

FILED
CLALLAM COUNTY
NOV 17 2008
BARBARA CHRISTENSEN, Clerk

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IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLALLAM

STATE OF WASHINGTON,
Respondent,
vs.
DAROLD J. STENSON,
Petitioner.

NO. 94-1-00039-1

AFFIDAVIT OF DEBORAH S.
KELLY

(MTADPC)

1.- AFFIDAVIT OF DEBORAH S. KELLY

CLALLAM COUNTY
PROSECUTING ATTORNEY
Clallam County Courthouse
223 East Fourth Street, Suite 11
Port Angeles, Washington 98362-3015
(360) 417-2301 FAX 417-2469

CERTIFICATION

I, Deborah S. Kelly, am the elected Prosecuting Attorney for Clallam County. On Thursday, November 6, I went to the Supreme Court to examine evidence marked at the trial of Darold J. Stenson. I was accompanied by Pamela Loginsky, a staff attorney for the Washington Association of Prosecuting Attorneys who assisted me in reviewing the exhibits.

That in the course of and following this visit, I learned the following procedures that have been utilized for handling evidence by the Supreme Court in this case. The evidence is kept in a locked vault accessible to authorized court staff. By informal policy, only counsel of record are permitted to examine the evidence; however, I was informed prior to the visit that I could have a law enforcement officer review the evidence for me if I provided the officer with a letter on official letterhead. We were not required to log in or out nor were our belongings inspected when we left to ensure we had not removed items. Prior to our arrival, the evidence had been taken to a small closet/room used for storage where Ms. Loginsky and I were left alone. There were approximately five "banker" boxes containing the evidence. No one observed our examination and we were not provided gloves until we requested them shortly after opening the first box. The only items of evidence we handled without gloves were some paper exhibits and photographs and outer packaging. (Apparently, normally a box of gloves is maintained in the room but the last box had been exhausted and not replaced.) With few exceptions, the Stenson evidence was unsealed and had clearly been opened and handled at trial. With respect to some of the evidence which had been previously tested by the FBI, it was impossible to determine whether the evidence had been opened as the evidence tape was not broken but was old and curling up off the envelope such that the envelope was open (the tape

1 - MOTION FOR DETERMINATION OF PROBABLE CAUSE

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1 itself appeared to be of a type that could have allowed opening of a package without breaking)
 2 Other exhibits were merely contained in ziplock bags without any sealant tape which could
 3 have been opened and resealed; it was simply impossible to tell if that had occurred.

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 5 As in this type of case, nothing is taken for granted, I wish to assure the Court and
 6 counsel, that Ms. Loginsky and I opened nothing that remained sealed and removed no items of
 7 evidence.

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 9 Additionally, on November 14, 2008, I spoke with counsel for Petitioner who informed
 10 me that his co-counsel, Ms. McCloud, has previously examined at least some of these items of
 11 evidence at the Supreme Court although he was not present when that occurred.

12 I CERTIFY under penalty of perjury under the laws of the State of Washington that the
 13 foregoing is true and correct.

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 15 SIGNED AND DATED this 17th day of November, 2008, at
 16 Port Angeles, Washington.

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 18 DEBORAH S. KELLY, Prosecuting Attorney

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 2 - MOTION FOR DETERMINATION
 OF PROBABLE CAUSE

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