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IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR CLARK COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

DINO J. CONSTANCE,

Defendant.

CAUSE NO. 07-1-00843-8
DEFENDANT'S STATUS MEMORANDUM

1. Introduction

In November, the Court set an evidentiary hearing for April 27-28, 2011, to determine Mr. Constance's CrR 7.8 motion that was filed in September 2011. Mr. Constance has waived his presence at this hearing. App. A. This memo is intended to summarize the status of the case and to list outstanding issues.

2. New Facts Regarding Ricci Castellanos

Since the last hearing, in December 2011, the State disclosed to the defense that one of its key witnesses at the trial, Ricci Castellanos, was the subject of a police investigation for residential burglary in August 2007. The lead detective, John O'Mara, informed a paralegal for the Clark County Prosecuting Attorney's Office about this new investigation by e-mail and hoped that Mr. Castellanos' involvement as a "semi-hero" who had just made it into the

1 newspaper would outweigh the impact of his latest case. *See* App. B. There was no
2 explanation given as to why the State did not disclose to the defense, prior to trial, the fact that
3 Mr. Castellanos was the subject of a new residential burglary charge (a charge that apparently
4 was never formally referred for prosecution).

5 As soon as the State revealed the information about the hidden burglary charges, Mr.
6 Constance made a discovery demand. The State is treating this demand as a request for
7 disclosure under the Public Records Act, and is in the process of turning over (three years
8 after trial) redacted copies of the pertinent records. *See* App. C.

9 **3. *Motion to Disqualify Clark County Prosecutors***

10 The State has not responded to Mr. Constance's motion to disqualify Mr. Golik and
11 the Clark County Prosecuting Attorney's Office from handling this matter. Mr. Golik has not
12 responded to the undersigned counsel's request (on January 5, 2011, App. D) to set up an
13 interview with him. Mr. Golik's failure to respond is a product of his obvious conflict of
14 interest. This issue needs to be addressed at the next hearing.

15 **4. *State's Position on Key Issues***

16 Other than issuing a general denial that it withheld exculpatory evidence, the State has
17 yet to give any specifics as to what it admits to and what it denies. For instance, the State has
18 refused to indicate whether it disputes the e-mail evidence from paralegals in the Clark
19 County Prosecutor's Office and the CHRONOS Logs from the Department of Corrections
20 which document the deal struck with Zach Brown to drop the NCO in exchange for his
21 testimony. The State has not indicated whether it disputes it withheld this evidence from
22 either of Mr. Constance's attorneys (including the one whose firm was representing Mr.
23 Castellanos as the same time as it was representing Mr. Constance).

24 The State has not yet indicated (1) whether it denies Det. O'Mara tried to assist Mr.
25 Castellanos in getting his work crew requirement dropped, (2) whether it admits Det. O'Mara
26 did this, but failed to disclose this evidence or correct Mr. Castellanos' testimony (or his
27 statements in defense interviews) that he was motivated by altruistic motives, or (3) whether it
28

1 actually claims it turned this information over to counsel and somehow corrected the record
2 when Mr. Castellanos misrepresented what happened.

3 The State has still refused to admit whether it provided to the defense prior to trial the
4 threatening e-mails that Keitt Spry sent to Mr. Constance (in the possession of Det. O'Mara),
5 even after Jordan Spry referred to them in a misleading way during trial testimony.

6 Similarly, the State has not even denied (1) that it intentionally and illegally tape
7 recorded Mr. Constance's private attorney calls at the jail; (2) that Mr. Walker provided
8 ineffective assistance of counsel; (3) that the intercept applications were marred by the
9 withholding of exculpatory evidence, in the possession of the police at the time the
10 authorizations were obtained; or (4) that the jury instructions were flawed because of the lack
11 of a "true threat" requirement.

12 The Court should order the State to respond substantively to these key issues and to
13 inform the defense and the Court what it admits and what it denies. This will help narrow the
14 issues for the evidentiary hearing and avoid the calling of witnesses to establish facts that one
15 would think were undisputed (i.e. that Det. O'Mara has a lengthy record of unprofessional
16 conduct; that Det. O'Mara was in possession of Keitt Spy's threatening e-mails to Mr.
17 Constance, but failed to turn them over; that Mr. Golik's staff and colleagues at the
18 prosecutor's office assisted Mr. Brown to get his NCOs dropped; that Jordan Spry had
19 warrants out for his arrest at the time of the trial; that Mr. Brown had been arrested for
20 VUCSA and had such charges hanging over his head at the time of trial¹).

21 5. *Scheduling*

22 As indicated in November, the undersigned counsel is teaching criminal law in Belarus
23 in March 2011 and will not return to the U.S. until April 6, 2011. This trip was scheduled in
24

25 ¹ The issue is not, as Mr. Golik seems to think, whether his office properly opted to decline to file a new
26 VUCSA charge against Mr. Brown and properly pursued only DOC sanctions. Nor is the issue whether an explicit
27 deal was reached with Mr. Brown not to file VUCSA charges in exchange for his testimony. Rather, the issue is
28 whether, when Mr. Brown agreed to assist the State in its prosecution of Mr. Constance he believed that such
cooperation would be to his benefit because of the threat of felony charges hanging over his head. As explained in
the CrR 7.8 motion, it is the witness' belief that he had to be subservient to the Government's wishes that the defense
was entitled to explore under the Sixth Amendment's Confrontation Clause, not whether there was actually an explicit
deal cut. *See Davis v. Alaska*, 415 U.S. 308, 315-17 (1974).

1 the Spring of 2010. Counsel has a major federal trial set for June 27, 2011, in Tacoma.
2 Counsel requests that the hearing on April 27-28 be pushed back a few weeks until mid-May
3 2011.

4 **6. *Out-of-State Witnesses***

5 The defense will ask that the Court issue a writ of habeas corpus testificandum to bring
6 Zachary Brown from prison in Oregon (where he is serving a ten-year sentence for rape and
7 kidnapping) to testify at the evidentiary hearing. Counsel believes that Keitt Spry may reside
8 in New York, while Jordan Spry lives in Idaho. Process should be issued to bring those
9 witnesses to court.

10 **5. *Interviews with Prosecutors and Police***

11 The State has not disclosed exactly which prosecutors and staff and law enforcement
12 officers it plans to call as witnesses. Mr. Constance has not yet heard from Mr. Golik when he
13 will be available to be interviewed. The State should provide its list of prosecutor/police
14 witnesses and interviews should be set up (preferably on one or two days, in February). Mr.
15 Golik should be ordered to submit to an interview as well.

16 **6. *Subpoena to Jeffrey Barrar's Office***

17 Mr. Barrar represented Mr. Constance from May 2007 until September 2007. His
18 office at the same time represented Mr. Castellanos and his associates related to the judges in
19 Clark County District Court that Mr. Castellanos was an informant in the *Constance* case and
20 was seeking some sort of special treatment. One of Mr. Barrar's associates (Blake Dore)
21 referred to an e-mail from Det. O'Mara which apparently documented this deal.² The State
22 has refused to turn over this e-mail or any other information related to Det. O'Mara's
23 assistance to Mr. Castellanos. Mr. Dore has declined to cooperate with Mr. Constance's
24 investigation in this matter.

25
26 ² This exchange was described in Mr. Constance's pleading entitled "Supplemental Information Regarding
27 CrR 7.8 Motion" filed on October 29, 2010 (Sub. No. 336). It should be noted that the associate, Blake Dore, who
28 appeared in court for Mr. Castellanos on November 15, 2007 (and referred to Det. O'Mara's e-mail) had not yet been
fully admitted to the bar – he was not admitted until November 28, 2007. One assumes that he was a Rule 9 intern at
the time. In any case, Mr. Dore signed pleadings in court for Mr. Castellanos' case using Mr. Barrar's bar number
(No. 18281). See App. E.

1 Accordingly, the Court should sign a subpoena duces tecum to Mr. Constance's and
2 Mr. Castellanos' former attorneys' firm, Vancouver Defenders, for all records related to Det.
3 O'Mara's assistance (or promises thereof) to Mr. Castellanos. This subpoena will not involve
4 any protected attorney-client information, and given the conflict with Mr. Constance, Mr.
5 Barrar's firm should not be allowed to represent Mr. Castellanos' interests any further. Mr.
6 Constance objects to his former attorney's continued representation of a witness against him
7 whose interests are materially opposed to his, who had access to confidential information at
8 the very time his firm was representing both of them, and whose joint representation worked
9 as a detriment to him.

10 **7. Discovery Issues**

11 While not citing to *any* authority, and not even attempting to distinguish the cases
12 cited previously by Mr. Constance, the State simply claims it has no obligations to disclose
13 evidence. It essentially argues it is free to withhold exculpatory evidence before trial, and
14 once the trial is complete, and the matter is on appeal or in post-conviction, it can continue to
15 withhold that evidence, hiding its misconduct, subject only to the Public Records Act. This is
16 absurd and not supported by any authority.

17 As argued previously, this Court has the power to order discovery under CrR 4.7 &
18 7.8, as well as the Public Records Act (RCW 42.56), and the Due Process, Right to Counsel,
19 and Confrontation Clauses of U.S. Const. amends. 6 & 14 and Wash. Const. art. 1, §§ 3 & 22.
20 The duty under *Brady* to disclose exculpatory evidence is on-going, and continues even after a
21 trial has been concluded. *See Smith v. Roberts*, 115 F.3d 818, 819-20 (10th Cir. 1997) (direct
22 appeal pending); *Thomas v. Goldsmith*, 979 F.2d 746, 749-50 (9th Cir. 1992) (state has duty
23 to disclose exculpatory evidence under *Brady* during a habeas corpus proceeding); *Monroe v.*
24 *Butler*, 690 F. Supp. 521, 522-23, 525-26 (E.D. La. 1988) (holding that state's failure to
25 disclose exculpatory evidence discovered after conviction violated habeas petitioner's *Brady*
26 rights), *aff'd*, 883 F.2d 331 (5th Cir.), *cert. denied*, 487 U.S. 1247 (1988).

27 The State claims that it has disclosed thousands of pages pursuant to PRA requests.
28 Apart from the fact that Mr. Constance has to pay for the very materials that the State should

1 have disclosed for free, the State still has not disclosed all pertinent information.

2 Accordingly, the defense will go through each of the categories on the proposed order, which
3 was provided to the Court and counsel on November 17, 2010:

4 1. *All information related to Ricci Castellanos and his compliance*
5 *with the sentence in Clark County District Court No. 12527V (and any other*
6 *case) – including all communications about Mr. Castellanos between Det.*
7 *O’Mara or other law enforcement official and (1) Mr. Castellanos or his*
8 *attorneys, (2) the prosecutors and (3) any judicial official.*

9 The State has failed to disclose this information, despite there being documentary
10 evidence on the CD of Mr. Castellanos’ court hearings of such communications. The State
11 has given no explanation why it has failed to disclose these communications either in 2007-08
12 or now.

13 2. *A copy of the court ordered mental health/psychiatric exam of*
14 *Ricci Castellanos.*

15 The State does not explain why it failed to turn this over.

16 3. *Any information in the hands of the Clark County Prosecutors*
17 *or law enforcement about Mr. Castellanos’ and/or Zachary Brown’s past work*
18 *as an informant or cooperating witness in any case (including the Keith*
19 *Jespersion case).*

20 Mr. Castellanos claims to have been an informant in the past in the *Jespersion* case. It
21 is unknown if Mr. Brown has been an informant. The State has not provided any information
22 about these items.

23 4. *The full, unredacted records of the Michael Craig Spry*
24 *molestation case.*

25 Mr. Constance has provided evidence that Jordan Spry’s brother and Keitt Spry’s other
26 son was prosecuted for molestation in Clark County. Keitt Spry was investigated for witness
27 tampering and intimidation of witnesses. The State has only revealed heavily redacted records
28 of this case. Witnesses (Ms. Eisele, for instance) have said that Keitt Spry was aware of his
son’s misconduct with minors and protected him, which could leave him open to criminal
charges himself. The State has not explained why it has not released the full files related to
Keitt Spry’s son’s sex case.

29 5. *Full unredacted copies of personnel and internal affairs files of*
30 *Det. O’Mara and Det. Acee (including sustained internal affairs*
31 *investigations, the full shooting investigation related to Tabitha DeSousa, and*
32 *employee evaluations).*

33 The limited records the State has already released show that Det. O’Mara had a
34 troubled career as a police officer. The State has not released any records related to Det.
35 Acee. Yet, both officers’ credibility is an issue, particularly as it relates to their failure to
36 include key evidence in the intercept applications.

1 6. *All records of any police or prosecutor interview with Fabian*
2 *Roseles Gomez and any records of police attempts to locate him.*

3 Mr. Roseles Gomez has claimed that the police interviewed him about the fact that Mr.
4 Constance put money on the books of inmates to repay them for food. He said that the police
5 did not take a formal statement from him. There has never been any discovery of the police
6 reports regarding this evidence (and why it was withheld from the defense). When Mr.
7 Walker could not locate Mr. Roseles Gomez before trial, it is unknown if the police knew
8 where he was and just did not tell the defense.

9 7. *Any record of ex parte communications between law*
10 *enforcement and/or the prosecutor's office and the bench in Clark County*
11 *about Mr. Constance.*

12 If there were no such communications, it would be easy enough to say so. The failure
13 to say so, suggests there were such communications – particularly where discussions about ex
14 parte contacts between Det. O'Mara and judges in Clark County District Court were suggested
15 on the record of Mr. Castellanos' hearings.

16 8. *What information law enforcement or the prosecutors knew of*
17 *Jordan Spry's warrants, and any conversations with him or anyone else about*
18 *these warrants.*

19 The State has never disclosed whether it or its law enforcement officers knew about
20 these warrants, and, if they did, what they did about them.

21 9. *All jail records of Mr. Castellanos and Mr. Brown, including*
22 *grievances, infractions, disciplinary reports, CDs of recorded calls, copied*
23 *correspondence, visitation logs, and classification records.*

24 The State has in its possession these items, and has never disclosed them. The
25 question is why? What did Mr. Brown say on his recorded jail calls that the State did not like
26 and wishes conceal? Why does it not turn over recorded calls by Mr. Castellanos? What
27 trouble were either of them in during their many jail visits? The State has this information
28 but wishes to ignore it.

29 10 & 11 *All non-conviction data for all witnesses, including arrest*
30 *history, police reports of all incidents involving the witnesses, DOC/probation*
31 *supervision records. For any charges that were not filed, the reasons why*
32 *such charges were not filed. All records where the victim requested non-*
33 *disclosure*

34 This is self-evident, but given the drizzles of information released (i.e. Castellanos'
35 residential burglary case), the State should be ordered to turn over everything now.

36 12. *All records involving the decision to assist Mr. Brown in getting*
37 *the NCO dropped, including all internal e-mails and a record of oral*
38 *communications within the prosecutor's office and with law enforcement on*
39 *the subject.*

40 Given the fact that the State hid this deal for almost three years, and only disclosed
41 some internal e-mails after Mr. Constance's attorney brought it to the State's attention when
42 discovering it on his own from DOC, there is no guarantee that the State has not continued to
43 withhold evidence about this. Can one assume that Mr. Golik did not know that his staff was
44 making arrangements to assist Mr. Brown? The State should disclose all communications, in

1 whatever format (e-mail or oral) about this subject, including communications with Mr. Golik
2 about Mr. Brown's NCO.

3 **8. Status of Other Cases**

4 The direct appeal from this Court's denial of Mr. Constance's pro se CrR 7.8 motion
5 (filed pro se, but argued by Mr. Dunkerly) is still pending in Division Two. Mr. Constance
6 has a motion pending to remand that case to this Court to consolidate it with the current CrR
7 7.8 motion.

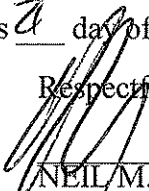
8 Mr. Constance's direct appeal is pending in the Supreme Court on the February 1,
9 2011, petition for review calendar. He has filed a motion under RAP 9.11 to take additional
10 evidence at the evidentiary hearing this Court has already set, particularly on the *Franks*
11 issues. He has asked the Supreme Court to rule that once additional testimony is taken in this
12 Court and after this Court has heard all of evidence on the pending CrR 7.8 motion, all issues
13 should be transferred to the Supreme Court for final resolution along with the Petition for
14 Review, so that there can be one consolidated proceeding for all of Mr. Constance's issues.

15 **9. Conclusion**

16 For the foregoing reasons, and the reasons set out in prior pleadings, the Court should
17 grant the aforementioned motions.

18 DATED this 21 day of January 2011.

19 Respectfully submitted,

20 
21 _____
22 NEIL M. FOX
23 WSBA NO. 15277
24 Attorney for Defendant
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Appendix A

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IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR CLARK COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

DINO J. CONSTANCE,

Defendant.

CAUSE NO. 07-1-00843-8
WAIVER OF PRESENCE

I, Dino J. Constance, understand I have the right to be present in court at all hearings in my case. I am hereby waiving my right to attend the hearing now set in my case on January 26, 2011. I have discussed this with my attorney and authorize him to act in my absence at this hearing.

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

1/11 Clallam Bay
DATE AND PLACE

[Signature]
DINO J. CONSTANCE

Appendix B

Watson, Peggy

From: O'Mara, John
Sent: Friday, August 24, 2007 3:05 PM
To: Earl, Stephenie
Cc: Golik, Tony
Subject: RE: Pretrial Interview re: Dino Constance

Well, I thought you both might want to know that it "may" be easier to keep in touch with Ricci than one would have originally thought. As luck would have it, bad luck, he is presently in the Clark County jail with no "out date" listed. He was apparently arrested on a warrant for FTC or FTA, I can't remember which one. He is also the newest suspect in a Residential Burglary and a Hit and Run/Motor Vehicle. Life just stays interesting, doesn't it?

John O'Mara

Detective
Major Crimes Unit
(360)397-2028
john.o'mara@clark.wa.gov

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

From: Earl, Stephenie
Sent: Friday, August 24, 2007 10:39 AM
To: O'Mara, John
Subject: RE: Pretrial Interview re: Dino Constance

We just received a citation from the court for an attorney review for next Thursday. Apparently, Dino wants a new attorney ... Again. I'll probably wait to schedule your interview until we find out what is going on.

From: O'Mara, John
Sent: Friday, August 24, 2007 8:19 AM
To: Earl, Stephenie
Subject: RE: Pretrial Interview re: Dino Constance

Story of my life. I will be out of town in Burien from 9-4 until either very late on 9-6 or some time in the afternoon on 9-7. I will be the Presiding Member for a Decertification Hearing with the Training Commission and therefore Must attend. Is there any chance it can be put out further? I have the following dates available, if that helps:

09/12 - am only. 09/13 - am only. 09/14 - all day. 09/18 - all day. 09/20 - am only. 09/26 - all day. 09/27 - am only. 09/28 - all day.

Hopefully one of those will work. Sorry for any trouble this may cause, but as you can see by the many "skipped" days, I have a full plate for September, and it gets progressively worse in October and November. Thanks.

John O'Mara

Detective
Major Crimes Unit
(360)397-2028
john.o'mara@clark.wa.gov

Watson, Peggy

From: O'Mara, John
Sent: Friday, August 31, 2007 5:47 PM
To: Earl, Stephanie
Subject: RE: Pretrial Interview re: Dino Constance

0930hrs sounds great. Thanks. Regarding Ricci the "semi-hero", I read about it in the Columbian, yesterday's paper. It was on the front page. Hopefully that will help offset his recent cases where he was arrested on a warrant, and is a suspect in a hit and run and residential burglary. Hhhmmmmmm. Should be interesting. Someone should have warned you that I'm the shi# magnet for the County. I'm not kidding either. This was determined by those that would know better than anyone else...the dispatchers for both County and City. Apparently Jeff Wilken (I think that's his name) is the shi# magnet for the City (VPD) and I'm it for the County...and I apparently am "Tops" for both. If you don't believe me, go on a ride-along with me some time when I'm working overtime in patrol and you'll witness it first hand. No matter what kind of call I get, I either turn it into something "more" (which I always thought was a good thing), or it becomes it's own beast. Anyway, all of that was said so you are forewarned of all the things that could happen with this case, Ricci being the first fine example of that (and the fact that it's MY case). In addition to that, we have a bonus added in the form of Dino Constance, so this will only get worse before it gets better. But hey, at least I keep life "interesting". Yeah, that's the word I'll use...interesting.

Anyway, don't fret about Ricci. I will get in contact with him, if I have to go harass him in his "hood", and make sure he not only contacts you, but if you let me know the date and time he's assigned, I'll try to see to it personally that he shows up...on time.

Hope you have a great Holiday Weekend...which I realize you have probably already started. I'll be "suffering" on Monday, the actual holiday, working overtime at \$79.50 per hour. That's ok though, we all have our crosses to bear. See you soon.

John O'Mara

Detective
Major Crimes Unit
(360)397-2028
john.o'mara@clark.wa.gov

*****CONFIDENTIALITY NOTICE*****

This e-mail may contain information that is privileged, confidential, or otherwise exempt from disclosure under applicable law. If you are not the addressee or it appears from the context or otherwise that you have received this e-mail in error, please advise me immediately by reply e-mail, keep the contents confidential, and immediately delete the message and any attachments from your system.

From: Earl, Stephanie
Sent: Friday, August 31, 2007 1:49 PM
To: O'Mara, John
Subject: RE: Pretrial Interview re: Dino Constance

You crack me up! Sorry - I went to lunch. Would you like to meet with Tony at 9:30 am or 9:45 am that day? That way you and Tony can meet before defense shows up. Also, it will be in our office.

From: O'Mara, John
Sent: Friday, August 31, 2007 12:54 PM
To: Earl, Stephanie
Subject: RE: Pretrial Interview re: Dino Constance

Ok, I just left you a "goofy" message, since you ignored my phone call, even though you "JUST" emailed me. Yes, the 12th looks good. I have two questions:

Appendix C



Anthony F. Golik
Prosecuting Attorney

JOHN P. FAIRGRIEVE
Chief Deputy

SCOTT JACKSON
Chief Criminal Deputy

E. BRONSON POTTER
Chief Civil Deputy

SHARI JENSEN
Administrator

January 4, 2011

Neil Fox
Market Place One
2003 Western Avenue, Suite 330
Seattle WA 98121

RE: Your Public Records Request
State of Washington v. Dino Constance
Clark County Superior Court Cause No. 07-1-00843-8

Dear Mr. Fox:

The Clark County Prosecutor's Office received your Public Records Request on December 20, 2010, wherein you requested discovery on a Residential Burglary and Hit and Run case referenced in Det. O'mara's emails.

We previously advised you that we had approved (Bate Stamp Pages 5720-5774) for release that we were awaiting Carolyn Demme of CCSO to respond to our request to provide any orphans relating to VPD Case No. 07-16197 and VPD 07-17544.

On January 4, 2011, we received these documents from Carolyn Demme. As additional response to your Public Disclosure Request, we have approved for release 33 pages (Bate Stamp Pages 5775-5823) (see enclosed Redaction/Exemption Log). We will mail the records or you can pick up the records from our office upon receipt of payment of \$4.95 (see enclosed Public Records Request Invoice). The Prosecutor's Office will accept payment in person in form of cash (exact change only), money order or check made payable to:

Clark County Prosecuting Attorney's Office
Attn: Mindy Lamberton, Public Records Coordinator
PO Box 5000
Vancouver, WA 98666-5000

Be sure to reference your name and cause number on the check or money order.

If we do not hear a response to this letter within 30 days, we will consider this request completed.

Sincerely,



Alan Harvey
Deputy Prosecuting Attorney

/pmw

C: File
Mindy Lamberton, Public Records Coordinator



CLARK COUNTY
PROSECUTING ATTORNEY'S OFFICE

REDACTION LOG

Item	Document type/description/Bate Stamp page #'s	Exemption Legal Authority
Crime victim or witness identity	Briz Loan & Guitar Receipt – BS 5790 Vancouver Police Department Pawn Hold Release Order – BS 5792, 5793 7/1/08 Email To Barbara Knoepfel from Tom Beene – BS 5795 7/3/08 Letter to Diane Lawyer from Detective Barbara Knoepfel – BS 5796 U.S. Postal Service Receipt to Diane Lawyer – BS 5797 DUI Arrest Report – BS 5801 Authorization to Use and/or Disclose Protected Health Information- BS 5808 Fax Sheet for DUI Arrest Report – BS 5814 12/12/08 Public Disclosure Request – BS 5815 12/18/09 Public Disclosure Request – 5816 3/27/09 Letter to Ricci Castellanos from Carolyn Demme – BS 5818, 5819 4/17/09 Letter to Ricci Castellanos from Carolyn Demme – BS 5820	RCW 42.56.240(2)
Driver License Number	Briz Loan & Guitar Receipt – BS 5790 7/1/08 Email To Barbara Knoepfel from Tom Beene – BS 5795 DUI Arrest Report – BS 5801 Fax Sheet for DUI Arrest Report – BS 5814	18 USC §2721 with §§2722 & 2725

EXEMPTION LOG

Item	Document type/description	Exemption Legal Authority
Jail Records	Mugshot – BS 5794	RCW 70.48.100(2)(d)
Nonconviction data contained in criminal history record information	Criminal History Printouts – BS 5776-5786, 5788-5789, 5791, 5798	RCW 10.97.050(3)-(7); RCW 10.97.030(2)



Anthony F. Golik
Prosecuting Attorney

JOHN P. FAIRGRIEVE
Chief Deputy

SCOTT JACKSON
Chief Criminal Deputy

E. BRONSON POTTER
Chief Civil Deputy

SHARI JENSEN
Administrator

January 4, 2011

Neil Fox
Market Place One
2003 Western Avenue, Suite 330
Seattle WA 98121

RE: Your Public Records Request
State of Washington v. Dino Constance
Clark County Superior Court Cause No. 07-1-00843-8

Dear Mr. Fox:

The Clark County Prosecutor's Office received your Public Records Request on December 20, 2010. You request discovery on a Residential Burglary and Hit and Run case referenced in Det. O'mara's emails.

Our search reflects the following:

VPD 07-16197 crimes Burglary – Residential and Theft 1
This report was never referred to the Clark County Prosecuting Attorney's Office to review for charging. We have printed the police reports from EPR. However, we are awaiting Carolyn Demme of CCSO to respond to our request to provide any orphans relating to this case.

VPD 07-17544 crimes Vehicular Assault and Theft 3
Our records reflect that on November 27, 2008, James E. David, Deputy Prosecuting Attorney no actioned the case for felony charges and referred the report to the Vancouver City Attorney for review of charges. Our office maintained a copy of the reports we originally received. However, we are awaiting Carolyn Demme of CCSO to respond to our request to provide any orphans relating to this case.

Further records reflect, that the Vancouver City Attorney's Office filed charges in Clark County District Court Case No. 15964V.

We will provide you a separate billing when the additional documents are received.

In response to your Public Disclosure Request, we have approved for release 35 pages (Bate Stamp Pages 5720-5774) (see enclosed Redaction/Exemption Log). We will mail the records or you can pick up the records from our office upon receipt of payment of \$5.25 (see enclosed

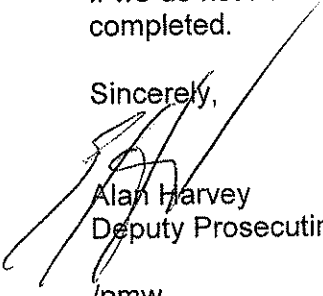
Public Records Request Invoice). The Prosecutor's Office will accept payment in person in form of cash (exact change only), money order or check made payable to:

Clark County Prosecuting Attorney's Office
Attn: Mindy Lamberton, Public Records Coordinator
PO Box 5000
Vancouver, WA 98666-5000

Be sure to reference your name and cause number on the check or money order.

If we do not hear a response to this letter within 30 days, we will consider this request completed.

Sincerely,



Alan Harvey
Deputy Prosecuting Attorney

/pmw

C: File
Mindy Lamberton, Public Records Coordinator



CLARK COUNTY
PROSECUTING ATTORNEY'S OFFICE

REDACTION LOG

Item	Document type/description/Bate Stamp page #s	Exemption Legal Authority
Crime victim or witness identity	VPD 07-16197 Original – BS 5720, 5722 VPD 07-16197 08/12/2007 21:46 1431 - BS 5724, 5725 VPD 07-16197 08/20/2007 22:57 1414 - BS 5727, 5728, 5729 VPD 07-16197 08/21/2007 23:45 1410 – BS 5730, 5731 VPD 07-16197 08/29/2007 14:49 1307 – BS 5732, 5733 VPD 07-16197 07/03/2008 13:20 1307 – BS 5735 Information Charging Sheet – BS 5738, 5740 VPD 07-17544 Original 5742, 5743, 5744, 5745 VPD 07-17544 08/29/2007 05:39 1219 – BS 5747, 5748, 5749	RCW 42.56.240(2)
Driver License Number	VPD 07-17544 09/01/2007 06:21 1141 – BS 5751 VPD 07-17544 01/07/2008 03:49 1382 – BS 5753, 5754 VPD 07-16197 Original 5720 5 VPD 07-16197 08/20/2007 22:57 1414 - BS 727, 5728 Information Charging Sheet – BS 5738	18 USC §2721 with §§2722 & 2725)
Social Security Number	VPD 07-16197 08/20/2007 22:57 1414 - BS 5727, 5728 VPD 09-16197 08/21/2007 23:45 1410 – BS 5730	Financial Numbers 46 USC §405(c)(1)(C)(viii)(1)

EXEMPTION LOG

Item	Document type/description	Exemption Legal Authority
Nonconviction data contained in criminal history record information	Criminal History Printouts – BS 5755 to 5774	RCW 10.97.050(3)-(7); RCW 10.97.030(2)

Appendix D

Neil Fox

From: Neil Fox [nf@neilfoxlaw.com]
Sent: Wednesday, January 05, 2011 5:57 PM
To: 'Tony.Golik@clark.wa.gov'
Subject: Constance

Mr. Golik – what is your position on my request that your office recuse itself and that a special prosecutor be appointed?

I also would like to set up a time to interview you. What is your schedule like?

Neil M. Fox
Law Office of Neil Fox, PLLC
2003 Western Ave. Suite 330
Seattle WA 98121
USA
Phone: 206-728-5440
Fax: 206-448-2252

This electronic message is confidential and is intended only for the use of the individual to whom it is addressed. The information may also be legally privileged. This transmission is sent in trust, for the sole purpose of delivery to the intended recipient. If you have received this transmission in error, you are hereby notified that any use, dissemination, distribution or reproduction of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify me by electronic message or telephone at 206-728-5440. and delete the message from your system.

Appendix E

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

State of Washington)
City of Vancouver/ Camas/Washougal) Case No(s): 12527V
Plaintiff,)
v.)
Ricci Castellanos)
Defendant.) Order To Return To Court

YOU ARE HEREBY ORDERED TO RETURN TO COURT:

on the 31st day of January, 2008 at 9:00 a.m. _____ p.m. for
____ Sentencing ____ Review Show Cause/PV/Motion to Revoke
____ Other _____

Failure to appear at this hearing or any other court dates scheduled as a result of this hearing may result in a bail/bond forfeiture, and/or the issuance of a warrant for your arrest.

Dated this 15th day of November, 2007.

Judge of the District Court, Dept # 1 /Commissioner

I understand that I am liable for penalties for failure to appear.

Defendant

Defendant's Attorney, WSBA 9092439/167E1



WSBA Lawyer Profile

Member Name:	Blake Nathaniel Dore	WSBA Bar#:	39714
Firm or Employer:		Admit Date:	11/28/2007
Address:	500 W 8th St Ste 230 Vancouver, WA 98660-3086 United States	Status:	Active
		Phone:	(360) 906-7234
		Fax:	(360) 906-0211
		TDD:	
		Email:	blake@vancouverdefenders.com
		Private Practice:	Yes
		Has Insurance?	Yes- Click for more info
		Last Date Reported:	02/04/2010
Website:			

Only active members of the Washington State Bar Association, and others as authorized by law, may practice law in Washington.

Area(s) of Practice
Criminal

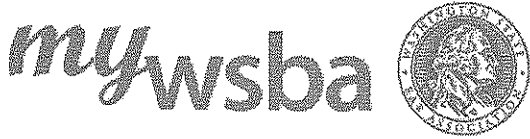
The discipline search function may or may not reveal all disciplinary action relating to a lawyer. The discipline information accessed is a summary and not the official decision in the case. For more complete information, call 206-727-8207.

Other Languages
Spanish

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WSBA Lawyer Profile

Member Name:	Jeffrey David Barrar	WSBA Bar#:	18281
Firm or Employer:		Admit Date:	11/3/1988
Address:	500 W 8th St Ste 230	Status:	Active
	Vancouver, WA 98660-3086 United States	Phone:	(360) 906-7234
		Fax:	(360) 906-0211
		TDD:	
		Email:	jeff@vancouverdefenders.com
		Private Practice:	Yes
		Has Insurance?	Yes- Click for more info
		Last Date Reported:	02/04/2010
		Website:	

Only active members of the Washington State Bar Association, and others as authorized by law, may practice law in Washington.

Area(s) of Practice
Criminal

The discipline search function may or may not reveal all disciplinary action relating to a lawyer. The discipline information accessed is a summary and not the official decision in the case. For more complete information, call 206-727-8207.

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IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR CLARK COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

DINO J. CONSTANCE,

Defendant.

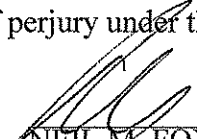
CAUSE NO. 07-1-00843-8
CERTIFICATE OF SERVICE

I, Neil M. Fox, certify that on January 21, 2011, I served a copy of the
"DEFENDANT'S STATUS MEMORANDUM" by sending a copy to counsel for Plaintiff by
depositing a copy in the United States Mail, with proper postage attached, in an envelope
addressed to:

Anthony Golik
Deputy Prosecuting Attorney
Clark County Prosecutors
P.O. Box 5000
Vancouver WA 98666-5000

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

1/21/11 Seattle
DATE AND PLACE


NEIL M. FOX