

NO. 69919-9-1

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

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STATE OF WASHINGTON,

Appellant,

v.

ASHLEY E. BYRNE,

Respondent.

2013 JUL 30 PM 1:33  
SUPERIOR COURT  
STATE OF WASHINGTON  
[Signature]

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BRIEF OF APPELLANT

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MARK K. ROE  
Prosecuting Attorney

SETH A. FINE  
Deputy Prosecuting Attorney  
Attorney for Appellant

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

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## **I. ASSIGNMENTS OF ERROR**

(1) The trial court erred in suppressing evidence seized pursuant to a search warrant.

(2) The trial court erred in dismissing the case.

## **II. ISSUE**

Was the search warrant in the present case supported by probable cause?

## **III. STATEMENT OF THE CASE**

The defendant (respondent), Ashley Byrne, was charged with manufacture of a controlled substance. CP 10. These charges stemmed from a search at a residence in Everett, which was carried out on November 22, 2011. CP 7-9. A co-defendant, Alex Buckingham, was also charged in connection with the same case.

On January 18, the court entered an order granting Mr. Buckingham's motion to suppress evidence and dismissing the charges against him. CP 2. The State has appealed this suppression and dismissal. The appeal is pending in this court under cause no. 69853-2-I.

The defendant Byrne then filed a motion for the same relief. CP 1-2. The parties agreed that the same ruling would apply to her case. The parties therefore agreed to entry of an order that would

apply the suppression ruling to this case and allow the State to appeal. RP3. The court accordingly entered orders suppressing evidence and dismissing the case. CP 6, Supp. CP \_\_\_\_ (Order to Dismiss, docket no. 26).

#### **IV. ARGUMENT**

**SINCE THE ORDER IN THIS CASE RESTED SOLELY ON THE RULING IN THE CO-DEFENDANT'S CASE, THE STATE'S APPEAL IN THAT CASE SHOULD ALSO BE DISPOSITIVE OF THIS CASE.**

The trial court in this case relied solely on its ruling with regard to the co-defendant Buckingham. The record in this case does not explain the basis for that ruling.

The State has appealed the suppression and dismissal in the codefendant's case.<sup>1</sup> For the reasons explained in the State's brief in that case, those orders were erroneous. If the court reverses those orders, there will be no basis for the suppression or dismissal in the present case.

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<sup>1</sup> The State is moving to consolidate this appeal with the appeal in the Buckingham case.

**V. CONCLUSION**

The orders suppressing evidence and dismissing the case should be reversed. The case should be remanded for further proceedings.

Respectfully submitted on July 29, 2013.

MARK K. ROE  
Snohomish County Prosecuting Attorney

By:   
\_\_\_\_\_  
SETH A. FINE, WSBA # 10937  
Deputy Prosecuting Attorney  
Attorney for Appellant

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AFFIDAVIT OF MAILING

2013 JUL 30 PM 1:33  
COURT OF APPEALS  
STATE OF WASHINGTON  
*[Handwritten Signature]*

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that on the 27<sup>th</sup> day of July, 2013, 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

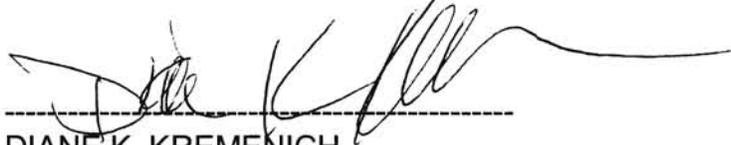
WASHINGTON APPELLATE PROJECT  
1511 THIRD AVENUE, SUITE 701  
SEATTLE, WA 98101

containing an original and one copy to the Court of Appeals, and one copy to the attorney for the Respondent of the following documents in the above-referenced cause:

BRIEF OF APPELLANT

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 July, 2013.

A handwritten signature in black ink, appearing to read "Diane K. Kremenich", written over a horizontal dashed line.

DIANE K. KREMENICH  
Legal Assistant/Appeals Unit