IN THE CENTRAL COUNTY DISTRICT COURT, SOUTHWEST DIVISION
DES MOINES COURTHOUSE, STATE OF WASHINGTON

THE STATE OF WASHINGTON, Plaintiff, vs. KENNY BOY, Defendant	No. 122BWA DEFENSE MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS: LACK OF PROBABLE CAUSE TO STOP

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IV. PRELIMINARY STATEMENT

The State of Washington has cited the defendant, Kenny Boy, for driving with license suspended in the first degree. This matter is before the court on the

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defendant's motion to suppress evidence resulting from an unlawful stop of Mr. Boy's vehicle. This memorandum is submitted in support of the defense motion.

V. STATEMENT OF ISSUE

Under Washington law, which requires suppression of evidence obtained as the result of an unlawful stop, should evidence be suppressed where the sole basis of a traffic stop was a warrant associated with a vehicle?

VI. STATEMENT OF FACTS

On February 5, 2009, Central City Officer Little ran the plate of a 1992 black Infinity. After running the plate he was notified that there was a warrant attached to the plate returning for a male by the name of Kenny Boy. Mr. Boy was not the registered owner of the vehicle. Nonetheless, based entirely upon there being a warrant associated with the vehicle, Officer Little activated his emergency lights and siren and conducted a traffic stop of the vehicle. Kenny Boy was identified as the driver of the Infinity, arrested on the warrant, and ultimately cited for driving with license suspended in the first degree.

VII. ARGUMENT

A. OFFICER LITTLE'S STOP OF KENNY BOY, BASED SOLELY UPON A WARRANT ATTACHED TO THE VEHICLE, WAS UNLAWFUL.

Under Washington law, "[t]he stop of an automobile is a seizure of its occupants." *State v. Tijerina*, 61 Wn. App. 626, 628 (1991), citing *State v. Kennedy*,

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107 Wn2d 1, 4 (1986). Therefore, it must be justified at its inception and reasonable under the Fourth Amendment and Const. Art. 1, §7. *Kennedy* at 4.

A warrantless search and/or seizure is unreasonable under both the Fourth Amendment of the United States Constitution and Article 1, Section 7 of the Washington State Constitution, unless the search falls within one or more specific exceptions to the warrant requirement. *State v. Ross*, 141 Wash.2d 304, 312, 4 P.3d 130 (2000). The State has the burden to prove that a warrant exception applies. *State v. Vrieling*, 144 Wash.2d 489, 492, 28 P.3d 762 (2001); *State v. Ladson*, 138 Wash.2d 343, 349-50, 979 P.2d 833 (1999).

(Remainder of argument omitted.)

VIII. CONCLUSION

Officer Little lacked a reasonable and articulable suspicion to stop the vehicle operated by Mr. Boy where the sole basis of the stop was "a warrant attached to the plate" returning to the name of Kenny Boy, and where any association that Mr. Boy was known to have with this vehicle was either unknown, or over 1,500 days old.

RESPECTFULLY SUBMITTED this XX day of XXXXX, 20XX.

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