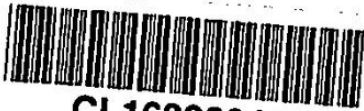


Filed in Open Court

April 4, 2014

SONYA KRASKI
COUNTY CLERK

By N. Albert
Deputy Clerk



CL16338842

SUPERIOR COURT OF
WASHINGTON
FOR SNOHOMISH COUNTY

STATE OF WASHINGTON

vs.

ALAN JUSTIN SMITH
(DEFENDANT)

CAUSE NO.: 13-1-01546-8
JUDGE: LINDA C. KRESE
REPORTER: DENNIS ERICKSON
CLERK: ANDREW DESSERT
DEBBIE J. HORNER
J. KORST-GATLIN
N. ALBERT
DATE: 4-4-14 @ 9:00 A.M.

THIS MATTER CAME ON FOR: 3.5 HEARING

CONTINUED/CODE:

DEPARTMENT/TIME:

STATE REPRESENTED BY: CRAIG MATHESON / KATHERINE WETMORE

DEFENDANT APPEARED: YES IN CUSTODY: YES REPRESENTED BY: CAROLINE MANN / TIFFANY MECCA

FAILED TO APPEAR: WARRANT AUTHORIZED: BAIL AMOUNT:

REQUESTED COUNSEL: REFERRED TO OFFICE OF PUBLIC DEFENSE:

DEFENDANT ANSWERS TO TRUE NAME AS CHARGED:

SERVED WITH TRUE COPY OF INFORMATION: READ IN OPEN COURT: READING WAIVED:

MOTION FOR RELEASE: RELEASED ON PERSONAL RECOGNIZANCE:

ADVISED OF BASIC CIVIL AND CONSTITUTIONAL RIGHTS:

DEFENDANT ADVISED OF LOSS OF RIGHT TO BEAR FIREARMS:

HEARINGS SET/TRIAL CONTINUANCE	SENTENCING DATE:
OMNIBUS HEARING (10:30) (9):	SENTENCING DATE:
TRIAL DATE (1:00) (JT):	DEPT. NO./JUDGE:
SPEEDY TRIAL DATE:	PRESENTENCE REPORT REQUESTED:
OMNIBUS/PLEA CALENDAR:	RETURN DATE:
PLEA (3:00):	DOSA RISK ASSESSMENT/CHEMICAL DEPENDENCY
3.5 HEARING (9:00) (RM):	SCREENING REPORT REQUESTED:
ARRAIGNMENT ON AMENDED INFO (9:00) (RM):	RETURN DATE:
STATUS HEARING:	40 DAY RULE WAIVED:
VIOLATION HEARING (9:00) (SV):	

OTHER:

9:16 COLLOQUY OF COURT AND COUNSEL.

EXHIBIT NO. 1 OFFERED BY THE STATE: ADMITTED 4/4/2014
EXHIBIT NO. 2 OFFERED BY THE STATE: ADMITTED 4/4/2014
EXHIBIT NO. 3 OFFERED BY THE STATE: ADMITTED 4/4/2014
EXHIBIT NO. 4 OFFERED BY THE STATE: ADMITTED 4/9/2014
EXHIBIT NO. 5 OFFERED BY THE STATE: ADMITTED 4/4/2014

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9:19 STATE WAIVES OPENING STATEMENT.
DEFENDANT MAKES OPENING STATEMENT (MANN).
9:21 **DETECTIVE MICHAEL STONE**, CALLED BY THE STATE (MATHESON), SWORN AND
TESTIFIED.
10:10 COURT IN RECESS.
10:31 COURT RESUMES, DEFENDANT PRESENT, IN CUSTODY, AND ALL PARTIES PRESENT.
CONTINUATION OF TESTIMONY OF DETECTIVE MICHAEL STONE ON DIRECT
EXAMINATION BY THE STATE (MATHESON).
11:14 CROSS EXAMINATION OF DETECTIVE MICHAEL STONE BY THE DEFENDANT (MANN).
11:41 COURT IN RECESS.
11:46 COURT RESUMES, DEFENDANT PRESENT, IN CUSTODY, AND ALL PARTIES PRESENT.
CONTINUATION OF TESTIMONY OF DETECTIVE MICHAEL STONE ON CROSS
EXAMINATION BY THE DEFENDANT (MANN).
11:58 REDIRECT EXAMINATION OF DETECTIVE MICHAEL STONE BY THE STATE
(MATHESON).
12:01 COLLOQUY OF COURT AND COUNSEL.

STATE'S MOTION TO CONTINUE 3.5 HEARING: GRANTED.

12:05 COURT IN RECESS.

WEDNESDAY, APRIL 09, 2014

CLERK: DEBBIE J. HORNER
REPORTER: DENNIS ERICKSON

COURT OPENED AT 1:16 P.M., LINDA C. KRESE, JUDGE.

THE FOLLOWING PROCEEDINGS WERE HAD TO WIT:

THIS MATTER CONTINUED FROM APRIL 4, 2014.

STATE OF WASHINGTON REPRESENTED THROUGH DEPUTY PROSECUTING ATTORNEY
CRAIG MATHESON.

DEFENDANT PRESENT, IN CUSTODY, REPRESENTED BY COUNSEL CAROLINE MANN.

DETECTIVE GLEN CHISSUS, CALLED BY THE STATE, SWORN AND TESTIFIED.

2:16 CROSS EXAMINATION OF DETECTIVE GLEN CHISSUS BY DEFENDANT.

2:55 REDIRECT EXAMINATION OF DETECTIVE GLEN CHISSUS BY THE STATE.

2:57 COLLOQUY OF COURT AND COUNSEL.

3:08 COURT IN RECESS UNTIL APRIL 24, 2014, AT 1:30 P.M.

THURSDAY, APRIL 24, 2014

CLERK: J. KORST-GATLIN
REPORTER: DENNIS ERICKSON

COURT OPENED AT 1:45, LINDA C. KRESE, JUDGE.

THE FOLLOWING PROCEEDINGS WERE HAD TO WIT:

THIS MATTER CONTINUED FROM APRIL 9, 2014.

STATE OF WASHINGTON VS. ALAN JUSTIN SMITH
13-1-01546-8

STATE OF WASHINGTON REPRESENTED THROUGH DEPUTY PROSECUTING ATTORNEY
CRAIG MATHESON AND KATHERINE WETMORE.
DEFENDANT PRESENT, IN CUSTODY, REPRESENTED BY COUNSEL CAROLINE MANN
AND TIFFANY MECCA.

1:45 **OFFICER JON CABAN**, CALLED BY THE STATE, SWORN AND TESTIFIED.
CROSS EXAMINATION OF OFFICER JON CABAN BY THE DEFENSE (MANN).
2:06 **CLINT BECK**, CALLED BY THE STATE (MATHESON), SWORN AND TESTIFIED.
2:26 CROSS EXAMINATION OF CLINT BECK BY THE DEFENDANT (MANN).

EXHIBIT NO. 6 OFFERED BY THE DEFENDANT: NOT OFFERED

2:36 **DETECTIVE DIONE THOMPSON**, CALLED BY THE STATE (MATHESON), SWORN AND
TESTIFIED.
2:55 CROSS EXAMINATION OF DETECTIVE DIONE THOMPSON BY THE DEFENDANT (MANN).

EXHIBIT NO. 7 OFFERED BY THE DEFENDANT: **ADMITTED 4/24/2014**

3:00 COURT IN RECESS.

3:24 COURT RESUMES, DEFENDANT PRESENT, IN CUSTODY, AND ALL PARTIES PRESENT.
DETECTIVE TEDD BETTS, CALLED BY THE STATE (MATHESON), SWORN AND
TESTIFIED.
3:36 CROSS EXAMINATION OF TEDD BETTS BY THE DEFENDANT (MANN).
DETECTIVE CYRUS O'BRYANT, CALLED BY THE STATE (MATHESON), SWORN AND
TESTIFIED.
3:43 CROSS EXAMINATION OF DETECTIVE CYRUS O'BRYANT BY THE DEFENDANT (MANN).
STATE RESTS.

THE COURT ADVISES THE DEFENDANT OF THE RIGHT TO TESTIFY AT THIS
HEARING AND POSSIBLE CONSEQUENCES AT THE TIME OF TRIAL.

DEFENDANT RESTS.

3:46 STATE OPENS CLOSING ARGUMENTS (MATHESON).
3:55 DEFENDANT MAKES CLOSING ARGUMENT (MANN).
4:05 STATE MAKES FINAL CLOSING ARGUMENT (MATHESON).
4:17 COLLOQUY OF COURT AND COUNSEL.
4:20 COURT IN RECESS UNTIL TUESDAY, APRIL 29, 2014, AT 2:00 P.M. FOR
COURT'S ORAL DECISION.

THURSDAY, MAY 01, 2014

CLERK: N. ALBERT

REPORTER: DENNIS ERICKSON

COURT OPENED AT 3:38 P.M., LINDA C. KRESE, JUDGE.

STATE OF WASHINGTON VS. ALAN JUSTIN SMITH
13-1-01546-8

THE FOLLOWING PROCEEDINGS WERE HAD TO WIT:
THIS MATTER CONTINUED FROM APRIL 24, 2014.
STATE OF WASHINGTON REPRESENTED THROUGH DEPUTY PROSECUTING ATTORNEY CRAIG MATHESON.
DEFENDANT PRESENT, IN CUSTODY, REPRESENTED BY COUNSEL CAROLINE MANN AND TIFFANY MECCA.
DETECTIVE MICHAEL STONE PRESENT AT COUNSEL TABLE FOR THE STATE.

COURT'S DECISION:

THE DEFENDANT WAS NOT IN CUSTODY WHEN QUESTIONED AT THE BOEING PLANT ON FEBRUARY 12, 2013. A REASONABLE PERSON UNDER THE CIRCUMSTANCES WOULD NOT BELIEVE THEY WERE UNDER ARREST. THE DEFENDANT MADE AN EQUIVOCAL REQUEST WITH REGARD TO AN ATTORNEY. THE DEFENDANT WAS NOT CHARGED; AND HE WAS NOT SUBJECTED TO CUSTODIAL INTERROGATION. THERE IS NO LEGAL OBLIGATION FOR THE OFFICERS TO CLARIFY HIS EQUIVOCAL STATEMENT BEFORE PROCEEDING.

THE DEFENDANT WENT TO THE BOTHELL POLICE DEPARTMENT ON FEBRUARY 12, 2013, TO OBTAIN PAPERWORK REGARDING HIS CHILDREN. HE ALSO CONSENTED TO SEARCH OF HIS VEHICLE AND HIS APARTMENT. A REASONABLE PERSON UNDER THE CIRCUMSTANCES WOULD NOT BELIEVE THEY WERE IN CUSTODY. THE DEFENDANT DROVE TO HIS APARTMENT, WENT IN BEFORE THE OFFICERS, AND THEN CAME OUT TO GREET THEM. BECAUSE HE WAS NOT IN CUSTODY, THERE WAS NO RESTRICTION ON HIS OWN ABILITY TO CONTACT AN ATTORNEY IF HE WISHED TO DO SO.

OFFICERS ARRIVED AT THE DEFENDANT'S APARTMENT BY INVITATION ON FEBRUARY 12, 2013, TO PERFORM A SEARCH. AGAIN, THE DEFENDANT WAS NOT IN CUSTODY; AND A REASONABLE PERSON UNDER THE CIRCUMSTANCES WOULD NOT BELIEVE THEY WERE IN CUSTODY. THE DEFENDANT CONSENTED TO A RECORDED STATEMENT AND THE OFFICERS LEFT FOLLOWING THAT.

ON FEBRUARY 16, 2013, THE OFFICERS ARRIVED UNANNOUNCED AT THE DEFENDANT'S APARTMENT AND WERE INVITED IN. THE DEFENDANT WAS NOT IN CUSTODY. THE DEFENDANT SAID HIS ATTORNEY ADVISED HIM NOT TO TALK TO THEM, BUT HE SEEMED TO BE SAYING HE WAS NOT FOLLOWING HIS ATTORNEY'S ADVICE, AS HE CONTINUED TO SPEAK WITH THE OFFICERS. THIS DID NOT CREATE A LEGAL OBLIGATION FOR THE OFFICERS TO CEASE QUESTIONING. HOWEVER, AT ONE POINT HE SAID, "I AM DONE." THE OFFICERS CONTINUED TO QUESTION HIM AND THE DEFENDANT ASKED THEM TO LEAVE TWICE. THEY DIDN'T LEAVE, BUT IT WAS NOT A CUSTODY SITUATION. A REASONABLE PERSON UNDER THE CIRCUMSTANCES WOULD NOT BELIEVE THEY WERE IN CUSTODY. HE DID MAKE AN UNEQUIVOCAL STATEMENT THAT HE NOT LONGER WISHED TO TALK TO THEM AND THE QUESTIONING SHOULD HAVE CEASED AT THAT POINT IN TIME.

STATE OF WASHINGTON VS. ALAN JUSTIN SMITH

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ON FEBRUARY 22, 2013, THE OFFICERS WENT TO THE DEFENDANT'S APARTMENT AND WERE INVITED IN. THE DEFENDANT WAS WILLING TO ENGAGE IN CONVERSATION FOR ABOUT AN HOUR BEFORE HE INDICATED HE HAD NOTHING MORE TO SAY. AT THAT TIME, THE QUESTIONING STOPPED AND THE OFFICERS TOLD HIM THEY HAD A SEARCH WARRANT TO TAKE FORENSIC PHOTOGRAPHS OF HIS HANDS AT THE POLICE STATION. NOTHING ABOUT THIS ENCOUNTER, UNTIL HE WAS TOLD THE SEARCH WARRANTS WERE TO BE SERVED AND HE WOULD BE TAKEN TO THE POLICE DEPARTMENT, WOULD LEAD A REASONABLE PERSON UNDER THE CIRCUMSTANCES TO BELIEVE THEY WERE IN CUSTODY. EVEN THOUGH THE OFFICERS HAD THE SEARCH WARRANT WHEN THEY ARRIVED, AND EVEN IF THEY HAD PROBABLE CAUSE FOR AN ARREST, IT DOES NOT CREATE A CUSTODIAL SITUATION BEFORE THEY CHOSE TO DO SO.

THE COURT CONCLUDES ALL STATEMENTS MADE ON FEBRUARY 12, 2013, DURING THE THREE ENCOUNTERS ARE ADMISSIBLE. THE STATEMENTS MADE ON FEBRUARY 16, 2013, ARE ADMISSIBLE UNTIL THE POINT THE DEFENDANT SAID, "I AM DONE." THE STATEMENTS MADE AFTER THAT ARE NOT ADMISSIBLE. THE STATEMENTS MADE ON FEBRUARY 22, 2013, ARE ADMISSIBLE UNTIL THE POINT THAT THE DEFENDANT STATED HE HAD NOTHING MORE TO SAY.

4:10 COURT ADJOURNED.