

DISTRICT COURT OF WASHINGTON STATE
FOR GRANT COUNTY

STATE OF WASHINGTON,) NO. EPC033031
 Respondent,)
v.) **MEMORANDUM IN RESPONSE**
 GAVIN DAVID SEIM)
 Appellant,) **TO DEFENDANT'S MOTION TO**
)
) **DISMISS**
)
)

The State of Washington, by and through Marc F. Fedorak, Deputy Prosecuting Attorney, requests the court deny the defendant's motion to dismiss.

I. ISSUE PRESENTED

Whether evidence that the defendant's refusal to comply with Officer Canady's orders while Officer Canady was conducting a traffic stop pursuant to his duties as an officer of the Ephrata Police Department, where the defendant was acting aggressively towards Officer Canady and at one time stood dangerously close to weapons inside Officer Canady's patrol vehicle, thereby causing Officer Canady to divert his focus away from the traffic stop constitutes sufficient *prima facie* evidence for the offense of obstructing a law enforcement officer?

II. SHORT ANSWER

Evidence that the defendant's refusal to comply with Officer Canady's orders while Officer Canady was conducting a traffic stop pursuant to his duties as an officer of the Ephrata Police Department, where the defendant was acting aggressively towards Officer Canady and at one time stood dangerously close to weapons inside Officer Canady's patrol

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vehicle, thereby causing Officer Canady to divert his focus away from the traffic stop constitutes sufficient *prima facie* evidence for the offense of obstructing a law enforcement officer.

I. FACTS

The following facts are based on the police reports/affidavits of Officer Patrick Canady and Sergeant Troy Froewiss, which are attached to this memorandum as an appendix, and video evidence that has previously been filed with the court. For the purposes of this motion the State does not stipulate to any facts offered by the defendant outside of those included within the aforementioned sources.

On August 17, 2017, Officer Patrick Canady of the Ephrata Police Department conducted a traffic stop on a vehicle for an observed equipment violation. The stop took place in the parking lot of the Walmart in Ephrata, Washington. Officer Canady was in full uniform and operating his marked patrol vehicle. Officer Canady activated his emergency lights to initiate the stop and the lights remained activated throughout the stop.

During the course of the traffic stop the defendant rushed over to the scene and proceeded to hold up a black iphone 7 and aggressively issue commands at Officer Canady. The defendant initially positioned himself between the rear of the truck that Officer Canady had stopped and the front of Officer Canady's patrol vehicle. Meanwhile Officer Canady stood at the driver's side door of the stopped vehicle where he communicated with the driver regarding the traffic violation. The defendant demanded that Officer Canady "move [his] vehicle, stop blocking the aisle, stop harassing people and leave now." According to Officer Canady, the defendant acted in an "aggressive" manner. Officer Canady considered "the demands as threats that if [Officer Canady] did not do what [the defendant] was requesting,

something was going to happen to [Officer Canady].” Officer Canady continued to instruct the defendant to return to his vehicle for the safety of others. The defendant did not comply.

Eventually during the traffic stop, the defendant walked up to Officer Canady’s patrol vehicle and held his iphone 7 towards the inside of the vehicle. Video provided by Walmart shows the defendant initially stood such that his head was directly at the opening of the driver’s side window of the patrol vehicle. According to Officer Canady, present inside the patrol vehicle was a department issued loaded rifle and shotgun, and a can of pepper spray. The vehicle was running at the time. Officer Canady ordered the defendant to step back. The Walmart video shows the defendant eventually stepped back several feet but continued to video record Officer Canady’s patrol vehicle. The defendant eventually moved to the rear of Officer Canady’s vehicle, then Officer Canady approached the driver’s side of the patrol vehicle.

According to Officer Canady, when he entered the patrol vehicle the defendant continued to confront Officer Canady and hover around the vehicle. During this time, the defendant continued to confront Officer Canady about “harassing and collecting,” and did so while displaying an “aggressive demeanor.” Eventually, the defendant left the scene of the traffic stop and returned to his own vehicle.

Ephrata Police Department Sergeant Troy Froewiss responded pursuant to Officer Canady’s request. Upon arrival Sergeant Froewiss accompanied Officer Canady to arrest the defendant. The officers attempted to make contact with the defendant inside his vehicle and stated the defendant was under arrest but the defendant refused to open his door. Sergeant Froewiss told the defendant he would be charged with resisting arrest if he did not comply

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and eventually the defendant exited his vehicle. At the time of arrest, the defendant was holding his iphone 7 and Officer Canady seized it incident to the arrest. Officer Canady was unable to complete his investigation of the traffic infraction.

In his report, Officer Canady referenced other similar incidents, including one in which Mr. Seim verbalized a threat. During another traffic stop Mr. Seim interfered and made a statement Officer Canady interpreted as threatening. The actual statement was, "This better not happen again Canady! Do I make myself clear!" Officer Canady erroneously wrote the statement in his report as "Stop doing what you're doing or else." Officer Canady also included in his report that he is aware of the defendant's history of refusing to comply with firearm laws.

III. ARGUMENT

The material undisputed facts are sufficient to prove obstructing a law enforcement officer; thus, there are sufficient facts to support a prima facie showing of the elements of obstructing a law enforcement officer. Dismissal of the charge is not appropriate.

A remedy of dismissal without prejudice is available to a defendant, pursuant to CrRLJ 8.3(c) and *State v. Knapstad*, 107 Wn.2d 346 (1986), where the defendant establishes that there is insufficient evidence establishing a prima facie case of the crime charged. The State Supreme Court stated the test as "whether the facts which the State relies upon as a matter of law establish a prima facie case of guilt." *Knapstad*, 107 Wn.2d at 357.

The defendant's motion must be supported by an affidavit or declaration alleging that there are no material disputed facts and must set out the agreed facts, or by a stipulation to facts by both parties. CrRLJ 8.3(c)(1). The court shall grant the motion only if there are no

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material disputed facts and the undisputed facts do not establish a prima facie case of guilt. CrRLJ 8.3(c)(3). The court must view all evidence in the light most favorable to the prosecuting attorney and the court shall make all reasonable inferences in the light most favorable to the prosecuting attorney. *Id.* The court may not weigh conflicting statements and base its decision on the statement it finds the most credible. *Id.*

The first problem with the defendant's motion is he failed to include an affidavit or declaration alleging that there are no material disputed facts. The defendant cites some facts in his brief but does not state which facts from the officers' reports that he is not disputing or stipulating to. Therefore, the State is forced to assume all facts within the reports and evidence provided to the defendant are undisputed for purposes of the defendant's motion. Should the defendant state otherwise, the court must deny the defendant's motion.

The defendant in the present case is charged with obstructing a law enforcement officer. Obstructing a law enforcement officer is committed when: “[A] person willfully hinders, delays, or obstructs any law enforcement officer in the discharge of his or her official powers or duties.” RCW 9A.76.020. The term “willfully” as used in RCW 9A.76.020 is defined as: “Willfully means to purposefully act with knowledge that this action will hinder, delay, or obstruct a law enforcement officer in the discharge of the officer's official duties.” WPIC 120.02.01. Where law enforcement can be identified by their uniforms, marked patrol vehicles, or verbal identification, a person acts willfully as to a violation of RCW 9A.76.020 when he obstructs the officer. *State v. Steen*, 164 Wn. App. 789, 799, 265 P.3d 901 (2011).

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Where a defendant has a lawful duty to obey a command from an officer performing his duties, the defendant's refusal to obey may constitute obstructing a law enforcement officer. *Id.* at 800-802 (Defendant's refusal to permit law enforcement to enter home where exception to warrant requirement applied was sufficient evidence of obstructing a law enforcement officer); *State v. Contreras*, 92 Wn. App. 307, 966 P.2d 915 (1998) (Defendant's refusal to cooperate with officers responding to a vehicle prow in the area in which defendant was located was sufficient evidence of obstructing a law enforcement officer); *State v. D.E.D.*, 200 Wn. App. 484, 402 P.3d 851 (2017) (Defendant's refusal to respond to officer when officer did not have reasonable suspicion of criminal conduct was insufficient evidence of obstructing a law enforcement officer). Where an officer is conducting a traffic stop, a citizen who is not seized pursuant to the stop still has an obligation to comply with an officer's instructions in furtherance of controlling the scene. *City of Spokane v. Hays*, 99 Wn. App. 653, 660, 995 P.2d 88 (2000) (Passenger of vehicle involved in traffic stop was required to comply with officer's commands where furtive movements caused concern that a weapon could be within the passenger's reach; refusal to comply was sufficient evidence of obstructing a law enforcement officer).

Threatening conduct that hinders or obstructs an officer when performing his duties may constitute sufficient evidence of obstructing a law enforcement officer. *State v. Turner*, 103 Wn. App. 515, 13 P.3d 234 (2000). In *Turner*, a sheriff's sergeant contacted Turner after observing Turner appear to be urinating on the sidewalk. *Id.* at 518. The sergeant requested Turner's identification, Turner refused, yelled at the sergeant that he had no reason to stop him, then verbally threatened and lunged at the sergeant. *Id.* Turner refused to disclose

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whether he had any weapons and a rifle was later found inside Turner's vehicle. *Id.* The court found that regardless of whether the initial contact was a lawful seizure, Turner's aggressive actions were sufficient evidence to support an obstructing conviction. *Id.* at 525-526. The conduct obstructed the sergeant in his investigation into whether Turner was committing indecent exposure. *Id.* at 526.

A defendant who speaks to an officer when he knows the conduct is hindering or obstructing an officer may constitute sufficient evidence of obstructing a law enforcement officer. *State v. Lalonde*, 35 Wn. App. 54, 59-60, 61, 665 P.2d 421 (1983). In *Lalonde*, officers responded to an early morning report of a loud party, which included minors consuming liquor. *Id.* at 55-56. During their investigation, one juvenile resisted arrest and other members of the party circled around the officer and juvenile. *Id.* at 56. The party members screamed obscenities and protested the arrest. *Id.* at 56. Lalonde continually spoke to one of the officers who was attempting to clear the party members from the scene. *Id.* The officer ordered Lalonde to "step back." *Id.* Lalonde did not comply and after being physically forced back, Lalonde re-approached. *Id.* Lalonde claimed he was merely attempting to "keep things calm." *Id.* at 56, 61. Nevertheless, his actions hindered and obstructed the officer from gaining control of the situation. *Id.* at 61-62. The court held, Lalonde's actions were sufficient for obstructing a law enforcement officer, and further held Lalone knew his actions were obstructing the officer. *Id.*

Assuming a stipulation by the defendant, the facts the State anticipates it will present in its case in chief clearly establish the defendant obstructed Officer Canady while he was performing his duties during the traffic stop in the present case. First, the facts establish the

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defendant's actions constituted hindering or obstructing. During the course of the traffic stop, the defendant hindered or obstructed by ordering Officer Canady to "stop" his contact with the subject and to "leave." When Officer Canady requested the defendant return to his vehicle the defendant refused to comply. Officer Canady had cause for concern for his own safety and those involved considering his knowledge of the defendant's past interactions with law enforcement, his publicized refusal to comply with firearm laws, and his aggressive demeanor in this situation. As a result, Officer Canady's attention was distracted from the driver he had stopped and Officer Canady was forced to give the defendant his attention. Subsequently, the defendant contacted Officer Canady's patrol vehicle, which contained weapons and firearms. The latter act caused Officer Canady to be distracted to an even greater degree given the potential safety risk of an aggressive individual being in close proximity to weapons. Officer Canady ordered the defendant to step away from the patrol vehicle. Even when the defendant eventually stepped away from the open driver's side window he continued to hover around Officer Canady's vehicle and continued to exhibit an aggressive demeanor. Eventually, the defendant left the scene of the traffic stop but he did not leave the area. Instead, he merely returned to his truck. Officer Canady had reason to continue to be concerned the defendant may be a safety risk. Ultimately, Officer Canady was not able to complete his investigation of the traffic infraction because he was forced to address the safety risk the defendant presented.

The evidence in the present case is sufficiently analogous to the evidence in the above cited cases. Similar to Lalonde's disruption of the officer's investigation of the party in that case, the defendant here created a disruption significant enough to hinder or obstruct Officer Canady from giving the traffic stop his attention. Similar to Turner's aggressive demeanor

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toward the sergeant during that contact, here the defendant's aggressive demeanor was serious enough to warrant attention away from his duties and force the officer to focus squarely on the defendant. Officer Canady had authority to control the scene of the traffic stop and the defendant's non-compliance with Officer Canady's commands combined with his aggressive and dangerous conduct support the offense charged. The facts anticipated in the State's case in chief clearly establish a *prima facie* showing that the defendant's actions hindered or obstructed Officer Canady during the course of his duties.

Second, the facts establish the defendant's actions were willful. During the interaction, Officer Canady was in full uniform with his marked Ephrata Police Department patrol vehicle present with the emergency lights flashing. Officer Canady was clearly conducting a traffic stop. By inference, the defendant knew Officer Canady was performing his duties as a police officer and knew that his conduct created a safety risk that hindered and obstructed Officer Canady from performing those duties.

The defendant is misguided in his reliance on the First Amendment and the Washington State Constitution as protection against criminalization of his conduct. The offense of obstructing a law enforcement officer described under RCW 9.46.195 has been upheld as constitutional and to not violate an individual's freedom of speech. *State v. Lalonde*, 35 Wn. App. 54, 59-60, 61, 665 P.2d 421 (1983). The statute merely criminalizes conduct, including speech, that hinders or obstructs an officer while he is performing his duties. *State v. Williams*, 171 Wn. 474, 251 P.3d 877 (2011). The defendant fails to acknowledge his refusal to comply with Officer Canady's commands to not interfere with his traffic stop, the defendant's aggressive demeanor, the defendant's interruptions of Officer Canady's traffic stop, and the defendant's

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dangerously close proximity to Officer Canady's weapons. The defendant fails to explain how these acts are protected by the constitution. These acts are not constitutionally protected. Officers cannot be expected to carry out their duties on traffic stops if confronted with individuals who present safety concerns. Of particular concern in this case is the defendant's encroachment on Officer Canady's patrol vehicle that placed the defendant in close proximity to Officer Canady's department issued weapons. Combined with the defendant's aggressive demeanor, the defendant created an unsafe environment in which Officer Canady was forced to perform his duties. This conduct is not protected by the defendant's free speech rights or any other provision of either the federal or state constitution.

The present case is not one involving an individual simply yelling from a safe distance at a police officer who is performing his duties. In *State v. E.J.J.*, the Supreme Court held E.J.J.'s actions of yelling from his doorway at an officer 10 to 15 feet away to "pick on someone your own size" was constitutionally protected speech. 183 Wn.2d 497, 508, 500, 354 P.3d 815 (2015). In that case E.J.J. did not do any act to involve himself in the officer's investigation. *Id.* at 500. E.J.J. did not create a safety risk during the investigation. *Id.* The Court was unable to find sufficient evidence of obstructing a law enforcement officer in that case, but the case is distinguishable from the present. As previously discussed, the defendant's actions created a safety concern for Officer Canady that obstructed him in performance of his duties.

Thus, the undisputed facts in the light most favorable to the State constitute sufficient evidence to establish a *prima facie* showing that the defendant is guilty of obstructing a law enforcement officer.

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IV. CONCLUSION

The defendant's motion should be denied.

DATED this 7th day of December, 2017.

Respectfully Submitted,

GARTH DANO
Prosecuting Attorney

By: 

MARC F. FEDORAK
Deputy Prosecuting Attorney
WSBA #36405

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APPENDIX

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Ephrata Police Department

Prosecutor Report for Incident 17EP3116

RECEIVED
AUG 30 2017

GRANT COUNTY
PROSECUTING ATTORNEY

Nature: Traffic Vio/Haz

Address: 1399 NAT WASHINGTON WAY;
Walmart

Location:

EPHRATA WA 98823

Offense Codes: TOFF

Circumstances:

Received By: M36

How Received: Officer or Unit

Agency: EPPD

Responding Officers: Canady, Patrick

Disposition: Active 08/17/17

Responsible Officers: Canady, Patrick

Clearance: Officer Report to Follow

When Reported: 13:31:06 08/17/17

Occurred Between: 13:31:06 08/17/17 and 13:31:06 08/17/17

SUSPECTS:

Name: SEIM, GAVIN D.

Name Number: 68976

Race: W Sex: M

DOB: 01/17/85 Height: 5'11" Weight: 160

Hair: BRO Eyes: GRN

Address: 810 L ST SE, EPHRATA, WA 98823

Home Phone: (509)951-4860 Work Phone: (509)951-4860

COMPLAINANT:

Name: EPHRATA POLICE DEPARTMENT

Name Number: EPD

Race:

Sex:

DOB: **/**/** Height: ''

Weight: 0

Hair:

Eyes:

Address: 121 ALDER ST SW, EPHRATA, WA 98823

Home Phone: (509)754-2491 Work Phone: (509)754-1294
fax

WITNESSES:

Name: EDWARDS McMULLEN, ELIZABETH E.

Name Number: 296720

Race: W

Sex: F

DOB: 08/02/83 Height: 5'01"

Weight: 140

Hair: BRO

Eyes: BLU

Address: 9357 DODSON RD NW, EPHRATA, WA 98823

Home Phone: (509)488-4295 Work Phone: () -

Name: DOONAN, SEAN M.

Name Number: 389056

Race: Sex: DOB: 09/06/68 Height: ' " Weight:0 Hair: Eyes:

Address: 532 MERCYLN LN, ZILLAH, WA 98953

Home Phone: () - Work Phone: () -

INVOLVEMENTS

evmain	17EPE0466	08/17/17	evidence
evmain	17EPE0477	08/25/17	evidence
immisc	17EPM0943	08/21/17	Records Request
immisc	17EPM0999	08/30/17	Tracking
vhmain	166824	08/25/17	vehicle
nmmain	68976	08/17/17	Suspect
nmmain	296720	08/17/17	witness
nmmain	389056	08/17/17	witness
evmain	17EPE0466	08/17/17	Evidence Incident
evmain	17EPE0468	08/18/17	Evidence Incident
evmain	17EPE0477	08/25/17	Evidence Incident
nmmain	EPD	08/17/17	Complainant
jloffens	17J05759	08/17/17	Charged With
jloffens	17J05760	08/17/17	Charged With
cdcall	C17084667	08/17/17	Initiating Call
ctmain	EPC033031	08/30/17	Citation

CITATION INFORMATION:

Citation #: EPC033031

Date Issued: 00:00:00 08/17/17

Court: Ephrata Dist Crt

Speeds: Posted 0 Safe: 0 Actual: 0

Court Date: **,***,*** **/**/**

Vehicle #:

Bond Type:

Bond Amount: 0

Person Cited: SEIM, GAVIN D.

Name #: 68976

Race: W Sex: M DOB: Height: 5'11" Weight: 160 Hair: BRO Eyes: GRN
01/17/1985

Address: 810 L ST SE, EPHRATA, WA 98823

Home Telephone: (509)951-4860 -- Work Telephone: (509)951-4860

OFFENSE:**DESCRIPTION:****DISPOSITION:**

9A.46.020

HARASSMENT

9A.76.020

Obstructing a Law Enforcement Officer

VEHICLE INFORMATION:

Owner ID Number: 68976	Vehicle Number: 166824	License Plate: B48820S			
VIN: 1GTHK23191F178565	State: WA	Expires: **/**/**			
Year: 2001	/Make: GMC	Model: SIERRA	Type: PTK	Color: BLU/	Doors: 0
Value: 0	Characteristics:				

NARRATIVE:

Law Enforcement

Investigation Narrative

Suspect: Seim, Gavin D. 1-17-85
Charge/RCW: Harassment 9A.46.020
Obstructing Law Enforcement Officer 9A.76.020
Citation: EPC033031
Custody Status: (X) Jail () Free

Narrative: On 8-17-17 at approx. 1331, I was working for the City of Ephrata. I was in full uniform and driving a fully marked patrol car with overhead lights, siren, push bumper and with decals on the side of the marked vehicle indicating I was the Ephrata Police Dept. I made a traffic stop with WA plate# B48411T in the parking lot of Walmart at 1399 Nat WA Way. The traffic stop was in the parking lot on the eastside of the garden center in the parking stalls next to the garden center fence which placed my patrol car behind and off to the left of the subject vehicle. This also placed my patrol car in the middle of the driving area between the parking stalls on the west side and the east side of the parking lot thus partially blocking the main drive through area of the parking lot. I contacted the driver, who was later identified as Elizabeth E. Edwards 8-23-83, reference a taillight violation (right brake light stopped working when the right turn signal was activated). Edwards's vehicle license plate tabs were also expired on 8-6-17.

While I was out with Edwards, I observed a truck I recognized as belonging to Gavin Seim parked on the far east parking stalls of the same parking lot. I asked Sgt. Froewiss to respond to my location as Seim was at my location. I requested Sgt. Froewiss respond because Seim had made several contacts with me in the past and the contacts were getting more frequent. Seim has a history of confronting Law Enforcement while using his cell phone to record the confrontation. Seim often disseminates these videos on social media and/or YouTube after he edits them. I have watched Seim's videos in the past and he has advised in his videos that he will not listen to the police and will not go by the state's gun laws and restrictions. (See final paragraph reference past contacts and some details) I saw Gavin D. Seim 1-17-85 walk around the vehicle I had stopped from the right rear of the vehicle to the driver's side. Edwards asked me if the male was Gavin Seim.

Seim was standing approximately 2-5 feet from the rear of the vehicle I had stopped. Seim was holding a black cellphone and accusing me of harassing and collecting from the public. Seim was also confronting me about the way I had parked in the parking lot. I advised Seim multiple times to step back and go to his vehicle which he refused. Seim demanded that I move my vehicle, stop blocking the aisle, stop harassing people and leave now. At first, I did not know how to take this from Seim. I have had multiple contacts with Seim in the past. I felt very uncomfortable with his aggressive demeanor and his demands which I had not seen from Seim before. I took the demands as threats that if I did not do what he was requesting, something was going to happen to me. I advised Seim that I would not and told him to go to his vehicle. I instructed him to go to his car was for his safety, the safety of the people in the vehicle I had stopped, and for my own safety. Seim still refused to comply. I requested dispatch advise Sgt. Froewiss to expedite his response. Seim was very agitated and much more aggressive than I had ever observed in the past contacts I have had with him.

I stepped towards the front of the driver's door of the vehicle I had stopped to monitor Edwards, her passengers and Seim. Seim walked towards the passenger's side of my patrol car while Edwards was looking for her insurance. I watched Seim walk to the driver's side of my vehicle. The driver's side window of my vehicle was rolled down all the way as the weather for the day was approximately 80 degrees. I watched Seim lean into the driver's side window with him holding his cellphone close to himself. Being my vehicle was running, the driver's side door and window were not secure, my department issued rifle and shotgun were loaded, a can of pepper spray was accessible, the keys were in the ignition and with the motor running I felt very uncomfortable and unsure what Seim was going to do. I once again instructed Seim to step back.

I advised Edwards to give me a moment to deal with Seim. Seim was taking my full focus from the traffic stop and placed it onto himself at this time because of his aggressive demeanor. I approached Seim and he went to the passenger's side of my vehicle where the front fender and the door meet. Seim was confronting me about how I was harassing and collecting. I advised him that he was talking to the officer that helped his father plow out his business when it was plowed in with snow. I also advised him that I was the same officer that solved his father's burglary. Seim did not want to argue about what I have done for others but rather what I'm doing to others.

I entered my car and rolled up the front passenger window which, was half way down. Seim was standing at the passenger's window, wanting it rolled down. Seim then went to my driver's side while still confronting me. Seim was moving all around like a fly on a hot griddle. I advised Seim that I would be taking his phone as evidence. Seim told me I couldn't do that. I rolled my driver's side window up. Seim continued to confront me and I told him to back up. Seim went to his vehicle continuously stating that I was harassing and collecting. I took down Edwards' information and was unable to run her name through DOL. I re-contacted Edwards and gave her driver's license and registration back. I apologized to Edwards and told her that I needed to end this traffic stop so I could fully focus on Mr. Seim.

Sgt. Froewiss arrived and I advised him of what was going on. He asked me if there was probable cause to arrest Seim. I advised him there was probable cause to arrest Seim for Harassment and Obstructing a Law Enforcement Officer. Sgt. Froewiss and I walked to Seim's vehicle and made contact with him on the driver's side. Seim had the driver's side window rolled up. I asked Seim to step out of the vehicle, Seim asked; what for? I advised him that he was under arrest for Harassment and Obstructing a Law Enforcement Officer. Seim stopped me and told me to wait so he could start up his cell so he could record. Seim began to record on his cellphone and he unlocked the door.

Seim stepped out of the vehicle, I took his cellphone from his hand and placed it on the driver's seat. Seim was handcuffed (gauged to fit and double locked) and I escorted him to my patrol car where he was searched and placed into the back seat. Seim's wallet was taken off of him and placed into my vehicle. Sgt. Froewiss had Seim's cellphone and handed it to me. The cellphone was placed into my vehicle. Seim was transported to the Grant County Jail. While enroute to the jail, Seim continuously called me a thug, a robber, a thief, and a bad cop. Seim continuously demanded to know if I believed in God and that all my wrong doings will affect me. Seim was booked for Harassment and Obstructing a Law Enforcement officer under Citation # EPC033031. I made a copy of the Citation was left at the jail. Seim was advised that he was being booked for Harassment and

Obstructing a Law Enforcement Officer. He was also advised the right to an attorney.

I cleared the jail and went back to the Ephrata PD. I logged the cellphone into evidence and realized that I had forgotten to give Seim his copy of the citation. A short time later, I was advised that Seim had already been released from the jail. Seim's copy was later mailed to him certified mail.

On 8-25-17 at 0550, I reported for duty at the Ephrata PD. I received a copy of the incident from Walmart security. It showed the following:

At 1323, Seim pull into the Walmart parking through the middle eastside entrance. Seim drives to the Tire and Lube center and parks his vehicle, where he walks into Walmart

At 1330, I was behind Edwards' vehicle making a traffic stop with my overhead lights on. The vehicle pulls in the parking lot, east of the garden center.

At 1330, Seim exits out of the store through the same entrance door he had walked into.

At 1331, I exit my marked patrol car.

At 1331, Seim walks to his vehicle and enters it at 1331. Seim's vehicle was facing north and he backs out of his parking space. Seim accelerates rapidly and a large amount of exhaust come out of the right side tail pipe. Seim makes a u-turn in the parking and drives south through the parking where I'm conducting a traffic stop. Seim slows down almost to a stop. His vehicle is almost across the whole driving portion of the parking lot. Seim turns left (East) and parks his vehicle in the parking stalls in the far east side of the parking lot. Seim exits his vehicle and walks towards my traffic stop.

At 1332, Seim walks around my patrol car from the front and to the driver's side. Seim, while holding his camera, leans in towards the driver's side window with his camera. Seim steps back up quickly and then begins to start pointing with his left hand. Seim walks to the back of the patrol car and to the passenger's side of the patrol car until he is out of view.

At 1333, I walk back to my patrol car, open the driver's side door and speak to Seim. Seim is still out of the picture. I get back into my patrol car and shut the door. Seim walks around my patrol car from the passenger's side to the back of the patrol car and to the driver's side. Seim is approximately 5 feet from the driver's side door, squatting down while holding his cellphone at me with his right hand. Seim walks to the rear of my patrol car and to the passenger's side flailing both his arms and then he is out of the picture.

At 1335, I get out of my patrol car as Sgt Froewiss arrives at my location. I walk back and make contact with him. We stand there for a brief moment. I walked towards Edwards' (Out of picture) and Sgt. Froewiss follows.

At 1336, The driver and the children exit the vehicle and walk towards the front of Walmart.

At 1337, Seim is escorted to the right rear door of my patrol car and searched

At 1338, Seim was placed into the back of my patrol car while Sgt. Froewiss stands with Seim

At 1340, I was contacted by a witness, Sean M. Doonan 9-6-68. I walk back to my patrol car and obtained a written statement. I re-contact him. I hand him the statement and he walks back to the main parking lot of Walmart.

At 1343, I get back into my patrol car then get back out and contact Seim while I place his seat belt on him. I get back into my patrol car and transport Seim to the Grant County Jail at 1344.

At 1344, Sgt. Froewiss clears and parks just a little south of the parking lot.

At 1347, A vehicle pulls up and parks by Sgt. Froewiss. Sgt. Froewiss is contacted by two subjects.

At 1352, Seim's vehicle is moved to Sgt. Froewiss's location

At 1353, The first vehicle that parked by Sgt. Froewiss's patrol car and Seim's vehicle leave the parking lot.

At 1353, Video Ends

On 8-25-17 at approximately 1125, I applied for a search warrant for Seim's black phone to recover the video of the incident at Walmart on 8-17-17. I made contact with Judge Estudillo who swore me in and read my search warrant affidavit. I received a warrant from Judge Estudillo which allowed to search Seim's black phone for the video where Seim confronts Officer Canady at Walmart parking lot at approximately 1330.

On 8-25-17, I went to the Grant County Sheriff's office and made contact with Detective Kyle Cox. I had spoken to Cox earlier in the morning who advised me he was trained to look into and retrieve information from cellphones. I took a copy of the warrant and Seim's cellphone to Detective Cox. Cox logged, photographed and attempted to look into the phone but was unable to get into the phone because it was locked with a password.

The following dates are days that Seim has confronted me:
On 12-18-14 on Basin St SW and 1st Ave SW while on a traffic stop with my overhead lights on. An unknown vehicle parks directly behind my patrol vehicle while I'm out of my car. With my overhead lights flashing, I could not see who or what was going on in the car behind me. From the outside of my car, I turned my spotlight on that vehicle. I could see it was Seim in his car. I left the spot light on Seim while I made contact with my subject vehicle. I saw Seim drive past me and park in front of the subject vehicle. Seim gets out of his car, walks almost up to the front bumper of the subject vehicle, holding his cell phone out as if he was recording. I asked Seim if I could help him and he advises he is observing. I asked Seim to return to his car and Seim refused. I instructed Seim to go back to his car explaining to him that he did not know what was in the vehicle I was out with. Seim walked back to his vehicle. (In the video Seim posted on YouTube, he edits out the part when he goes back to his vehicle). After the subject vehicle leaves, Seim confronts me and demands that I do not shine any light at anyone. At one time, Seim gives me an ultimatum to stop doing what I'm doing or else.

On 8-23-15 on Nat Washington Way and A St SE on a traffic stop where Seim pulled

up on the other side of the street with his vehicle and shinned his high beams and fog lights at my patrol car driver's window making me unable to see. I turned my spotlight on his vehicle to see what he was doing. While on the stop, Seim demanded that I turned my spot light off. I asked him to turn his lights off first and Seim refused.

On 8-2-17 on 5th Ave SE and C St SE on a traffic stop. I had stopped a vehicle for no working taillights and expired tabs. While on the stop, I see Seim drive west on 5th Ave SE and make a u-turn in the middle of 5th Ave SE. I saw Seim drive past me and park just behind me and across the street from my location. Seim asked me if I was harassing people. I told him no that he Seim was harassing me. Seim asked me what I was stopping the subject for. I advised him it was a traffic violation. As I was walking back to my patrol car, Seim asked me if I was doing any good or giving the locals trouble. I told him that he was giving me trouble.

Seim got out of his truck and was approaching my patrol car while I was in it. Seim asked if he could ask a question and I told him I would answer one question. Seim asked me what I had stopped this guy for and I told Seim it was for expired tabs. Seim said the subject was parked in front of his own house. I advised Seim that he did not know that. (The subject did not live there) Seim was confronting me about the stop. I began to drive off as Soap Lake PD advised me of a subject that would be coming to Ephrata from Soap Lake. Seim was running next to the driver's side of my vehicle that had its window. Seim was demanding that he ask and I answer more than one question. I stopped and told Seim that I answered his question and I was nice. I also stopped because he was running next to my car approximately 3 feet. I began to drive off again and Seim continued to run next to my car. Seim tells me to stop harassing. I advised of the same.

I later watched the video of the confrontation which Seim posted on YouTube. Seim in his video said that Ephrata was a small town and he was going to go look for me, as he is driving around looking for me. Seim drives through the parking lot of the Ephrata PD and said my car was in the parking lot. My car and I were on the northside of Ephrata looking for a subject driving in his vehicle from Soap Lake.

On 8-17-17 (today) while on a traffic stop in the Walmart parking lot, Seim confronts me again but in a much more aggressive way.

RCW 9A.72.085 "I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

Date: 8-30-17
Reporting Officer: P. R. Canady
Agency: Ephrata PD

Supplemental Narrative:**Name:** Froewiss, Troy**Date:** 17:19:07 08/17/17**SUPPLEMENTAL OFFICER'S REPORT**

On 08/17/17 at approximately 1332 hrs, I was on uniformed patrol for the Ephrata Police Department driving a fully marked patrol vehicle. I was working with Officer P. Canady and knew he was on a traffic stop in the Walmart parking lot, located at 1399 Nat Washington Way. Canady contacted me on the Ephrata tactical channel and requested I responded to his location.

I asked Canady if he needed me to respond with a code response (lights and or sirens) and he did not answer. I advised MACC of Canady's request and asked them to inquire over the primary frequency if he needed a code response. Canady did not answer and I responded code with my overhead lights activated and used my siren when necessary.

It should be noted; the radio reception at Walmart is very spotty, I was not sure whether Canady was not answering me because he was dealing with some type of serious situation or if his radio was simply not receiving my traffic.

I arrived approximately one minute later and parked behind Canady's vehicle. I observed a Chevrolet truck parked to the right of Canady's vehicle which I immediately recognized as belonging to Gavin D. Seim (01/17/85). I know of Seim to regularly film law enforcement contacts with citizens and have watched videos Seim has posted online showing this. I have also watched videos Seim has posted online where he isn't simply standing to the side making comments while filming but harasses and interferes with Canady and other officers while they are on contacts or traffic stops.

I exited my patrol vehicle and approached Canady as he spoke with the driver of the vehicle he stopped. Canady apologized to the driver about what took place and advised her she can enter Walmart. The female driver also apologized to him about what took place and Canady turned towards me.

I asked him to tell me what happened and he told me while he was conducting this traffic stop, Seim interfered. Canady told me Seim was actually leaning into his vehicle at one point and taking his attention away from the stop. Canady said he told Seim at least twice to return to his vehicle and Seim did not comply. Canady said Seim was filming the incident.

I asked Canady if he has probable cause (PC) to arrest Seim. Canady said he has probable cause to arrest Seim for Harassment and Obstructing a Public Servant. I told Canady, if you have PC then make the arrest.

Canady approached the driver's side door of Seim's vehicle and the window was rolled up. Canady knocked on the window and Seim did not respond. Canady attempted to open the door and it was locked. Canady again knocked on the window and told Seim to step out of the vehicle. Seim rolled the window down approximately 6 inches and said something to Canady. Canady told Seim to step out of the vehicle and he did not comply. Canady told Seim he is under arrest and again told him to step out of the vehicle, without compliance.

I advised Seim, If you do not exit the vehicle, you will also be arrested for Resisting Arrest. Seim repeated what I said in the form of a question and I

again told him if he did not comply he will be arrested for Resisting Arrest. Seim exited the vehicle and Canady placed him in custody. I took possession of Seim's cellular phone.

Canady escorted Seim to the rear of his patrol vehicle and searched him incident to his arrest. Seim was seated in the back seat of Canady's patrol vehicle on the passenger side. I asked Seim if he would like me to secure his truck or leave it as is. Seim asked if he could call someone to pick it up. I told him he could and asked if he wanted me to handle his phone or use my own phone. Seim told me to use his phone.

I followed Seim's instructions on navigating his phone and called the number he told me to call, then placed the phone on speaker. Seim spoke with who he said is his mother. Seim told his mother he is under arrest and asked her to make arrangements for his truck to be picked up. Seim told his mother to tell everyone to call the Ephrata Police Department (EPD). (It should be noted, just minutes after the arrest, EPD clerical staff started to get bombarded with harassing phone calls from all over the country which went on for two days).

Canady pointed to a male subject who was later identified to me as Sean M Doonan (09/06/68). Canady told me Doonan witnessed the incident and is filling out a written statement. Canady advised me to contact Doonan to obtain the statement. Canady transported Seim to the Grant County Jail while I contacted Doonan.

As I was speaking with Doonan, a male and female approached me. The male was filming me with a tablet. I later determined the male and female to be Seim's parents. Seim's father asked me numerous questions about the arrest to which I advised him to do a public records request. After approximately 2 minutes, I told the father I was finished speaking with him and I walked back to where Doonan was standing.

Doonan completed the statement which he signed in my presence. Doonan told me he observed the traffic stop and did not see that the officer did anything wrong. Doonan said if he thought the officer did do something wrong, he would tell me. Doonan said the male (Seim) was yelling and screaming at the officer. I thanked Doonan and I cleared. I later gave Canady the written statement which is attached to his report.

At approximately 1830 hrs, I contacted EPD Officer C. Eckhart and requested he contact the violator of the vehicle Canady had stopped. I asked Eckhart to have the driver fill out a written statement. On 08/21/17, upon returning to work from my days off, I received an e-mail from Eckhart advising me he obtained a written statement from the violator and forwarded it to Canady.

RCW 9A.72.085 "I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct."

Date: Mon Aug 21 11:19:01 PDT, 2017
Reporting Officer: Sgt. T. Froewis #206
Agency: Ephrata PD



Ephrata Police Department

121 Alder Street S.W. • Ephrata, WA 98823 • Tel:(509) 754-2491 • Fax: (509) 754-1294

Michael R. Warren
CHIEF of POLICE

SWORN STATEMENT

CASE NO. 17EP3116

Edwards

Elizabeth

Elena

08-02-1983

Last
Address

First

Middle

Date of Birth

9357 Dodson Rd N.

Ephrata WA

509.398.0252

City/State/Zip

Phone

I was pulled over for a traffic stop today 8-17-17. While the officer was getting my paperwork Gavin Seim ~~were~~ approached the officer complaining that he was blocking the exit. The officer took my paperwork and went back to his car. Gavin went to ~~his~~ car the police car and was filming him, first from passenger side then to the drivers side. The officer asked him repeatedly to leave but he didn't listen. ~~The~~ Gavin repeatedly called the officer names claiming he was harassing me. He called the officer a coon ~~and~~ numerous times.

If more space is needed, attach plain paper

I am the person who gave the attached statement of _____ pages. I have read, or have had read to me, the contents of the statement. I believe the statement is a true and accurate account of the facts of this case. Any attached page/pages is/are by this reference incorporated and made a part of this affidavit. I further understand this statement is made under oath and reflects truthfully all the facts within my knowledge. I also understand this affidavit may be used in a court of law. I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Eb Eller
Declaration Made By

8-17-17 Ephrata
Date and Place

Received By: Jay Gruen 2214

Date: 08-17-17

Sworn Statement (Rev. 4/2016)



Ephrata Police Department

121 Alder Street S.W. • Ephrata, WA 98823 • Tel:(509) 754-2491 • Fax: (509) 754-1294

Michael R. Warren
CHIEF of POLICE

SWORN STATEMENT

CASE NO. 17EP3116

Doonor Sean
Last First
532 Merclyn Ln

Michael
Middle
21/1/68 W.F. (509) 945-3776
City/State/Zip Phone 945-6238

About 1:20 I was at Walmart in Ephrata WA taking down Apple maggot fly traps I witnessed officer with Police car with lights on polling over pickup truck. The officer allowed pickup to pull into parking lot. About two or three minutes later I heard a rental man yelling and taking pictures of officer. I did not see officer yell or be rude to gentleman. The officer asked him to return to WS car. The gentleman just kept yelling

(S)

****If more space is needed, attach plain paper****

I am the person who gave the attached statement of 1 pages. I have read, or have had read to me, the contents of the statement. I believe the statement is a true and accurate account of the facts of this case. Any attached page/pages is/are by this reference incorporated and made a part of this affidavit. I further understand this statement is made under oath and reflects truthfully all the facts within my knowledge. I also understand this affidavit may be used in a court of law. I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SAC

Declaration Made By

Received By:

R.A.

8/17/17 Ephrata

Date and Place

Date: 08/17/17

Sworn Statement (Rev. 4/2016)