

6 specifically. During your interview with Mr. Titus you
7 never asked him whether or not he actually offended
8 against anybody other than children, did you?

9 A Well, effectively I did. I asked him about
10 reporting his sexual history and that was the second item.
11 I have a copy of Mr. Killian's report here. I can read
12 them for you. I asked him about his general history,
13 sexual history and the crime under consideration for the
14 evaluation. Then I asked a question about whether he
15 attempted to get misleading results. I suspect Mr. Titus
16 understands the meaning of the word misleading.

17 Q When you asked him that you didn't question him
18 about that, did you?

19 A Whether he understood what misleading meant?

20 Q Correct.

21 A No.

22 Q Let's talk about the second item, were you
23 truthful to Dr. Allmon when you reported your sexual
24 history? It appears to indicate there was no deception,
25 right?

21

□

1 A That's correct.

2 Q When you asked him about his sexual history you
3 never asked him whether or not he offended against adults,
4 did you?

5 A Not in those words. I took the history and
6 asked him what sexual behavior he has engaged in. If he
7 had done something illegal as an adult such as kidnapping
8 then it would be obvious from his comment if he had

9 broken the law.

10 Q You never asked him whether he coerced an adult
11 into sexual contact or whether he kidnapped and forced
12 them into sexual acts? You asked him about children?

13 A No, that's not correct. I asked him for his
14 sexual history which included all behavior. I didn't say
15 tell me about your sexual history with adults. I took a
16 detailed history of sexual behavior.

17 Q He told you about interactions with adults. In
18 fact he told you he had thousands of encounters, over a
19 thousand?

20 A Over one thousand for fifteen years, which
21 prorated is about once a week.

22 Q You never asked him whether or not any of these
23 were illegal, did you? You simply relied on him telling
24 you if they were?

25 A That isn't true. I asked him in each case when

22

0

1 he was reporting the approximate age.

2 Q And I understand that but there are different
3 ways to commit sex offenses? For example even if it was
4 an adult he could have committed the offense by force?
5 That would be a crime, right?

6 A Yes, he could have committed a crime by doing
7 something illegal with an adult sexually speaking.

8 Q You did not elicit that information
9 specifically? You relied on him reporting to you what
10 happened and you believed he would have reported to you?

11 A Well, you never just believe what he has stated.
12 You ordinarily probe every single question. He told me

13 the circumstances. Tell me the age. How many encounters
14 with this person. I general what did you do sexually with
15 them. The way you are posing the question doesn't fit the
16 circumstances. I'm asking history. I didn't say in every
17 case did you kidnap. Did you tie him up. I said tell me
18 about the circumstances of this encounter. I believe he
19 would have, given the context of our conversation, I
20 believe he would have commented about anything legally
21 irregular with an adult partner.

22 Q Doctor, did you ever have a conversation with
23 him about the definition of adult as opposed to juvenile?

24 A No.

25 Q Do you know for a fact that he believes that 18

23

0

1 year olds and above are adults and under that are
2 juveniles?

3 A Sorting through my memory of the conversation I
4 don't think we ever discussed the definition of an adult,
5 whether it was 18 or 21.

6 Q Is it possible then, doctor, that he may have
7 perhaps inverted the definition of who was able to give
8 consent which varies by state? Do you know whether he did
9 that or not?

10 A I don't.

11 Q Going to the Mercer --

12 A Wait a minute. That isn't quite correct. I
13 will almost always during a course of confrontation say 18
14 years old and I would not go to the 21 year old standard.
15 So it just is not my practice and when I do a structured

16 interview to use terms such as 21 years old, if I was
17 going to specify an age I would say 18 years old or more.

18 Q Doctor, he say in your report a number of
19 references to "minor", is that usually the term you use?

20 A Typically I might say underage.

21 Q Okay. And there are different definitions of
22 underage varying by state; is that your understanding.

23 A That's my understanding.

24 Q Going to the Mercer Island events if we could,
25 doctor. Did Mr. Titus tell you this was 3 o'clock in the

24

□

1 morning?

2 A Yes, he did.

3 Q Did he tell you about the fact that a police
4 officer came and encountered him?

5 A Yes.

6 Q Did he tell you about the fact beside him there
7 was a container of Neutrogena lotion in the corner of the
8 restroom?

9 A Yes.

10 Q Did he tell you about the fact he had a fake
11 police badge around his neck at the time?

12 A Yes.

13 Q Does that cause you concern he had a fake police
14 badge around his neck at three in the morning?

15 A Yes, it did. My memory is he told me it was
16 given to him by a member or former member of law
17 enforcement who was a friend of his and given to him as a
18 token of affection. I think it may have been a miniature.
19 I'm not clear on that.

Transcript of Benton Co proceeding titus.TXT

20 Q Did he tell you in his vehicle he had a
21 sheriff's officer ball cap as well as a police Mag light?

22 A Yes, he did.

23 Q Did that cause concern?

24 A The would if I thought he was using them to
25 impersonate a police officer but it wasn't after I

25

□

1 questioned him.

2 Q How do you come to the conclusion he wasn't
3 impersonating a police officer?

4 A When I confronted him he said he was not.

5 Q Did he tell you he was there to meet somebody?

6 A No, he didn't tell me that.

7 Q He didn't tell you he was there to meet somebody
8 from the internet named Charles?

9 A I don't recall that.

10 Q You indicated in your report some psychological
11 characterizations of Mr. Titus and one of them that was he
12 was prone to bend the rules?

13 A Yes, I did.

14 Q Is your assumption based on the totality of the
15 information?

16 A That's based on test results that says his
17 predisposition is to bend rules.

18 Q And you also stated in your report that he was
19 more prone to irritability and resentment of authority; is
20 that right?

21 A That's right.

22 Q Another one you found was he was impulsive more

23 than the average person?

24 A I believe so. Let me double check that. Yes.

25 Q And not prone to experience guilt. Is that

26

□

1 another finding you made?

2 A I don't recall that but I may have said that .

3 Q I think that comes under remorse in your
4 findings?

5 A Yes. Okay. Let me scan that. Yes, he seemed
6 not to be burdened with guilt. Sometimes I get a person
7 who is assuming focus on the guilt. It's hard to get past
8 that. Given he also expressed remorse for the crime. I
9 think that -- I thought that assumed greater importance
10 than one that was cavalier about his stance on guilt.

11 Q I didn't see anything in the report about
12 remorse. Can you tell me how he expressed that?

13 A As an aside, when I interviewed him he pretty
14 consistently said I think I mishandled everything and I'm
15 sorry and he said that to me quite a number of occasions
16 that he is not proud of his behavior as an adolescent.

17 Q And doctor --

18 A He seemed to benefit well from treatment because
19 when I probed whether or not he recognized the impact of a
20 sex crime on a minor male he was readily able to say, yes,
21 I may have created these adverse feelings in the victims.
22 He seemed pretty genuine about that.

23 Q Were those his words, adverse feelings?

24 A No.

25 Q Do you recall what he said?

0

1 A I don't.

2 Q That's your impression?

3 A That's my impression.

4 Q And one final finding was exceptional focus on
5 himself. Do you recall making that finding?

6 A Probably self-centered.

7 Q I missed one question regarding Mercer Island
8 incident. Would it cause more concern had he told the
9 police he was meeting someone from the internet, with to
10 paraphernalia in that restroom at that time of night?

11 A I'm not sure the paraphernalia was that
12 significant. I don't have any evidence that he is in the
13 habit of impersonating a police officer. When we
14 discussed that, he denied that was the case, that he was
15 going to meet someone there on a prearranged basis. I
16 guess he can meet anyone anywhere he likes. The crime
17 would be to engage in sexual behavior in that locale,
18 which he did not do.

19 Q There is a section in your report where you
20 interview Mr. Titus and he admitted about fantasizing
21 about 21 and 26 years old?

22 A Yes.

23 Q Does that cause you concern fantasized about
24 people that were over ten years younger than him?

25 A No. Any romantic association entails that.

0

1 It's not as though he was 70 and the partner was 18 but in

2 that it doesn't mean he is a pedophile or engaging in
3 pedophilic behavior as an adult.

4 Q But that's not the nature of this hearing,
5 correct, doctor?

6 A Please repeat your question.

7 Q Isn't it correct that your understanding of the
8 sexual offender registration is not just to protect
9 children but society from sex offenders, correct?

10 A A section crime involving a child necessarily
11 impacts the child's family system and everybody with whom
12 the child associates. Very troubling and very, very
13 debilitating to the family.

14 Q I think maybe you are going on the wrong road.
15 My question, from your understanding of sex offender
16 registration is it to protect children, just children or
17 protect society other victims, adult victims from sex
18 offenders?

19 A I am not privy to the rationale that the
20 legislature had when they put those laws in place but I
21 think in general they were hoping to have --

22 Q I'm not going to ask you to guess. If you say
23 you are not familiar, I won't ask you to guess what their
24 intent was if you don't have knowledge. Is it fair to say
25 when Mr. Alden questioned you earlier whether or not

□

1 continued sex offender registration is needed you didn't
2 have a foundation?

3 A I don't recall him asking me whether the sex
4 offender registration was needed and I'm not an expert on
5 public policy. I think it's been perhaps very helpful in

6 a number of cases. Society wants to do something to
7 minimize sex crimes and any sex crime impacts everybody
8 who is involved with it in an adverse way.

9 Q Thank you. And final question. If you, doctor,
10 when you testified to he has a low propensity to reoffend,
11 does that mean no propensity to reoffend, which is
12 quantifiable?

13 A Low is a relative term. Any person you can
14 think of or anyone can think of conceivably could engage
15 in a sex crime. Now, what the probability is in one case
16 may be different that the probability from another.
17 Generally speaking I would say that Mr. Titus appears to
18 have a sexually low probability of reoffending.

19 Q When you say that, are you gauging him against
20 the general population excluding people who have no
21 criminal history or are measuring him against people who
22 have been?

23 A Both. Anyone convicted of a sex crime has a
24 slightly higher probability in the long run of
25 reoffending. The difference is almost negligible I think.

30

□
1 I am not an expert with those numbers but I certainly work
2 in this realm and I certainly feel that that consensus is
3 true. There is a slight edge statistically once you are
4 convicted of a sex crime in the long run you may reoffend.

5 Q So is it safe to say your conclusion of
6 Mr. Titus is he has a lower probability of reoffense than
7 other sex offenders but the fact he is a sex offender
8 never he less makes him have a slightly higher, in your

9 words negligibly higher propensity to reoffend?

10 A Yes.

11 MR. HSU: Thank you. No further questions.

12 MR. ALDEN: I have no further questions,

13 Your Honor.

14 THE COURT: Thank you.

15 MR. ALDEN: Your Honor, next we would call

16 Mr. Titus.

17 DAVID TITUS,

18 was thereupon called as a witness on his own behalf, and

19 after having been first duly sworn, was examined and

20 testified as follows:

21 DIRECT EXAMINATION

22 BY:MR. ALDEN:

23 Q Mr. Titus, would you state your name for the

24 record?

25 A David L. Titus.

31

0

1 Q And your date of birth?

2 A August 15th 1974.

3 Q And how are you employed?

4 A I do computer consulting.

5 Q Mr. Titus, you brought this petition for

6 certificate of rehabilitation and termination of

7 requirement to register as a sex offender, correct?

8 A Correct.

9 Q You were convicted in Benton County Superior

10 court in 1993, correct?

11 A I believe that is correct.

12 Q And you pled guilty?

13 A That's correct.
14 Q Have you reoffended since that time?
15 A No, I have not.
16 Q Have you been convicted of any crime since that
17 time?
18 A No, I have not.
19 Q And that was in 1993?
20 A I believe that's the year. It may have been
21 that.
22 Q I think the conduct may have been before that
23 but you weren't convicted until '93?
24 A That might be true, yes.
25 Q And as a result of that conviction, you were

32

□

1 sentenced to 25 months?

2 A I believe that is correct.

3 Q What did you do when you got out?

4 A I moved to Seattle and I was on probation for
5 two years and I found an apartment to live in and I lived
6 in Seattle and worked in Seattle ever since.

7 Q There has been some conversation about events at
8 Mercer Island on Mercer Island. When was that? Do you
9 remember?

10 A I believe that was July of 2004.

11 Q What was going on that evening?

12 A I went to Mercer Island to visit a friend of
13 mine and after my friend and I visited -- I did not meet
14 him on the internet by the way. This was a prior friend I
15 already had. After our meeting and our talk I went for a

16 walk. It was late at night. I'm always up late at night.
17 I'm a night owl. I went to use the restroom and when I
18 used the restroom and I was washing my hands and coming
19 out I was met halfway out of the restroom by a female
20 police office from Mercer Island police.

21 Q Were you cited?

22 A No.

23 Q Were you arrested for anything?

24 A No.

25 Q Do you have and image of a police badge?

33

0

1 A I have a necklace with a replica of the King
2 County Sheriff's office that a friend gave me as a
3 Christmas gift.

4 Q Are you wearing it now?

5 A I am.

6 Q Show it to the judge?

7 A (Indicated).

8 Q Not hardly the size of a real badge?

9 A That's correct.

10 Q How were you attired that evening? Were you
11 wearing a T-shirt? Were you are wearing a coat and tie?

12 A That day I was wearing a polo shirt. That's why
13 it was exposed. I was wearing a pair of shorts and I
14 don't know if I was wearing my shoes or flip flops but
15 that's all I had on.

16 Q And that little badge is on a gold chain?

17 A That's correct.

18 Q And do you have some association with law
19 enforcement personally other than the friend gave you

20 that?

21 A I have a lot of friends and family in law
22 enforcement. Other than that, I don't have any official
23 capacity in the law enforcement.

24 Q Have you ever impersonated a police officer?

25 A No, I have not.

34

□

1 Q In fact your father is a police officer retired?

2 A He is not retired. He did work for Pasco
3 police.

4 Q Have you resided here since the 90's?

5 A I have not. I come back to visit my family for
6 holidays and vacation and things like that but I have not
7 resided in the Tri-Cities since.

8 Q You are asking the Court to remove the duty to
9 register primarily?

10 A That's correct.

11 Q Why do you want that?

12 A Well, I feel that I have definitely made
13 mistakes in my younger years but I've made the choice to
14 not make criminal choices and live my life in society
15 crime free and obeying the law and not victimizing people
16 or hurting people specifically in a sexual way, and I have
17 lived in the same residence for about 12 years, 12 to 13
18 years I've lived in Seattle. With the registration it's
19 just difficult, for thing that happen where I live -- as
20 far as where I can live, employment, getting employment.
21 I did lose one job because I'm a registered sex offender.
22 And I believe because I have lived my life crime free that

23 I should be able to be released of my duty to register.

24 Q So it obviously effects where you can live, your

25 ability to get employment, and you currently had a matter

35

□

1 before the FCC?

2 A That is correct.

3 Q And the duty to register was a big sticking
4 point?

5 A That is correct.

6 Q Is there anything else you would like to tell
7 the judge?

8 A Well, I have lots of things in my head when I'm
9 laying in bed trying to sleep but when I am here it's
10 harder to say things. I would just ask for your
11 consideration in this, to relieve me of my duty to
12 register and restore my firearm rights as well. Because I
13 have a lot of friends and family in law enforcement. By
14 that I'm around a lot of weapons and I don't want there
15 ever to be an issue if any of my friends or family or
16 myself because I'm in the presence of weapons. Also my
17 family goes hunting every year. I would like to go
18 hunting with them. I don't right now because of the
19 weapon restrictions and I feel really sorry -- I feel
20 really bad for the victim I created when he was younger,
21 and I wish for his sake I could change that. If I could
22 go back and change it, I would. Because it's affected
23 more than just the victim I created, also affected their
24 family and my family and the people I know. And those are
25 mistakes I made as a juvenile and I've chose to not make

0

1 those kinds of choices anymore and not have sex with
2 minors and live within the law the best I can.

3 MR. ALDEN: Thank you. I'm sure Mr. Hsu
4 may have a few questions for you.

5 CROSS EXAMINATION

6 BY: MR. HSU:

7 Q Mr. Titus, was there an incident in Seattle
8 where you were contacted by the Seattle Police Department,
9 I think was January of --

10 A You will have to refresh my memory? What
11 incident?

12 Q Was there an incident involving a parking fender
13 bender or disagreement? What happened there?

14 A Unlike what the police report says, I was
15 driving down the road southbound and a lady backed up,
16 pulled out, and hit my vehicle and because of that I
17 stopped. She stopped. We got out of the vehicles and had
18 a bit of a shouting match with each other. She was
19 accusing me of hitting her. It was her that backed into
20 me. I was definitely upset by that because she just hit
21 my car now she is blaming me for it. We ended up in a
22 shouting match very close to each other and she was
23 putting her finger in my face waving it like this and I
24 asked her several times to remove her finger from my face.
25 she did not after repeatedly asking her and I grabbed her

37

0

1 hand and put her hand down to the side. There was some

2 other commotion we had. She had asked me -- she had asked
3 me if I was a police officer. I told her I'm not telling
4 her what I do. She probably assumed I was a police
5 officer because I have antennas on my vehicle because of
6 CB radios and after that I left and went back to my
7 apartment.

8 Q Were you contacted by the police?

9 A I was called by the police.

10 Q Did you tell them what happened?

11 A I told them I'm not talking without my attorney
12 but essentially that was it.

13 Q Going to the Mercer Island incident, are you
14 telling the truth today?

15 A Yes, I am.

16 Q Did you tell the truth to the police?

17 A Yes, I did.

18 Q You just testified that you went to a friend's
19 home that evening, correct?

20 A Near my friend's residence.

21 Q What did you say?

22 A Near my friend's residence.

23 Q What does that mean?

24 A He lived on Mercer Island and we were talking in
25 my vehicle which is a couple houses down from his

38

0

1 residence.

2 Q But you know where he lived then, right?

3 A Yes.

4 Q And you knew his last name I'm assuming?

5 A Yes.

6 Q Is there a reason you told the police that your
7 friend's name was Charles but you did not know his last
8 name or address?

9 A I don't specifically telling them I didn't know
10 his last name. I knew his last name. I told them I would
11 not give them his last name and address.

12 Q You didn't know his name and you were just
13 supposed to meet at the corner of 78 and 85?

14 A That was four years ago. I don't recall what I
15 said but I may have said something like that.

16 Q How do you know this person?

17 A We were introduced by a mutual friend.

18 Q Is there a reason you would have told the police
19 that you met "Charles" over an internet chat room?

20 A That was a lie to the police. I told the police
21 we had talked on the internet. We did not meet on the
22 internet.

23 Q That was a lie to the police?

24 A That's correct.

25 Q Did you tell them you had a girlfriend named

39

□

1 Angie who was a King County police officer?

2 A I told them I had a gal friend who was a King
3 County Sheriff's deputy.

4 Q What is the difference?

5 A I sad gal friend not girlfriend for one and what
6 was the other part.

7 Q I was asking you what the difference was between
8 what they asked and what you told them?

9 A I'm telling it in my words.

10 Q When you spoke with Dr. Allmon were you
11 completely truthful with him?

12 A Yes.

13 Q You didn't mention Angie your girlfriend, did
14 you?

15 A I did. He may not recall it. But I told him
16 about the entire incident. That's how the necklace
17 conversation was involved with Dr. Allmon.

18 Q You never mentioned to him during your sexual
19 history Angie as a girlfriend, did you?

20 A I said gal friend, yes.

21 Q Did you tell him you have only had two female
22 sexual partners basically when you were 12 and 11?

23 A I told him I had three female sex partners when
24 I was a juvenile. That's true.

25 Q Three not two?

40

0

1 A I believe three. May have been two.

2 Q So it's your testimony today, Mr. Titus, that
3 you've never engaged in any illegal activity in the last
4 15 years; is that correct?

5 A As far as I'm aware except for driving over the
6 speed limit. May have jaywalked, spit on the sidewalk.
7 Other than that, I'm not aware of anything.

8 Q Criminal activity that is?

9 A No.

10 Q You told Dr. Allmon that you engaged in
11 homosexual voyeurism as your component for cruising for
12 sexual partners in public settings; is that correct?

13 A Those were his words.
14 Q You told him you look for partners for sex in
15 public?
16 A I have, yes.
17 Q That's a crime, isn't it?
18 A I don't believe so. Is it?
19 Q I'm asking you.
20 A I'm not a lawyer.
21 Q In fact you testified to him that you sometimes
22 but rarely engaged in sex in parks even; is to correct?
23 A I have on a couple occasions.
24 Q In the last 15 years?
25 A Yes.

41

0

1 Q That's a crime, isn't it?
2 A I don't know if it is. If it is, I'm not aware
3 of it.
4 Q Do you think that kind of activity, sex in
5 public places and sex in parks qualifies you as a member
6 of society that should be released from sex offender
7 registration?
8 A Yeah, I do.
9 Q You don't see anything wrong with that?
10 A No.
11 MR. HSU: Nothing further, thank you.
12 MR. ALDEN: I have nothing further, Your
13 Honor.
14 THE COURT: You may step down.
15 MR. ALDEN: And we have no further

16 testimony.

17 THE COURT: All right. Mr. Hsu.

18 MR. HSU: State calls Officer Franklin from
19 the Mercer Island Public Safety Police Department and if I
20 may approach I can probably dial her number.

21 MR. HSU: Officer Franklin, this is Eric Hsu
22 with the Benton County Prosecutor's Office. You are here
23 in Superior Court courtroom D. Your voice is here at
24 least?

25 MS. FRANKLIN: Yes.

42

0

1 MR. HSU: I will allow the Judge to swear
2 you in at this time.

3 JENNIFER FRANKLIN,
4 was thereupon called as a witness on behalf of the
5 Plaintiff, and after having been first duly sworn, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY: MR. HSU:

9 Q Officer Franklin, would you identify yourself
10 for the record please?

11 A I'm officer Jennifer Franklin, police officer
12 with the City of Mercer Island.

13 Q Officer Franklin how long have you been employed
14 in such a capacity?

15 A 18 years.

16 Q What was your assignment in July of 2004?

17 A Patrol officer.

18 Q Do you recall going to the South Mercer
19 Playfield's restroom that evening?

20 A I do.

21 Q What was the reason for you going there and what
22 time was it?

23 A It was approximately 3:00 in the morning. The
24 reason for going was we had recent issues of vandalism at
25 the park so my thought was to go around to the park to see

43

□

1 if anything was going on in terms of vandalism.

2 Q Did you see anything out of the ordinary when
3 you went there?

4 A I drove up. There are no lights at all. When I
5 drove up on the outside restroom. There was damage to the
6 outside of the building. There was orange paint that had
7 been splattered by a paint ball gun. I continued to check
8 out the inside of the bathroom to make sure if there was
9 any damage there or not. As I went into the main portion
10 of the bathroom I shown my flashlight and there was this
11 person standing there.

12 Q Were you able to later identified this person?

13 A I was.

14 Q Who was it?

15 A It was a David Lee Titus.

16 Q Mr. Titus what was he doing when you shown the
17 flashlight in and first had contact with him?

18 A He was standing there in the dark next to a
19 sink.

20 Q Did you notice anything else in the restroom
21 that caught your attention?

22 A Yes there was a bottle of Neutrogena located in

23 the corner of the restroom.

24 Q How long a restroom is this?

25 A I would say in terms of actual space it's

44

1 approximately oh five feet wide by about fifteen feet
2 long.

3 Q How close to Mr. Titus was this Neutrogena
4 located?

5 A I would say within two feet, three feet.

6 Q What did you do upon coming into contact with
7 Mr. Titus?

8 A Instantly had him get out the bathroom, come out
9 in the light where I could see him and I had asked him
10 name and I asked for ID. He stated he did not have any
11 with him at the time.

12 Q Did you ask him what he was doing there?

13 A I did.

14 Q What did he say?

15 A He claimed he was using the restroom because he
16 was out for a walk.

17 Q Did he say anything different about why he was
18 there later?

19 A Yes, he did. He stated -- when I explained to
20 him that the park is closed at 10:00, he said he was out
21 for a walk. I said where were you walking from. He
22 claimed he was meeting a friend of his up on 85th Avenue
23 and that's where his truck was parked. He continued to
24 state that he was there meeting his friend because his
25 friend was involved in ham radio operations and I asked

1 him what his friend's name was. He said it was Charles
2 but he couldn't remember his last name.

3 Q Did he tell you whether or not he knew where
4 this Charles, whose last name he couldn't remember lived?

5 A No, not at all.

6 Q Did you say you did or you didn't ask him?

7 A I did ask him. He did not know where Charles
8 lived.

9 Q Did he tell you how they were going to meet up
10 if he didn't know?

11 A He was to meet him at the corner of 78 and 85,
12 on the corner there.

13 Q What is on the corner there?

14 A Actually nothing. It's a residential
15 neighborhood, nothing else there.

16 Q It's a residential area?

17 A Correct.

18 Q Is it a residential area that has much of any
19 traffic in the middle of the night?

20 A Not at all.

21 Q How far away from the park is that?

22 A I would say it's approximately half a mile.

23 Q Did he tell you anything about how he met
24 Charles other than they were part of a ham radio group?

25 A My sergeant actually showed up on the scene and

1 he actually asked Titus again the same question and Titus

2 told him that he met him on line.

3 Q And when you say that, were you present during
4 that line of questioning?

5 A I don't recall if I was or if I was checking out
6 more of the bathroom. I can't recall if he was there or
7 not.

8 Q Was there anything about the way Mr. Titus was
9 dressed or anything that he was carrying or wearing that
10 concerned you?

11 A Yes.

12 Q What was that?

13 A Titus, around his neck he had it was like a
14 Sheriff's badge. It's a necklace badge. I asked him where
15 he got that from and he stated he was dating a King County
16 cop named Angie and she had given it to him.

17 Q This particular badge, were you able to
18 recognize it from anywhere else? Have you seen it
19 before?

20 A Yes, it's a King County badge.

21 Q How large was it?

22 A It wasn't too large. It's more of a necklace
23 form. In terms of inches maybe two inches, three inches
24 in diameter. It's hard for me to recall.

25 Q Have you seen that badge in any context outside

47

□

1 of law enforcement before?

2 A Outside of law enforcement, no.

3 Q Why did this badge concern you?

4 A To me that means you are associated with a
5 police affiliation. Usually just police wear a badge.

6 other people don't usually wear them.

7 Q Did you ever come to locate Mr. Titus's vehicle?

8 A Yes, I did.

9 Q Where was it parked?

10 A It was parked in the 7700 block of Southeast 87.

11 Q Is that close to the location he indicated to
12 you, that intersection?

13 A Yes it was.

14 Q What kind of a vehicle was it?

15 A I believe it was going to be -- I think it was a
16 pickup truck. It was a green pickup, a Ford.

17 Q And was there anything inside of significance
18 that you saw?

19 A Yes. The first part there was antennas sticking
20 out of it. We did ask Mr. Titus to look in the vehicle
21 and he gave us permission to. We looked inside of it. He
22 ended up having inside of there ham radio equipment as
23 well as having like a police sheriff's baseball cap.

24 Q When you say a sheriff's baseball cap, did it
25 say "sherif" or have a badge?

48

□

1 A If I recall it had like a badge on it. I can't
2 remember how it was identified. It was a sheriff baseball
3 cap and --

4 Q What is it -- I'm sorry. You were about to say
5 something?

6 A He had a police Mag light. He had a large kind
7 of Mag light.

8 Q When you say "large kind" state of the Court how

9 large you mean?

10 A It's fairly heavy. You have the basic
11 flashlight. In terms of length they are usually between
12 eight and ten inches long.

13 Q Have you seen those in a civilian vehicle much
14 in your career as a police officer?

15 A No.

16 Q Finally, last question, during your contact with
17 Mr. Titus, how was his body language?

18 A He was very nervous the whole time, extremely
19 defensive. He kept changing his statement. You know
20 basically -- he just seemed odd and nervous.

21 Q Anything about his body language to support that
22 or repute that to you?

23 A Well kept trying -- when I was talking to him he
24 just was fidgety. I had to keep walking toward him and
25 explain to him he needed to stay here he was not free to

49

□

1 leave. At the time he appeared nervous to me like he was
2 trying to hide something is what it felt like.

3 Q And the fidgety business, is that significant to
4 you as an investigator?

5 A I'm sorry I couldn't hear that.

6 Q The observation of him being fidgety, was that
7 significant to you as an investigator?

8 A Definitely.

9 Q How so?

10 A Is he hiding something? Does he have weapons et
11 center. I'm concerned about safety but also what
12 happened, concern also for a possible victim and so I was

13 just trying to investigate a possible potential crime.

14 Q What crime are you potentially investigating in
15 your mind?

16 A In my mind I'm looking to see if he is meeting
17 somebody there. We try to walk around the neighborhood to
18 see if anybody is out. Main concern is that late at night
19 especially right next to an elementary school. The
20 bathrooms are right across the street. I'm concerned
21 about children specifically after running his background.

22 Q What would be illegal about meeting somebody?

23 A Nothing would be illegal about meeting somebody.
24 However if the person was underage that would be an issue.

25 MR. HSU: Thank you very much. I have no

50

□

1 further questions. Thank you.

2 THE COURT: Mr. Alden.

3 CROSS EXAMINATION

4 BY MR. ALDEN:

5 Q Officer Franklin, I'm Ed Alden and I represent
6 Mr. Titus. This occurred about four years ago?

7 A That's correct.

8 Q From your testimony I take it that you didn't
9 cite Mr. Titus?

10 A I did not.

11 Q Now, this badge that he was wearing around his
12 neck, in fairness to you, Mr. Titus has shown that to the
13 Court. It appears to be about the size of a quarter
14 maybe?

15 A Okay, uh-huh.

16 Q Is that about right?
17 A That's about right.
18 Q And it was on a gold chain?
19 A Correct.
20 Q So it was obviously jewelry?
21 A Correct.
22 Q This was not an effort to imitate a real badge,
23 which is substantially larger?
24 A I don't know what his intentions were.
25 Q But a regulation badge I suspect is about three

51

0
1 inches, maybe two inches?
2 A Yes, a regulation badge would be.
3 Q Now, you indicated that Mr. Titus appeared
4 nervous?
5 A Correct.
6 Q Did you shake him down, pat him down?
7 A Pat him down for weapons I did.
8 Q And he didn't have any weapons?
9 A No, he did not.
10 Q In fact he was wearing shorts and a polo shirt,
11 correct?
12 A I don't remember what he was wearing at that
13 time. I don't have it listed here.
14 Q So I take it you didn't cite and you just told
15 Mr. Titus to get on his way?
16 A Correct.
17 Q When did you determine that he was a sex
18 offender -- registered sex offender?
19 A After we ran his name.

Transcript of Benton Co proceeding titus.TXT

20 Q After what?

21 A After I ran his name to dispatch.

22 Q You ran his name before you released him?

23 A Correct.

24 MR. ALDEN: I have no further questions.

25 MR. HSU: Your Honor, if I could, I wanted

52

□

1 to follow-up on one point.

2 THE COURT: Sure.

3 REDIRECT EXAMINATION

4 BY MR. HSU:

5 Q Officer Franklin, if Mr. Titus had been
6 intending to or told you he was to meet an adult in that
7 location for sexual activity and they were able to do so
8 would you have arrested him?

9 A If I were to catch them in the middle of sexual
10 activity, yes, because that's illegal.

11 Q What would have been the charge?

12 A Indecent exposure.

13 MR. HSU: I have no further questions.

14 Thank you, officer. Your Honor, the State rests at this
15 time.

16 THE COURT: Okay.

17 MR. ALDEN: We have nothing further.

18 THE COURT: I want to thank counsel for
19 their presentation. Also indicate to Mr. Titus should I
20 not agree with your position today is not because of your
21 counsel's presentation. Your counsel has done a very
22 good job. The court has jurisdiction of the parties and

23 subject matter. I take it the from indications from both
24 counsel the firearm provision isn't really being addressed
25 today and based on Mr. Hsu's representation I am not

53

0
1 granting that. With regard to the registration duty, the
2 Court has reviewed the statutes and basically 9A.44.130
3 indicates the Court shall consider the nature of the
4 registrable offense committed, and the criminal and
5 relevant noncriminal behavior of the petitioner both
6 before and after conviction, and may consider other
7 factors. Doesn't give me other factors which leads me to
8 believe the court has large discretion in making these
9 decisions. Goes on to say the Court may relieve the
10 petitioner's duty to register only if the petitioner
11 shows, with clear and convincing evidence, that
12 registration of the petitioner will not serve the purposes
13 of, then a number of statutes, which I think pretty much
14 all deal with the duty of registering and the reason
15 society feels that is important. Based upon the
16 information elicited today at this hearing and the reports
17 testimony I feel -- and the case law and statutes this
18 court determines it is appropriate to continue with the
19 registration requirement.

20 MR. HSU: Thank you, Your Honor.

21 THE COURT: Have a good afternoon and
22 weekend.

23 (End of proceedings)

24

25

Transcript of Benton Co proceeding titus.TXT
54

□

1 STATE OF WASHINGTON)
2 COUNTY OF BENTON) ss.

3
4

5 I, John R. McLaughlin, Jr. an official court
6 reporter for Benton County, Washington, hereby certify
7 that at said time and place I reported in stenotype all
8 testimony adduced and other oral proceedings had in the
9 foregoing matter; that thereafter my notes were reduced to
10 typewriting under my direction; and that the foregoing
11 transcript, page 2 to 54 both inclusive, contains a full,
12 true, and correct record of all such testimony adduced and
13 oral proceedings had and of the whole thereof. Witness my
14 hand at Kennewick, Washington, this 26th day of September
15 of 2008.

16
17
18
19
20
21
22
23
24
25

John R. McLaughlin, Jr., CSR

55

□

1

Transcript of Benton Co proceeding titus.TXT

2 To: Judy Lancaster
FCC

3
4 From: John McLaughlin
Official Court Reporter
7122 W. Okanogan Place, Building A
5 Kennewick, WA 99336

6 Original plus copy of Transcript of State v. Titus
54 pages at \$5 per page

7
8 Total due: \$270.00

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

56

□

CERTIFICATE OF SERVICE

Rebecca Lockhart, paralegal for the Enforcement Bureau, certifies that she has, on this 8th day of October 2008, served the foregoing "Enforcement Bureau's Supplement to Enforcement Bureau's Request to Permit Testimony by Rebuttal Witnesses" by delivery of a copy as follows.

Via First Class United States mail and email to:

George L. Lyon, Jr. Esquire
Counsel to David L. Titus
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Blvd., Suite 1500
McLean, Virginia 22102

GLyon@fcclaw.com

Via Hand Delivery to:

Chief Administrative Law Judge Richard L. Sippel
Federal Communications Commission
445 12th Street, S.W., Suite 1-C768
Washington, D.C. 20054



Rebecca Lockhart