

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

**IN THE SUPERIOR COURT OF WASHINGTON  
FOR OKANOGAN COUNTY**

	)	
STATE OF WASHINGTON,	)	<b>Case No. 15-1-00202-1</b>
	)	
Plaintiff,	)	<b>OFFER OF PROOF</b>
	)	<b>IN SUPPORT OF DEFENDANT’S</b>
JAMES FAIRE,	)	<b>MOTION TO DISMISS/MOTION TO</b>
	)	<b>SUPPRESS/MOTION IN LIMINE</b>
Defendant.	)	
	)	

THIS OFFER OF PROOF is presented in support of Defendant’s outstanding motions; including his Motion to Dismiss, Motion to Suppress; and Motion in Limine, by and through counsel of record Stephen Pidgeon, Attorney at Law.

**EVIDENCE UPON WHICH DEFENDANT RELIES**

Faire relies on the following:

1. The deposition of George Abrantes, June 12, 2018;
2. The statement of George Abrantes given to police investigators in June 2015;
3. The interview of Ruth Brooks, March 16, 2016;

OFFER OF PROOF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS/MOTION TO SUPPRESS AND MOTION IN LIMINE - 1

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

- 1 4. The interview of Boyd McPherson;
- 2 5. Declaration of Angela Faire, April 27, 2018.
- 3 6. Statement of Detective Kreg Sloan, June 7, 2018;
- 4 7. The files and records herein.

5 **STATEMENT OF APPLICABLE FACTS**

6 The court seeks additional evidence in support of Defendant's motions. Part of the inquiry of  
7 the court concerns the actions of the Deputy Sheriff's department in regard to the information  
8 contained on Abrantes' cellphone. Here is the statement of Detective Kreg Sloan, as provided to  
9 Branden Platter on June 7, 2018, and as provided to Defendant by Platter on June 22, 2018:

10 Below are the dates and times of what you were looking for below:

11 Offense date 06/18/15

12 06/18/15 we collected one cell phone from scene found next to Debra Long

13 06/23/15 11:47 Received call from George Abrantes and he was asking for his cellphone.

14 Told him we only took one next to Debra. Pulled phone and found it was George's cellphone.

15 06/23/15 14:49 Got search warrant for Georges cellphone.

16 06/23/15 15:38 Obtained file system and logical extraction of Georges cellphone data

17 06/24/15 08:37 Telephone contact with PA Sloan regarding returning Georges cellphone and  
18 cash. PA Sloan said if we were done with cellphone we could return the items.

19 06/24/15 08:50 Fed EX Georges cellphone to him at Sacred Heart

20 08/12/15 10:45 started to back up extractions from laptop to WD external hard drive

21 08/12/15 11:17 laptop corrupted with ransom ware virus

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 2

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 08/12/15 11:17 called Central Services. Steve said to pull off whatever files that were not  
2 encrypted and bring down my laptop. I recovered some files but none of the extraction files were  
3 recovered. Took laptop to Central Services

4 08/13/15 11:40 Pick up laptop from Central Services. They had to wipe the hard drive and  
5 reinstall the operating system

6 04/25/18 10:52 Telephone contact with PA Platter and told him about laptop virus and lost  
7 data.

8 *Statement of Detective Kreg Sloan, June 7, 2018; Email of Branden Platter, June 22, 2018.*

9 On August 13, 2015, James Faire was still represented by counsel of record Nicholas Blount,  
10 who could have been notified of the issue with the laptop. Ransom Ware is not necessarily a  
11 computer-wide virus:

12 Most ransomware today encrypt files using known encryption algorithms like RSA or  
13 RC4, or custom encryption.

14 Ransomware like Cerber and Locky search for and encrypt target file types, which are  
15 usually document and media files. When the encryption is complete, the malware leaves a  
ransom note, which can be a text, image, or HTML file with instructions to pay a ransom in  
order to recover files.

16 More sophisticated ransomware like Spora, WannaCrypt (also known as WannaCry),  
17 and Petya (also referred to as NotPetya) include other capabilities, such as spreading to other  
computers via network shares or exploits.

18 *Windows Defender Security Service - Ransomware FAQ* <https://www.microsoft.com/en-us/wdsi/threats/ransomware>; Accessed June 24, 2018.

19 Rather than provide defense counsel with notice of this difficulty in retaining the files held on  
20 the cellphone of Abrantes, the Sheriff's Department unilaterally elected to "wipe the hard drive"  
21 containing the extraction files, as apparently, all of the extraction files incorporated some form of  
22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 3

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 ransom ware. (Kreg Sloan indicates he was able to retrieve other data before the wipe). Neither the  
2 prosecutor's office nor the Sheriff's Department saw fit to notify the court concerning the decision to  
3 return Abrantes' phone to him, or to seek authorization before wiping the hard drive of a laptop  
4 which contained evidence in a homicide case. It is also certain that they did not notify or provide any  
5 of this evidence to defense counsel.

6 Abrantes' phone is believed to housed 1) text messages between George Abrantes and Debra  
7 Long, Michael St. Pierre and Richard Finegold; and 2) a video of the event that resulted in the death  
8 of Debra Long. It is also reasonable to conclude that Abrantes' phone contained a Ransom Ware  
9 encryption to protect media files, given that none of the extraction could be retrieved free of the  
10 Ransom Ware, yet other files were retrieved. The existence of Ransom Ware on Abrantes' cellphone  
11 is also exculpatory evidence.

12 **ABRANTES' PHONE HAD TEXT MESSAGES BETWEEN HIM AND DEBRA LONG**

13 Abrantes admitted in his deposition that his phone had text messages between him and Debra  
14 Long; and then went on to admit that he erased them after he was given notice that his phone would  
15 be needed as evidence this year.

16 Q: Okay. And when was the last time you cleaned your phone?

17 A: Oh, last week.

18 Q: And what did you delete?

19 A: Well, I deleted -- I got rid of some apps I don't use anymore, **some text messages**  
20 **from people I haven't been in contact with for a while.** [Bold added].

21 *Deposition of George Abrantes, June 12, 2018, Page 19, lines 24-25; page 20, lines 1-5.*

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 4

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 Q: Now, these text messages that you deleted, **did you delete text messages between**  
2 **you and Debra Long?**

3 A: **Yes.** [Bold added]. They were deleted a while ago.

4 Q: Do you know -- how many text messages did you delete; do you know?

5 A: I can't recall.

6 Q: **Do you recall when you deleted them?**

7 A: **Several weeks ago.** [Bold added]. I went through the phone and deleted everything  
8 that was old because I had that issue with the phone.

9 *Deposition of George Abrantes, June 12, 2018, Page 20, lines 21-25; page 21, lines 1-5.*

10 Q: Did you have text messages with Michael St. Pierre or Ruth Brooks?

11 A: Yes.

12 Q: Who? Michael St. Pierre or Ruth? Or both?

13 A: I know I had some from Michael. It's possible I had some from Ruth, but Ruth and I  
14 weren't very close.

15 Q: And did you delete those text messages to Michael?

16 A: Yes.

17 Q: And did you do that just a couple of weeks --

18 A: I deleted everything that was not relevant to I deleted everything that was in the way  
19 of my phone being able to have space on the hard drive.

20 *Deposition of George Abrantes, June 12, 2018, Page 21, lines 9-22.*

21

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 5

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1           When the data download taken from the phone of Debra Long was finally delivered to  
2 Defendant on June 20, 2018, the download contained numerous text messages between Debra Long  
3 and other parties. Yet, no text messages were found between Debra Long and George Abrantes,  
4 Richard Finegold, Michael St. Pierre, or Ruth Brooks. It is reasonable to conclude that Debra Long,  
5 rather than the Sheriff's Department, deleted them in anticipation of the confrontation she was  
6 orchestrating against the Faires.

7           Given the conditions of RCW 9A.72.150<sup>1</sup>, Abrantes put himself at substantial risk to delete  
8 these messages, and it is reasonable to conclude that such actions indicate a guilty state of mind.

9           In addition, Angela Faire witnessed a body of the text messages as late as June 15, 2015,  
10 when she and James met Debra Long at the Ram Restaurant in Arlington, Washington.

11           Nonetheless, I have personally witnessed the level of communication between Debra  
12 Long and George Abrantes who communicated often by text message. Because I witnessed  
13 this condition, I believe there were many (possibly hundreds) of text messages on both Debra  
14 Long's phone and George Abrantes' phone. These phones would contain text messages  
15 between the parties on June 15, 16, 17 and 18, 2015.

16 *Declaration of Angela Faire, April 27, 2018.*

17

---

18 <sup>1</sup> RCW 9A.72.150

Tampering with physical evidence.

(1) A person is guilty of tampering with physical evidence if, having reason to believe that an official proceeding is pending or about to be instituted and acting without legal right or authority, he or she:

19 (a) Destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its appearance, character, or  
20 availability in such pending or prospective official proceeding; or

(b) Knowingly presents or offers any false physical evidence.

21 (2) "Physical evidence" as used in this section includes any article, object, document, record, or other thing of physical  
substance.

(3) Tampering with physical evidence is a gross misdemeanor.

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 6

**STEPHEN PIDGEON**

Attorney at Law

1523 132<sup>nd</sup> Street SE, Suite C-350

Everett, Washington 98208

(425)299-9012

1                                   **ABRANTES' GAVE HIS CELLPHONE TO RUTH BROOKS**  
2                                   **AND TOLD HER TO FILM THE EVENT**

3                   In his deposition of June 12, 2018, George Abrantes stated as follows:

4                   Q:     Did you at any time give your phone to Ruth Brooks and ask her to make a video of  
5 what was going to occur?

6                   A:     I -- the phone was already, I believe, sitting on the porch. And I said if she could film  
7 things to do so.

8                   Q:     Can you explain that further. I didn't quite catch your statement.

9                   A:     I believe the phone was sitting on the railing on the porch, and I believe I asked her or  
10 suggested she do it, and she could not figure out how to use the phone to do so is my understanding.

11                  *Deposition of George Abrantes, June 12, 2018, Page 9, lines 14-25.*

12                  In her interview [Stephen Pidgeon Q; Ruth Brook A], Ruth Brooks stated as follows:

13                  Q     And did you have your cell phone in your hand at that time?

14                  A     I actually had George's cell phone. He wanted me to film it, but I couldn't --

15                  Q     Okay --

16                  A     Get the video --

17                  Q     George was --

18                  A     to run. So, - yeah.

19                  Q     Okay, what kind of phone was that, do you know?

20                  A     Oh, God. A smart phone, I don't know.

21                  Q     But you were going to just try to video but you couldn't get it to done?

22                  OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 7

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1           A       I couldn't get the video to work. He threw it at me as he was running – running, you  
2           know, and to me to film it and I was trying to get outside – get out there and I couldn't get it  
3           to work, so –

4    *Interview with Ruth Brooks, March 16, 2016, Page 30, lines 2-13.*

5           In addition, eye witness Boyd McPherson gives the following testimony to the Okanogan  
6    County Sheriff in his interview of as follows:

7                   Mr. McPherson: And – and at the same time, there was a gal right about here with a –  
8           a, uh – uh, smart phone. You know, and – and she was – in fact, she probably was  
9           (inaudible); and just focused on the whole thing. And she kept saying “He needs notice – he  
10          needs to be given notice.”

11   *Statement of Boyd McPherson given to the Okanogan County Sheriff, July 6, 2015, Page 10, lines*  
12    22-25; Page 11, lines 1-2.

13                   Detective Heyen: And she had a smart phone. How was she holding it? Like she's –

14                   Mr. McPherson: Just looking at it.

15                   Detective Heyen: -- like she's filming or –

16                   Mr. McPherson: Yes.

17                   Detective Heyen: -- taking pictures?

18                   Mr. McPherson: Just like it was on video . . .

19    *Statement of Boyd McPherson given to the Okanogan County Sheriff, July 6, 2015, Page 11, lines*  
20    12-18.

21

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 8

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012



1           It is reasonable to conclude that Abrantes gave his cellphone to Brooks and instructed her to  
2 “film” the event, because in both instances, they used the same word “film” rather than saying make  
3 a video, or just simply “video” the event.

4           But, is it reasonable to conclude that the video was deleted prior to the arrival of the police?

5           Ruth Brooks – the person alleged to have taken the video – took actions after the death of  
6 Debra Long to prepare and stage the crime scene, and it can be reasonably concluded that she was  
7 the party who deleted the video.

8           Ruth Brooks, the CAD report that shows, after the death of Debra Long, called 9-1-1 at  
9 13:47:40; Michael St Pierre called 911 at 13:39:51. Michael St. Pierre called from the home of  
10 Nadine Pearson, which was at least some 250 yards away, and yet, Ruth, who used the phone in the  
11 house, called somewhere between 9 and 12 minutes later.

12           Ruth Brooks, after the death of Debra Long, moved the chain that George Abrantes used in  
13 the attack, to nestle it in the rocks some 50 feet away and placed a flashlight on top. **See Exhibit A.**

14           Ruth Brooks, after the death of Debra Long, went down to the field where she had parked the  
15 Mercury Mountaineer, and moved it back up to the driveway. **See Exhibit B.**

16           Ruth Brooks, after the death of Debra Long, took the cellphone of George Abrantes that she  
17 had been holding when making the video, and placed it on the ground near the body of Debra Long.  
18 **See Exhibit C.** This is the phone Detective Kreg Sloan discusses in his statement above; that they  
19 believed the phone belonged to Debra Long at first because of its placement; and only later  
20 determined it was the phone of George Abrantes.

21 ///

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 9

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1                   **RUTH BROOKS MOVED THE CAR BACK TO THE DRIVEWAY**

2           Q:     Okay. Now, when George came back with the padlock was there a decision made to  
3           move both of the vehicles off the property?

4           A:     Not off of the property; just not in the driveway.

5           Q:     So where was the Mountaineer placed?

6           A:     Gosh, um, in a field kind of down a little slope.

7           Q:     How far from the house was that?

8           A:     An easy walk. I couldn't tell you exactly, it's not very far.

9           Q:     Well, give me an estimate.

10          A:     It was on the other side of the shed. Pardon me.

11    *Interview with Ruth Brooks, March 16, 2016, Page 30, lines 19-25.*

12          Q:     So you basically had to drive it in kind of open field?

13          A:     Yeah, it was in a field.

14          Q:     And who did the driving to park the Mountaineer there?

15          A:     I did. I drove it down there.

16          Q:     Okay. And was that after you had received notice that James and Angela would be  
17          coming to pick up the batteries?

18          A:     Yes, they – yes.

19          Q:     Okay, so why did you drive the Mountaineer down there?

20          A:     I was requested to do that and –

21          Q:     By who – by who?

22                   OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO  
                  SUPPRESS AND MOTION IN LIMINE - 10

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 A: -- it was so that – God, I can’t remember. I don’t know if it was Richard or Debra. I  
2 know that I was requested – I was told to do that, but I honestly can’t remember who was  
3 telling me to do that.

4 *Interview with Ruth Brooks, March 16, 2016, Page 22, lines7-19.*

5 A: They – I think Richard had pulled his down there first and then they told me to pull  
6 the Mountaineer down there.

7 Q: Okay. Where you place the vehicles; were they readily visible from the driveway?

8 A: No.

9 Q: In fact, didn’t you make sure that they could not be seen from the driveway?

10 A: I’m not a hundred percent sure of that, but I know – but they were not visible from the  
11 driveway.

12 Q: Do you know whether or not it was the intent to make sure that they were not visible  
13 from the driveway?

14 A: I think that was the intent, yes.

15 *Interview with Ruth Brooks, March 16, 2016, Page 23, lines 3-12.*

16 It is also reasonable to conclude that Ruth Books – having taken several steps to alter the  
17 crime scene before the police arrived, also reviewed the video and found it incriminating, and  
18 therefore, deleted it.

19 Of the parties present at the scene, Finegold had gone to the neighboring house; Michael St.  
20 Pierre had also gone next door; George Abrantes was injured and incapacitated; Debra Long was  
21 deceased; James and Angela Faire were gone from the scene together with Boyd McPherson.

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 11

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 Ruth Brooks is the only person who could have moved the chain;  
2 Ruth Brooks is the only person who could have moved the SUV;  
3 Ruth Brooks is the only person who could have placed the cellphone of Abrantes.  
4 Ruth Brooks is the most likely the party to have erased the video that was made of the event,  
5 in order to “clean” the crime scene to absolve herself from liability.

6 Abrantes testified that the phone was fully functional after it was returned to him.

7 Q: Okay. All right. Let me ask you this. Was the phone working when it was returned  
8 to you?

9 A: I believe so, yes. I was able to call people.

10 Q: Could you take pictures with it?

11 A: Yes, I believe so. I had no reason to so I didn't try, but I assume.

12 Q: And you could make phone calls with it?

13 A: I could make phone calls, yes.

14 Q: Could you send text messages with it?

15 A: I -- yes.

16 Q: And did all of your apps that were on the phone still work?

17 A: I don't recall giving the phone that much attention to even be able to say for sure.

18 Q: Okay. Did you find any loss of functionality on the phone when it was returned?

19 A: I can only speculate. I was really, you know, to my knowledge the phone was  
20 working.

21 *Deposition of George Abrantes, June 12, 2018, Page 12, lines 5-22.*

22

OFFER OF PROOF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 12

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 **CONCLUSION**

2 The State had knowledge that it had retrieved data from the cellphone of George Abrantes on  
3 June 23, 2015. This was never disclosed to Defendant prior to March 23, 2018.


4 The State had knowledge that the cellphone may have contained data relevant to the homicide  
5 investigation concerning Debra Long on June 18, 2015, yet the prosecutor, on June 25, 2015, in  
6 his unilateral decision without the benefit of Court oversight, elected to return the cellphone to  
7 Abrantes without giving the Defendant an opportunity to do a forensic audit of the phone.

8 The State had knowledge that the information was compromised on the laptop of Detective  
9 Kreg Sloan on August 13, 2015. This was never disclosed to Defendant prior to June 22, 2018.

10 The State had knowledge that the laptop would have its hard drive wiped, containing not only  
11 the evidence on the phone, but the evidence concerning what kind of malware was used against  
12 the laptop and whether that malware had at its source the cellphone of Abrantes. The State give no  
13 notice of its intent to destroy all the residue of evidence contained on the Detective's laptop  
14 without notice to the Defendant or the Court.

15 All of these actions are violative of Defendant's due process rights protected under the 14<sup>th</sup>  
16 Amendment.

17 Dated this 21st day of June 2018.

18  
19   
20 \_\_\_\_\_  
21 STEPHEN PIDGEON, WSBA#25265  
22 Attorney at Law, P.S.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

OFFER OF PROOF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 14

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 **Exhibit A**

2  
3  
4  
5  
6  
7  
8  
9  
10



11 **Exhibit B**

12  
13  
14  
15  
16  
17  
18  
19  
20  
21



22

OFFER OF PROOF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS/MOTION TO SUPPRESS AND MOTION IN LIMINE - 15

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012

1 **Exhibit C**

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22



OFFER OF PROOF IN SUPPORT OF DEFENDANT’S MOTION TO DISMISS/MOTION TO  
SUPPRESS AND MOTION IN LIMINE - 16

**STEPHEN PIDGEON**  
Attorney at Law  
1523 132<sup>nd</sup> Street SE, Suite C-350  
Everett, Washington 98208  
(425)299-9012



1 **CERTIFICATE OF SERVICE**

2 The undersigned now certifies that the foregoing was served on the following:

3 Branden E. Platter  
4 Prosecuting Attorney  
5 Okanogan County Prosecuting Attorney’s Office  
6 P.O. Box 1130/ 237 Fourth Avenue North  
7 Okanogan, WA 98840

8 by personal hand delivery this 25th day of June 2018.

9 \_\_\_\_\_  
10 Name:  
11 Server of Process