

NO. 53375-8-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION TWO

STATE OF WASHINGTON,

Appellant,

v.

TANYA GRIFFITH,

Respondent.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR LEWIS COUNTY

The Honorable James W. Lawler, Judge

BRIEF OF RESPONDENT

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A. STATEMENT OF THE CASE

For purposes of this appeal, counsel for Ms. Griffith adopts the Statement of the Case in Appellant's Opening Brief, pages 1-4.

B. ARGUMENT

Remand to the trial court is necessary.

Appellate counsel for respondent, Ms. Griffith, has taken the following action on this State's appeal: thoroughly reviewed the superior court file to include all pleadings filed by trial counsel; read the appropriate verbatim report of proceedings; contacted trial defense counsel, Ms. Griffith, and the State's appellate counsel Ms. Beigh, pored over Appellant's Opening Brief, reviewed and researched all authority cited in Appellant's Opening Brief, consulted with other experienced appellate counsel, and conducted legal research and analysis on the issue in the State's appeal.

I can find no authority in law which supports the trial court judge's legal conclusion that Article 1, Section 7 of the Washington State Constitution required the termination of an administrative inspection of a purse voluntarily provided to a government-employed security guard at the Centralia/Chehalis Social Security Administration Office once a legally authorized security inspection of the purse commenced, even though the

provider of the purse and the purse's owner asked the security guard to immediately stop the inspection and return the purse to its owner.

To the contrary, my research informs me once the purse was in the Social Security Office, lawfully handed over to the security guard for an administrative inspection, and immediately opened and searched, the provider of the purse and the owner of the purse were without legal authority to cause the administrative inspection of the purse to cease immediately. As such, the security guard legally inspected the purse. See *United States v. Kerr*, 300 F. Supp. 3d 1226 (2018).

The trial court acted without authority of law in granting Ms. Griffith's motion to suppress the lawful inspection of her purse under the theory presented to the trial court.

C. LIMITATION ON CONCESSION

Appellate counsel clarifies that her concession is limited to the described legal issue. On remand, Ms. Griffith should face no limitations moving forward on alternative legal theories to suppress the evidence.

D. CONCLUSION

This court should remand Ms. Griffith's case to the trial court for further action consistent with the Brief of Appellant and the Brief of Respondent.

Respectfully submitted,

November 7, 2019.

A handwritten signature in black ink, consisting of a long horizontal stroke at the top, a loop on the left side, and a wavy line below it.

LISA E. TABBUT/WSBA 21344
Attorney for Tanya Griffith