested and transported to the police station. Gonzalez, 46 Wn. App. at 396. On appeal, the court concluded that the arrest was illegal because the officers did not have probable cause until after the arrest. Gonzalez, 46 Wn. App. at 396.

Bell also relies on State v. Sandholm, 96 Wn. App. 846, 980 P.2d 1292 (1999). There, officers arrested the defendant after observing him driving a vehicle that was listed as stolen in a police database. Sandholm, 96 Wn. App. at 847. At the suppression hearing, the State presented no evidence of the source of the stolen vehicle report, or the procedures for creating those reports. Sandholm, 96 Wn. App. at 847. On appeal, this court concluded that the State failed to establish the reliability of the stolen vehicle report. Because there was other evidence to establish probable cause, however, the arrest was affirmed. Sandholm, 96 Wn. App. at 848.

Both cases are distinguishable. Unlike Gonzalez, the fact that the vehicle was stolen and that Bell was inside the vehicle, were known to officers before the arrest. In Gonzalez, police relied on suspicious circumstances but were unaware the property had been stolen until after the arrest. 46 Wn. App. at 396. This was not the case here. Officers saw Bell in the vehicle with various items, ran the license plate number, determined that the vehicle was stolen, and then arrested Bell.

And unlike Sandholm, the State presented sufficient testimony as to the reliability of the stolen vehicle report. Officer Xu testified that he investigates a vehicle theft report almost on a daily basis. Xu explained that after a 911 report, he interviews the reporting party and then identifies the missing vehicle's type, year, model, and vehicle identification number. He also testified how the reports are created and how he ensures they are credible.

We conclude the officers had probable cause to arrest Bell and the evidence seized incident to the arrest was properly admitted.

We affirm.<sup>1</sup>

WE CONCUR:

Mann, J.

Díaz, J.

HSG

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<sup>1</sup> In a statement of additional grounds (SAG), Bell asserts a violation of his right to a speedy trial but does not explain why trial was delayed or identify why any continuances were improper. Bell also does not explain how any delay prejudiced his ability to present a defense. We will not consider a SAG if it does not adequately inform the court of the nature and occurrence of the alleged errors. RAP 10.10(c).

# WASHINGTON APPELLATE PROJECT

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