

State v. Bird

Discovery and Investigation Reports

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IN THE SNOHOMISH COUNTY SUPERIOR COURT
STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Plaintiff

v.

BIRD, LARRY,

Defendant.

No. 1755A12D

CRIMINAL COMPLAINT

Aliases: N/A DOB: 7/15/95

Interpreter Needed: N Language:
Incident Location: 3001 Hewitt Avenue, Everett, WA

Comes now, the Prosecuting Attorney for Snohomish County, Washington, and by this complaint, in the name and by the authority of the State of Washington, charges and accuses the above-named defendant with the following crime(s) committed in the state of Washington.

Possession of a Stolen Vehicle, committed as follows: that the defendant, in Snohomish County Washington, on or about January 25, 2018, did possess a stolen vehicle in violation of RCW 9A.56.068, violation of which is a class B felony.

Possession of a Controlled Substance, committed as follows: that the defendant, in Snohomish County Washington, on or about January 25, 2018, did possess a controlled substance, to wit, heroin, in violation of RCW 69.50.401, violation of which is a class C felony.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that according to the police reports the foregoing is true and correct.

Phil Jackson
Prosecuting Attorney

DATED January 28, 2018, at the Snohomish County Prosecutor's Office

IN THE SNOHOMISH COUNTY SUPERIOR COURT
STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Plaintiff

v.

BIRD, LARRY,

Defendant.

No. 1755A12D

AFFIDAVIT OF PROBABLE CAUSE

Aliases: N/A DOB: 7/15/95

AFFIDAVIT BY CERTIFICATION

The undersigned certifies that I am a Deputy Prosecuting Attorney for Snohomish County, Washington and make this affidavit in that capacity; that criminal charges have been filed against the above-named Defendant in this cause and that I believe probable cause exists for the arrest of the defendant on the charges because of the following facts and circumstances (this information is not based upon any independent or personal knowledge of these events, unless specifically noted):

In Snohomish County, Washington, the defendant committed the acts described in the synopsis attached hereto and incorporated herein by reference. In addition to the attached synopsis, a review of additional sworn statements from the officer reflects that he determined based on his observations and investigation that the defendant committed the above-referenced charges and placed him under arrest for Possession of a Stolen Vehicle and Possession of a Controlled Substance.

I certify (or declare) under penalty of perjury under the laws of the State of Washington that according to the police reports the foregoing is true and correct.

Phil Jackson
Prosecuting Attorney

DATED January 28, 2018, at Everett, Washington.

RCW 9A.56.068

Possession of stolen vehicle.

(1) A person is guilty of possession of a stolen vehicle if he or she possess [possesses] a stolen motor vehicle.

(2) Possession of a stolen motor vehicle is a class B felony.

[2007 c 199 § 5.]

RCW 69.50.401

Prohibited acts: A — Penalties.

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter [9A.20](#) RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter [9A.20](#) RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter [9A.20](#) RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana in compliance with the terms set forth in RCW [69.50.360](#), [69.50.363](#), or [69.50.366](#) shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

[2013 c 3 § 19 (Initiative Measure No. 502, approved November 6, 2012); 2005 c 218 § 1; 2003 c 53 § 331. Prior: 1998 c 290 § 1; 1998 c 82 § 2; 1997 c 71 § 2; 1996 c 205 § 2; 1989 c 271 § 104; 1987 c 458 § 4; 1979 c 67 § 1; 1973 2nd ex.s. c 2 § 1; 1971 ex.s. c 308 § [69.50.401](#).]

IN THE SNOHOMISH COUNTY SUPERIOR COURT
STATE OF WASHINGTON

THE STATE OF WASHINGTON,

Plaintiff

v.

BIRD LARRY,

Defendant.

No. 1755A12D

WITNESS LIST AND DEMAND FOR DISCOVERY

COMES NOW the Prosecuting Attorney for Snohomish County, Washington and makes the following voluntary disclosures and demands upon the defendant.

The state voluntarily DISCLOSES the following:

Witness List:

1. Deputy Earvin Johnson (Snohomish County Sheriff's Office)
2. Deputy Kevin McHale (Snohomish County Sheriff's Office)
3. Deputy Danny Ainge (Snohomish County Sheriff's Office)
4. William Walton
5. Dražen Petrović, Ph.D. (Washington State Crime Lab)

The state further DEMANDS the names and addresses of persons whom the defendant intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witnesses.

DONE this 10th day of February 2018.

Phil Jackson
Prosecuting Attorney

SNOHOMISH COUNTY SUPERFORM

Suspects Name: BIRD, LARRY	Case #: SO14-3421
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Synopsis/PC for Arrest

(Include all elements of the crime, date of violation and location of crime)

Summary: On 1/25/18, Larry Bird (DOB: 7/15/95) was arrested for having possession of a stolen vehicle and possession of drug paraphernalia.

NARRATIVE:

On January 25, 2018, I was patrolling State Route 99 in Snohomish County and I noticed a lowered brown Gran Torino driving northbound in lane one of one. I was drawn to the vehicle by the loud music coming from it and was concerned that it might be presenting a safety hazard to other drivers. As I approached the vehicle from the rear, I noticed an adult male sitting in the driver's seat. As the license plate tabs were expired, I conducted a stop of the vehicle by activating my lights and siren. The vehicle complied with the stop.

I approached the vehicle from the driver's side and asked the driver for his license and registration. He informed me that his name was Larry Bird (S1). I asked the driver for identification. He complied with this request. I ran a background check on Bird (S1) and his license revealed that his license was suspended in the third degree. I returned to the vehicle and placed Bird (S1) under arrest for DWLS 3. As a courtesy to Bird (S1), I offered to call someone who would be able to move the vehicle for him, as this was a high crime neighborhood and an unsafe place to leave a vehicle. Bird informed me that the car was not his and that it belonged to Kareem UNK (W1). I asked him for Kareem's last name and he stated that he didn't know it. I asked him if he had a phone number for him and he stated that it was in his phone. He said that he thought the number ended in "33". I looked through the phone and found a number ending in "33" and called it. An unidentified person answered the phone and I asked for Kareem (W1). That person said that he did not know who that person was. I asked him for his name and he said it was Lew UNK (W2). I then told Bird (S1) that the person on the phone was named Lew (W2) and he told me that he had made a mistake about the name of the person and that it was, in fact, Lew (W2).

After attempting to call someone else to move the vehicle without success, I offered to move the vehicle off the roadway and into the parking lot of the nearby Wendy's restaurant. Bird (S1) handed me the keys, which I immediately noticed to be a "shaved" key (E1). A copy of this key is attached to my report. I immediately called for backup and Officers McHale and Ainge arrived. PO McHale ran the license plates of the vehicle, which returned a report that the vehicle had been stolen in Seattle, WA on January 11, 2018. The registered owner of the vehicle is William Walton (W3), who resides in Shoreline, WA. PO McHale asked Bird if he knew Walton and he denied knowing anyone by that name. Bird stated that he had borrowed the vehicle from Kareem (W1) to move some stuff from his current residence to his brother Julius Irving's (W4) home in Lynwood, King County. In inventorying the vehicle, I listed a suitcase, along with two boxes of tools and other items. (E2)

I certify or declare under penalty of perjury under the laws of the state of Washington that the forgoing statement is true. (RCW 9A.72.085)

Officer's Name: E. Johnson PER # 172 Contact # 555-5250 Transport Officer: N/A
Officer's Signature: /s/ Johnson Signed: Everett, WA Precinct/Station: South

I then place Bird (S1) under arrest for possession of a stolen vehicle. I escorted him to the Everett South Precinct, where I read him his Miranda rights and questioned him. A copy of his statement is attached to this report.

Rick Barry (W5) was a passenger in the Gran Torino. After clearing him for warrants, he was released at the scene. He was not able to take custody of the vehicle as his driver's license returned as suspended.

SNOHOMISH COUNTY SUPERFORM

Suspects Name: BIRD, LARRY	Case #: SO14-3421
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Additional Information Synopsis

(Include all elements of the crime, date of violation and location of crime)

Summary: On 1/25/18, I executed a search warrant on S1's vehicle and recovered a hypodermic needle which appeared to have been used and submitted it for further investigation.

NARRATIVE:

On 1/25/18, I requested that P.O. Ainge to secure a search warrant for the impounded Gran Torino.

The inventory of the car (E2) revealed the following items:

- E3: One (1) suitcase containing various articles of male clothing
- E4-E7: Two (2) toolboxes containing general maintenance type tools
- E8-E15: Seven (7) CD jewel cases, some of which contained music CDs
- E16: One (1) pair of shoes, intended for a female
- E17-E20: One (1) hypodermic needle, which field-tested positive for heroin
- Multiple garbage style items, including old food containers, matchbooks, magazines, and papers. These were not inventoried, as they seemed to not have value.

Upon completing my inventory of the vehicle, I photographed the vehicle. Such photograph is attached.

SNOHOMISH COUNTY SUPERFORM

Suspects Name: BIRD, LARRY	Case #: SO14-3421
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Additional Information Synopsis

(Include all elements of the crime, date of violation and location of crime)

I submitted the hypodermic needle that I found in Mr. Bird's possession to the Washington State Crime Lab. On 2/14/18, I received the results of a crime lab report that I submitted, which indicated a positive test for heroin (diacetylmorphine), a Schedule I narcotic.

I ran background checks upon the individuals named and was unsuccessful in finding any of the previously mentioned individuals.

I certify or declare under penalty of perjury under the laws of the state of Washington that the forgoing statement is true. (RCW 9A.72.085)

Officer's Name: E. Johnson

PER # 172

Contact # 555-5250

Transport Officer: N/A

Officer's Signature: /s/ Johnson

Signed: Everett, WA

Precinct/Station: South

SNOHOMISH COUNTY SUPERFORM

Suspects Name: BIRD, LARRY	Case #: SO14-3421
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Photographic Evidence

Evidence Item #1 (E1): Shaved key secured from Person of S1



Evidence Item #2 (E2): Photograph of the interior of S1's vehicle



I certify or declare under penalty of perjury under the laws of the state of Washington that the forgoing statement is true. (RCW 9A.72.085)

Officer's Name: E. Johnson

PER # 172

Contact # 555-5250 Transport Officer: N/A

Officer's Signature: /s/ Johnson

Signed: Everett, WA

Precinct/Station: South

Evidence Item #3 (E3): Photograph of the hypodermic needle



I certify or declare under penalty of perjury under the laws of the state of Washington that the forgoing statement is true. (RCW 9A.72.085)
Officer's Name: E. Johnson PER # 172 Contact # 555-5250 Transport Officer: N/A
Officer's Signature: /s/ Johnson Signed: Everett, WA Precinct/Station: South

SNOHOMISH COUNTY SUPERFORM

Suspects Name: BIRD, LARRY	Case #: SO14-3421
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Defendant's Voluntary Statement

Miranda Warning	
1. You have the right to remain silent	X
2. Anything you say can and will be used against you in a court of law.	X
3. You have the right to talk with a lawyer and have him present while you are being questioned.	X
4. If you cannot afford a lawyer, one will be appointed to represent you at county expense, before any questioning, if you wish.	X
5. If you give up your right to remain silent and later wish to stop answering questions, no further questions will be asked.	X
Waiver	
1. Do you understand each of these rights I have explained to you?	X
2. Having these rights in mind, do you wish to talk to me now?	X

Time: 0245	Signature:	/s/ Larry Bird
Date: 1/26/18	Officer Advising Rights:	Dep. E. Johnson

After agreeing to speak with Deputy Johnson, I make the following statement

I do not know Mr. William Walton of Shoreline, Washington. I borrowed the Gran Torino in question from Kareem, because I needed to vacate my premises. I was intending to reside with my brother Julius Erving, who lives in Lynwood. At no time did I suspect that I did not have permission to operate the vehicle in question.

I do not know where Kareem lives, but I believe that his residence is in the University District in Seattle, WA. I have provided the officers with the general area as well as a general description of the house in which he resides. In addition to the vehicle in question, I have witnessed two vehicles at Kareem's residence, to wit, a late model Chevy Blazer and an Econoline Van.

I know that Kareem does meth. I met him through an employer, whose name is "Worthy", true name unknown. I agreed to help Kareem do some work, in exchange for which he agreed to rent me one of his vehicles.

I was driving said vehicle when I was stopped by Dep. Johnson. My possessions were in the vehicle when it was stopped. I did not know there was a needle in the vehicle when I was in possession of the vehicle.

I own my own car. It is a yellow 1989 Toyota Corolla. I could not drive it on the night in question because I was the subject of a vehicle prowl and the vehicle was inoperable. I never made a report about that incident.

This statement is a true and voluntary statement made under penalty of perjury

/s/ Larry Bird

I certify or declare under penalty of perjury under the laws of the state of Washington that the forgoing statement is true. (RCW 9A.72.085)
 Officer's Name: E. Johnson PER # 172 Contact # 555-5250 Transport Officer: N/A
 Officer's Signature: /s/ Johnson Signed: Everett, WA Precinct/Station: South

INVESTIGATION SUMMARY: Confidential Attorney Work Product

To: Defense Counsel

From: Investigator

RE: State v. Bird (Possession of a stolen vehicle and Possession of a Controlled Substance)

I was asked to speak to several witnesses in this matter. This is a summary of my investigations. I attempted to find the persons named in the police reports and from the interview conducted with our client. I was not able to find all of the persons named and my reports are so reflected.

INTERVIEWS

- **Cookie (True Name: Rebecca Lobo)**

I was asked to interview Cookie. When I went to interview her at the Forum House, I was informed that she no longer resided there. I was given her contact information by staff and was able to locate her through her cell phone. She said that her daughter Paula was the biological daughter of a man named Byron, whom she no longer has contact with. She stated that she once had a drug problem but is now clean. At the time of the interview, Cookie had been clean for 38 days. She says that she did not think that the Torino belonged to Mr. Bird and verified that he had rented it from Kareem. She was also unable to verify his true name but said that he lived in the U District, close to the exit with the bar that has the wooden man outside. In my further investigation of Ms. Lobo, I discovered that there is a dependency action pending against her regarding Paula. She has a convicted for theft in the third degree and for making a false conviction to an officer, dated 6/11/2011. Her other convictions include DWLS 3, Prostitution and Possession of a Controlled Substance.

- **Lew Alcindor**

I was able to locate a man named Lew Alcindor, who matched the description given by the client, who was serving 24 months at Walla Walla Correctional Center for a Delivery of Controlled Substance conviction. I attempted to make contact with him through his CCO. Mr. Alcindor denied having any knowledge of our client or this incident. A search of his criminal record indicated that he had been previously convicted of Burglary in the second degree and Possession of a Stolen Vehicle.

- **Kurt Rambis**

I made contact with Kurt Rambis at the Forum House. He verified that the client was, in fact, a residence of the Forum House and was in the process of discharging at the time of his arrest. He had no recollection of Kareem, Lew, or ever having seen a Blazer. He also verified that Cookie no longer resided at the Forum House.

As a side note, Forum House is a barely habitable residence. When I went to speak with Rambis, the house was full of filth and did not appear to have been cleaned in weeks.

- **Kareem (Last name unknown)**

I went to the residence described by the client. Although I believe that I found the residence, no one by that name could verify that they knew who Kareem was or who the client was. I left my business card and have not heard back from any of the residents.

- **Julius Irving**

I spoke with Julius Irving, who verified that he was Mr. Bird's half-brother. He states that he was, in fact, expecting his brother to move some things to his house, although they had not spoken about him moving in. He did think his brother would probably stay with him for a couple of days. He states that he does not have any drug problems and is always nervous when his brother is around because his brother has a tendency to steal things to pay for his habit. He did not believe that his brother was using at the time that he was arrested and doesn't think he knew that the car was stolen.

- **James Worthy**

I was able to locate James Worthy. He verified that our client had done some work for him, but that it was all off the books, so he didn't have any record of the work. He says that he introduced the client to Kareem, but doesn't know anything else about him. Kareem hangs out at the shop but has never worked for Worthy. He is unaware of any drug problems that Kareem might have and denies any drug problems himself.

- **Rick Barry**

I was able to locate Rick Barry. He was in the car with Mr. Bird when Mr. Bird was arrested. He could remember very little about the incident, but did say that the police seemed to be intent on arresting Mr. Bird from the moment they were stopped. He could not remember much else about what had happened, except that he was let go, as he had no warrants. He may have made a statement to the police, but does not recall.

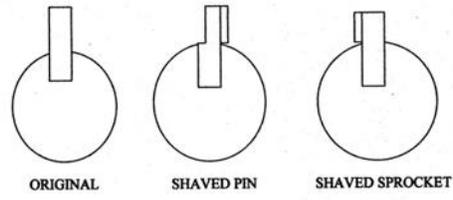
RESEARCH

- **Car ownership**

DOL records indicate that Bird had purchased a Toyota on May 15, 2011, for \$50.00.

- **Shaved Keys**

I was able to consult with an expert on shaved keys. He explained that a shaved key is a car key that has been shaved or ground down on either the sides or the face; sometimes used in car theft. This allows a person to operate a vehicle with a key that is not intended for that vehicle. See picture below.



PHOTOGRAPHS

- **Chevy Blazer:** I was unable to locate the exact vehicle, but this is an approximation.



- **Econoline:** I was unable to locate the exact vehicle, but this is an approximation.



- **Gran Torino:** This is a photograph taken at the impound yard of the Gran Torino.



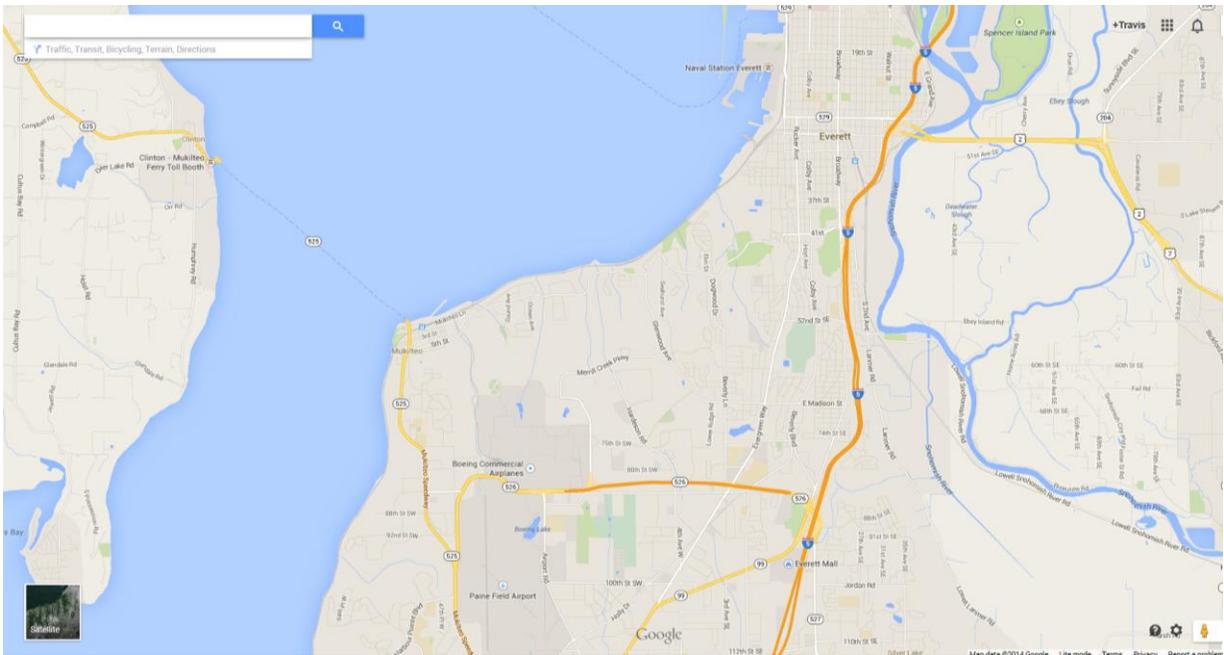
- **Toyota Corolla:** This is an image of the Toyota Corolla



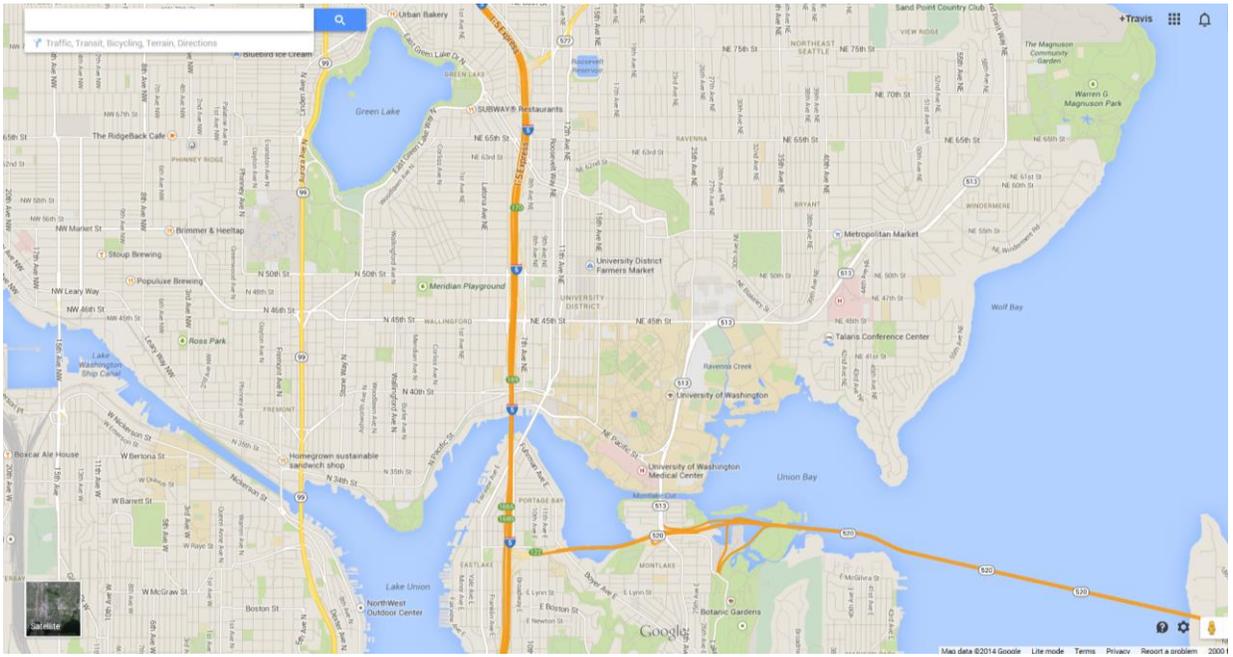
- **Arrest Location (Highway 99 at Hewitt Ave)**



- **Google Map of Area (Everett to Lynwood)**



- **Google Map of Area (Seattle, University District)**



- **Larry Bird**



Client Interview Notes: Larry Bird

I didn't know that this car was stolen and I think those cops set me up. I don't know anything about those drugs.

I was moving my things to my brother's house when the police came on me from behind. I was not doing anything wrong and they pulled me over. I was with my friend Barry but I don't want to get him involved. The police stopped me right away with their guns drawn and ordered me out of the car. They said the car was stolen and I was going to jail. I told them the car belonged to a friend of mine. His name is Kareem. I don't know his last name but I know where he lives. He lives in the U District. You can find his house by getting off the freeway right by that bar with the wooden man out front. Then you make a left and go up a hill. You turn left near the University and then you drive past an old school. You turn right at the red house and then drive a couple of blocks. You can't miss the house because he has an old Blazer and an Econoline right out front. You should be able to find it on google maps.

The problem with Kareem is that he does meth. His girlfriend Cookie is my friend. I met her at the Forum House at a meeting. I used to live there. It is a clean and sober house and I was transferred there when I left the joint. I've only been to prison four times, but I'm over that now. I think it was for drugs, res burg, and theft. You can see my papers. I haven't done anything wrong and am trying to stay clean. I used to have a problem but I have been sober since I got out of the DOC. I used to help Cookie out with her daughter Paula. She would need someone to help her when she did some work. It was all off the books. We hung out for a while and we fooled around some, but I wouldn't say it was too serious.

Cookie had this friend whose name was Worthy. I don't know any other name for him, but he is tall and lives down in the Central District. He works on cars. He asked me if I would do some work for him off the books. He also introduced me to Kareem. Kareem told me that he couldn't pay me, but could set me up with anything that I needed. I told him that I was clean and that my CCO was still testing me. He told me that if I helped him out, he would set me up whenever I needed to rent a car from him. He had that Torino that I got stopped in and I said I needed to move my things. I had my own car, but someone had broken into it and stolen the seat, so I couldn't drive it.

It was late when I moved, but I was just waiting for Cookie. She was up there working and I was waiting for her to get off so that I could take her back to the Forum House and finish moving my stuff. You can ask the manager there. His name is Kurt. He sits on the front porch all day. He will tell you he has seen Kareem drop me off in his Blazer. I own a 1989 Toyota Corolla. I couldn't drive it that night because it had been broken into and someone had stolen the front bucket seat.

I don't know about any of the stuff in that car. It was filthy when I got it, with crap all over the floor. I don't know anything about the needles. They weren't mine. I don't even do heroin. My drug of choice is cocaine. I haven't used since I got out of the joint. I am trying to go straight this time.

I'm not trying to go back to the DOC. You've got to get me out of here.