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**SUPERIOR COURT OF WASHINGTON FOR ____ COUNTY
JUVENILE COURT**

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 v.)
)
C. L,)
)
 Respondent)

**CAUSE NO. 19-8-0000-0
SUPPLEMENTAL
MOTION TO SUPPRESS
AND SUPPORTING MEMORANDUM**

TO: Prosecuting Attorney,
AND TO: The ____ County Juvenile Court Clerk’s Office, Judge Soloman

MOTION

COMES NOW Respondent, C.L.by and through his attorney, Simmie Baer, of the ____ County Office of Public Defense and moves to suppress the “mostly smoked marijuana cigarette” removed from his backpack by the Assistant Principal A.A. in her office on February 22, with Police Officer Crumkie standing at her door, without the authority of law. This motion is based on the declaration of counsel, the attached memorandum, the files and records herein Article 1, Section 7 of the Washington Constitution, CrR 3.6, and the United States Constitution, Fourth Amendment.

DATED this __3__ day of June, 2019.

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Simmie Baer WSBA# 14179
Attorney for Respondent

MEMORANDUM

FACTS

On February 22, 2019, C.L. was in class. According to the statements in the police report, an unnamed staff or student may have made a statement to someone that Isaac “had the odor of marijuana from his person.” Without anything more and based on this information alone, Isaac was removed from class and brought to Ms. A.A.’ office where Officer Crumkie met them. Once in the office, with Officer Crumkie at the door and C.L. believing he wasn’t free to leave, his backpack was searched and the half burned alleged marijuana was found. According to the police report written by Officer Crumkie, he collected the burnt material found in the backpack, transported it to the Kelso police department, weighed it, tested it, and logged it into evidence to be forwarded to the Washington State Crime Lab for testing.. Officer Crumkie also prepared a sworn and signed affidavit of probable cause for this case.

ARGUMENT

A student doesn’t necessarily draw individualized suspicion on herself by simply violating school rules. *State v. B.A.S.*, 103 Wash. App. 549 (2000) The “School Search Exception” developed in the case of *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) still demands that, consistent with both the federal and state constitutions, searches must be reasonable, and what is reasonable depends on the context within which a search takes place. In this case, where a police officer is involved, the Washington Supreme Court has held that the school search exception to the warrant requirement

1 does not apply to the search of a student's backpack. *State v. Meneese*, 174 Wash. 2d 937 (2012)
2 The issue is whether Officer Crumkie was acting as a school official or a law enforcement officer at
3 the time of the search of Isaac Michael. Officer Crumkie was in his police uniform; he was in the
4 office at the time of the search; he stood by the door. C.L. testified he did not feel like he could
5 leave by walking past the uniformed police officer. Once the suspected marijuana was found,
6 Officer Crumkie completely took over. He processed the evidence as he would in any other case
7 where he was involved. He wrote a sworn probable cause affidavit and police report. His focus
8 was clearly prosecution of the case, not informal school discipline. Therefore, according to the
9 *Meneese* case, "...the school search exception does not apply, a warrant supported by probable
10 cause was required." And the evidence should be suppressed. It is clear, the search in this case of
11 Isaac's backpack primarily promoted criminal prosecution, not education.

12 IN CONCLUSION, C.L. respectfully requests this Court to suppress the half-burned
13 material seized as a result of the unlawful search and seizure.

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16 Dated this __3__ day of June, 2019.

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18 _____
19 Simmie Baer, WSBA #14179
20 Attorney for Respondent
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