

1995

# Weber County v. Ronnie Earl Chambers : Brief of Appellant

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

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| WEBER COUNTY,          | ) |                         |
|                        | ) | Case No. 950322-CA      |
| Plaintiff / Appellee,  | ) |                         |
|                        | ) |                         |
| v.                     | ) | Priority No. <u>02</u>  |
|                        | ) |                         |
| RONNIE EARL CHAMBERS,  | ) |                         |
|                        | ) |                         |
| Defendant / Appellant. | ) | ORAL ARGUMENT REQUESTED |

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BRIEF OF APPELLANT

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Appeal from Judgment and Sentence of conviction of zoning ordinance violation, a class C misdemeanor, in violation of Weber County Zoning Ordinance 5-1 et seq., and fire ordinance violation, a class B misdemeanor, in violation of Weber Fire Code Ordinance 11-1-1 et seq., in the Second Judicial District Court in and for Weber County, the Honorable Parley R. Baldwin presiding.

**UTAH COURT OF APPEALS  
BRIEF**

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DOCKET NO. 950322-CA

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**FILED**

Utah Court of Appeals

JUL 17 1998

Julia D'Alesandro  
Clerk of the Court

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IN THE UTAH COURT OF APPEALS

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| Plaintiff / Appellee,  | ) |                         |
|                        | ) |                         |
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### STATEMENT OF JURISDICTION

The Utah Court of Appeals Supreme Court has jurisdiction over the instant appeal pursuant to Utah Code Ann. § 78-2a-3(2)(e).

### STATEMENT OF ISSUES / STANDARDS OF REVIEW

1. Whether the State's evidence at trial was sufficient to establish, as an integral element of the charged crimes, defendant's ownership of the subject property beyond a reasonable doubt. When reviewing a claim of insufficiency of the evidence in a bench trial, the appellate court applies the "clearly erroneous" standard, "which

requires that 'if the findings (or the trial court's verdict in a criminal case) are against the clear weight of the evidence, or if the appellate court otherwise reaches a definite and firm conviction that a mistake has been made, the findings (or verdict) will be set aside.'" *State v. Featherson*, 781 P.2d 424, 431-32 (Utah 1989) (quoting *State v. Walker*, 743 P.2d 191, 193 (Utah 1987)); *Provo City Corp. v. Spotts*, 861 P.2 437 (Utah Ct. App. 1993). Notwithstanding the foregoing, the appellate court has the ultimate power to conduct an independent review of constitutional claims such as the issue in this case concerning the standard of guilt beyond a reasonable doubt as required by the constitutional right to due process. See *State v. Thurman*, 846 P.2d 1256, 1266 (Utah 1993). Although considerable deference is accorded to factual findings, the trial court's conclusion of law that ownership by Defendant of the subject property was proven beyond a reasonable doubt is given no special deference and thus reviewed for correctness. See *State v. Pena*, 869 P.2d 932, 939 (Utah 1994). Trial counsel preserved this issue, as well as subsidiary issues, by moving to dismiss after the State's case-in-chief (R. 162-63, Transcript of Trial).

2. Whether the trial court, by failing to rule on the pending motions before it on temporary remand from this Court, erred by failing to fully and fairly address all the issues surrounding the altered exhibit as implicitly required by this Court's temporary remand Order -- thereby frustrating the judicial process by its

failure to fully and fairly resolve the matters before it pertaining to the altered exhibit. The claim that the trial court failed to comply with this Court Order is a conclusion of law, which is reviewed for correctness. See *State v. Pena*, 869 P.2d 932, 939 (Utah 1994).

#### **DETERMINATIVE AUTHORITY**

The constitutional provisions, statutes, ordinances, rules, and regulations, whose interpretation is determinative, are set out verbatim, with the appropriate citation, in the body and arguments of the instant brief.

#### **STATEMENT OF THE CASE**

On or about June 22, 1994, Mr. Ronnie Earl Chambers, by way of Information, was charged with a zoning ordinance violation, a class B misdemeanor, which was amended to a class C misdemeanor, in violation of Weber County Zoning Ordinance 5-1 et seq., and a fire ordinance violation, a class B misdemeanor, in violation of Weber County Fire Code Ordinance 11-1-1 et seq., and violation of the Utah Fire Code § 79.101 et seq., in relation to the subject property located at approximately 4425 East Highway 162 in Weber County. A bench trial was held before the District Court Judge Parley R. Baldwin on January 12 and 17, 1995. Upon conclusion of the bench trial, the trial court immediately found Defendant guilty on both counts.



At sentencing on April 20, 1995, the trial court, for the zoning violation, imposed a fine in the amount of \$750.00 and 90 days in the Weber County Jail. The trial court suspended \$500.00 of the fine and the 90 days in jail "on the condition that every ounce of that equipment is taken out of there within 30 days." For the fire code ordinance violation, the trial court again imposed a fine in the amount of \$750.00 and 90 days in the Weber County Jail, which was suspended on the same condition as that on the zoning violation. The trial court signed its Judgment, Sentence (Commitment) on April 20, 1998, which was entered that same day. Defendant filed Notice of Appeal on May 11, 1998.

On appeal, Defendant, on January 9, 1996, filed a Motion to Stay Briefing Deadline Pending Temporary Remand to Trial Court for Determination Concerning Trial Exhibit. On January 29, 1996, this Court granted Defendant's Motion to Stay, temporarily remanding the case to the trial court for a determination as to the alleged exhibit tampering. Approximately one year later, the trial court's incomplete findings of fact and conclusions of law as to the altered exhibit issue were filed in this Court.

#### **STATEMENT OF FACTS**

1. On or about June 22, 1994, Mr. Ronnie Earl Chambers, by way of Information, was charged with a zoning ordinance violation, a class B misdemeanor, in violation of Weber County Zoning Ordinance 5-

1 et seq.,<sup>1</sup> and a fire ordinance violation, a class B misdemeanor, in violation of Weber County Fire Code Ordinance 11-1-1 et seq., and violation of the Utah Fire Code § 79.101 et seq.,<sup>2</sup> in relation to the subject property located at approximately 4425 East Highway 162 in Weber County (R. 1-3, Information and Summons);

2. A bench trial was held on the charges before the Honorable Parley R. Baldwin on September 12 and 17, 1995 (R. 60-330, Transcript of Trial);

3. At trial, during the State's case-in-chief, Mr. Craig C. Barker, Director of the Weber County Planning Commission, testified as follows:

**MS. HURTADO:** Mr. Barker, let me hand this to you.  
And do you recognize what this is?

**MR. BARKER:** Yes, I do.

**MS. HURTADO:** And what is it?

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<sup>1</sup>As to the alleged zoning ordinance violation in Count I of the Information, the State, in the Information, alleges that Mr. Ronnie Earl Chambers, between September 22, 1992, to June 22, 1994, violated the Weber County zoning ordinance by "keeping and maintaining a construction equipment yard located at approximately 4425 East Highway 162, in Weber County in an A-1 zone where a construction equipment yard is not a permitted nor a conditional use." (R. 1, Information).

<sup>2</sup>In Count II of the Information, which is the alleged fire ordinance violation, the State alleges that between May 6, 1994, and June 22, 1994, Mr. Ronnie Earl Chambers violated the Weber County Fire Ordinance "by keeping and maintaining fuel tanks, located at approximately 4425 East Highway 162, in Weber County, in violation of the Uniform Fire Code, Article No. 79- [sic] Flammable and Combustible Liquids, as adopted by the Weber County Fire Code Ordinances." (R. 2, Information).

**MR. BARKER:** This is an enlargement of the property -- Weber County property plat for the property in question -- one of the properties shown on this plat.

**MS. HURTADO:** And does that accurately depict that area that is showing?

**MR. BARKER:** I believe it does, yes.

**MS. HURTADO:** Now, if you would, could you please stand and for the record note where the property in question is on this diagram?

**MR. BARKER:** This property identified -- this is a partial number of the land serial number for the property which is noted here as 0144. It says Ronnie Earl Chambers on it.

**MS. HURTADO:** Mr. Storey -- Mr. Storey, I'm sorry. Mr. Barker, you are familiar with this map. Are you familiar with any changes that occurred in this map over the last ten years, for example, as far as ownership?

**MR. BARKER:** Yes, I happened to review the property ownership books of prior years -- 1966, for example -- that we have on our -- in our office, and noted that the property is -- Mr. Chambers' property was not separated from the property noted on there as No. 0027, at that time. It was all one parcel.

(R. 76-77, Transcript of Trial);<sup>3</sup>

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<sup>3</sup>On cross-examination, Mr. Barker admitted basing his ownership determination of the property in 1989 merely on the correspondence in his complaint file (R. 84-85, Transcript of Trial). In fact, when pressed about how he determined ownership of the property in 1989, Mr. Barker admitted that "there is another member of the planning commission who would - doing the complaints at the time may be able to better answer that than I." (*Id.* at 84, lines 16-25).

4. During the State's case-in-chief, Mr. Edward T. Reed, a former planning commission member on the Weber County Planning Commission, testified as follows:

MS. HURTADO: Noting this document [referring to Plaintiff's Exhibit 1], do you recognize this, that's on the wall?

MR. REED: This document is an enlargement of -- it appears to be the official county recorder's plats.

MS. HURTADO: And can you identify the defendant's property on that?

MR. REED: I can, yes.

MS. HURTADO: Will you just point to it?

MR. REED: This is the defendant's property here.

\* \* \* \*

MS. HURTADO: And what complaint was brought to your attention on this matter?

MR. REED: That there was equipment parked on the property.

MS. HURTADO: And what was your action in response to that complaint?

MR. REED: Reaction to that was to actually go up and look at the property and to see what was on the property.

MS. HURTADO: And what did you observe at that time?

MR. REED: Based on my recollection -- and I have no documentation in the file -- that there was a front-end loader on the property, and I believe a pile of gravel.

MS. HURTADO: When are you referring to, as far as time?

MR. REED: I believe that was probably in 1989 when we received the complaint.

MS. HURTADO: And who did you address that to at that time; do you recall?

MR. REED: At that time I believe contact was made with Earl Chambers.

(R. 87, lines 6-14, R. 88-89, Transcript of Trial);

5. On cross-examination, Mr. Reed elicited the following testimony concerning ownership of the subject property:

MR. ARNOLD: Now, you testified, did you not, that this is Ronnie Chambers' property?

MR. REED: That's correct.

MR. ARNOLD: Can you tell me what you base that decision on?

MR. REED: Ronnie Chambers' property?

MR. ARNOLD: Yes.

MR. REED: I base it on the fact that that is a blowup of the county recorder's plats and Mr. Ronnie Earl Chambers' name is on it.

MR. ARNOLD: When was that made?

MR. REED: This particular plat, I couldn't tell you when it was made.

MR. ARNOLD: Is it possible that Mr. Chambers could have conveyed that property since that time?

MR. REED: That's a possibility.

MR. ARNOLD: And is it possible that sometime between somebody writing Mr. Chambers' name on there and when you looked at it, he could have conveyed that property away, prior to that?

MR. REED: That's a possibility, I suppose.

MR. ARNOLD: So, it's possible that he doesn't own the property then; isn't that correct?

MR. REED: I have no knowledge whether he owns the property now or not.

MR. ARNOLD: Or owned it when you looked at the map?

MR. REED: Well, that's entirely possible.

(R. 99-100, Transcript of Trial);

6. On redirect examination, Mr. Reed then testified as follows:

MS. HURTADO: And is there an investigation conducted as far as that observation you made on that complaint?

MR. REED: Yes.

MS. HURTADO: And what kind of investigation is that?

MR. REED: What I would do is I would go back to the office, locate it on the maps that we have available, and that would include the county recorder's maps. And we would also secure the data that the county recorder has on file as to the ownership of the property. That would include the -- verify the name, that would give the address of the property owner.

MS. HURTADO: On this complaint in particular, did you do the normal investigation?

MR. REED: I worked it up, yes; that's correct.

MS. HURTADO: So, at that time did you verify who was the owner?

MR. REED: At that time, it was Mr. Chambers.

MS. HURTADO: And that was in 1992?

MR. REED: That's correct.

(R. 101, Transcript of Trial);

7. Mr. Reed testified to the following on recross examination:

MR. ARNOLD: When you went out in May of 1989 and took these photographs --

MR. REED: Yes.

MR. ARNOLD: -- you didn't verify who the owner was then; did you?

MR. REED: As I recall, I believe I did, yes.

MR. ARNOLD: How did you do that?

MR. REED: I can do that by looking at the county recorder's plats and calling up the county recorder's office.

MR. ARNOLD: Can you specifically recall the county recorder telling you that that was owned by Ronnie Chambers?

MR. REED: As I -- that's going back quite a ways. But, yes, I believe that's correct.

MR. ARNOLD: you remember that conversation?

MR. REED: Not, you know, word for word of the conversation, no.

MR. ARNOLD: Okay. Do you know what the county recorder looked at to verify that information?

MR. REED: What they would look at is what --

MR. ARNOLD: No, do you know what he looked at -- or he looked at at that time?

MR. REED: When I make a call, all I do -- what they do is they pull it up on their screen.

MR. ARNOLD: On their computer screen?

MR. REED: That's correct.

MR. ARNOLD: Who did you talk to?

MR. REED: I have -- I couldn't tell you, at the time.

MR. ARNOLD: Couldn't remember who you talked to?

MR. REED: No.

MR. ARNOLD: Do you remember them pulling it up on their computer screen?

MR. REED: Uh, no. All I did is call over and ask for a check on, you know, the ownership of the property.

MR. ARNOLD: Okay. And you did that in 1989?

MR. REED: As I recall, yes, I did.

MR. ARNOLD: And you did it again in 1994?

MR. REED: Two, '92 and '94.

MR. ARNOLD: This particular map here says it's owned by two individuals; doesn't it?

MR. REED: Well, I thought it said Ronnie Earl chambers.

MR. ARNOLD: What were you told in the telephone conversation?

MR. REED: I couldn't tell you that.

MR. ARNOLD: You can't remember what you were told?

MR. REED: No, I cannot remember that.

MR. ARNOLD: So, you don't really recollect what you -- who you were told as being the owner, then?

MR. REED: To tell you precisely, no.

(R. 101-03, Transcript of Trial);



8. On further redirect examination, Mr. Reed testified as follows:

**MS. HURTADO:** As part of your procedure, how do you document that you know who the owner of this is, as far as the complaint procedure?

**MR. REED:** Well, as far as the complaint goes, I would look at the plat, and to verify, you know, who owns the property at the period of time I'm looking at the plat, I would call over to the county recorder's office.

(R. 103-04, Transcript of Trial);

9. In regard to Mr. Reed's prior testimony that he had confirmed ownership by Mr. Ronnie Earl Chambers of the property in 1989 by looking at county recorder plats and by calling and speaking with the county recorder's office (see *id.* at R. 101-02), Mr. Reed testified to the following on further recross-examination:

**MR. ARNOLD:** Just shortly, a few minutes ago, it was your testimony that you took these photographs in 1989; is that correct?

**MR. REED:** That's correct.

**MR. ARNOLD:** On the date so stated, May 23rd?

**MR. REED:** That's correct.

**MR. ARNOLD:** And it was your testimony that at that point in time you tried to determine who the property owner was and you looked at the plat map, call the county recorder's office, and as you recall, you were given the name Ronnie Chambers?

**MR. REED:** Uh-huh.

**MR. ARNOLD:** If that were the case, Mr. Reed, why, then, would you direct this letter in June of '89 to Mr. Storey, the supposed property owner?

**MR. REED:** Because Mr. Storey was on the property plats as owner, he and his son, Eric.

**MR. ARNOLD:** So, you didn't see Mr. Chambers on the property plat, then; did you?

**MR. REED:** Not at this particular time, evidently.

**MR. ARNOLD:** And evidently the recorder didn't tell you that Ronnie Chambers was the property owner; did she?

**MR. REED:** That would be correct, based on this letter here.

(R. 106-07, Transcript of Trial);

10. During the State's case-in-chief, Ms. Yvonne E. Storey, a prior owner of the subject property, testified as follows:

**MS. STOREY:** Okay, The property we've been discussing today, we didn't sell it. My son, Eric, had a home there and my husband, Boyd, decided to deed Eric some of that land, from our name to his name. And at that time we decided to deed about approximately an acre to Earl Chambers. Now, I say it was Earl because that's all I know. It might be -- I don't know what it says on the deed. But it was just my understanding that that acre was deeded to Earl Chambers.

(R. 111, lines 8-15, Transcript of Trial);

11. During the State's case-in-chief, in the course of the direct examination of Mr. Glen E. Burton, the Chief of the Weber Fire District, and his testimony concerning the investigation of the

alleged fire ordinance violation, the following exchange took place between counsel and the trial court:

**MR. ARNOLD:** Objection, Your Honor. That's hearsay. If he's going to tell what Earl said they're doing with the tanks, that's hearsay.

**THE COURT:** That's not hearsay as it relates to the defendant.

**MS. HURTADO:** It's party opponent --

**MR. ARNOLD:** Excuse me?

**MS. HURTADO:** He's a defendant in this matter.

**THE COURT:** That's not hearsay, when you're talking --

**MR. ARNOLD:** Excuse me, Earl Chambers is not a defendant in this matter, Your Honor. Ronnie Chambers is.

**THE COURT:** Okay. Thank you for that distinction. Ronnie Earl Chambers -- There's a Ronnie Earl Chambers and an Earl Chambers; is that correct?

**MR. ARNOLD:** Yes. Could we -- can we clarify which Chambers he's talking to?

**THE COURT:** Yes.

**MR. BURTON:** I was speaking of Earl Chambers, Ron's father.

**MR. ARNOLD:** And he's not a defendant in this action, Your Honor, and I would object to that.

**THE COURT:** Ms. Hurtado?

**MS. HURTADO:** He represented himself to be the owner of the property when he approached him.

(R. 139-41, Transcript of Trial);

12. Upon the State resting its case, trial counsel for Mr. Ronnie Earl Chambers' moved to dismiss on the grounds that the State had failed to tie the charges to Defendant inasmuch as there had "been absolutely no testimony whatsoever" that Defendant was "conducting anything on that property . . ." and that there had been only "futile attempts to establish that he is the supposed property owner . . . ." (R. 162, lines 4-14, Transcript of Trial). The trial court denied the motion because, as the court stated, "The testimony has, in fact, been -- and is shown up there -- that that particular plat [Plaintiff's Exhibit 1] -- that can be challenged, clearly -- shows that the owner of this property is the defendant. As a result of that, the motion is denied at this point." (R. 162, lines 19-23, Transcript of Trial). In response, counsel argued the following:

There's been no testimony . . . as to when that map was created. There is no testimony that that map was created during the periods of time that the allegation is made that [Defendant] made that offense. And I don't think the Court can rely upon that to attach criminal activity to my client. Simply that somebody has put his name on something that hasn't been established, a foundation or anything like that.

(R. 163, Transcript of Trial);

13. Upon conclusion of the bench trial, the trial court immediately found Defendant guilty on both counts (R. 327-29, lines 11-14, R. Transcript of Trial);

14. In the course of its determination that Defendant violated the zoning ordinance, the trial court, as the basis for its ruling, stated:

Some question had been raised about whether or not -- who owns this property. *The prima facie standard* was met when the plats were admitted from the county recorder's office showing the defendant owns that. There is a deed here in '91. The brother has testified that this is the other brother's property and he allows him on with that equipment.

(R. 327, lines 5-10, Transcript of Trial);

15. At sentencing on April 20, 1995, the trial court, for the zoning violation, imposed a fine in the amount of \$750.00 and 90 days in the Weber County Jail. The trial court suspended \$500.00 of the fine and the 90 days in jail "on the condition that every ounce of that equipment is taken out of there within 30 days." For the fire code ordinance violation, the trial court again imposed a fine in the amount of \$750.00 and 90 days in the Weber County Jail, which was suspended on the same condition as that on the zoning violation (Transcript of Sentencing (April 20, 1995), pp. 5-6);

16. The trial court signed its Judgment, Sentence (Commitment) on April 20, 1998, which was entered that same day (R. 34-35, Judgment, Sentence (Commitment));

17. Defendant filed Notice of Appeal on May 11, 1998 (R. 37-38, Notice of Appeal);

18. On January 9, 1996, Defendant / Appellant filed a Motion to Stay Briefing Deadline Pending Temporary Remand to Trial Court For Determination Concerning Trial Exhibit;

19. By Order dated January 29, 1996, this Court granted the Motion to Stay and temporarily remanded the case to the trial court for a determination as to the alleged exhibit tampering;

20. Thereafter, by way of telephone, Ms. Monette Hurtado, Deputy Weber County Attorney, informed Defendant's appellate counsel that an employee at Kinko's, per her instructions prior to trial, had handwritten the name "Ronnie Earl Chambers" on the plat map utilized as Plaintiff's Exhibit 1 at trial (R. 345-46, letter to Ms. Monette Hurtado, dated February 13, 1996, and filed on February 20, 1996);

21. By way of letter dated February 13, 1996, Defendant's appellate counsel requested that Ms. Hurtado provide further information concerning the circumstances surrounding the writing by the Kinko's employee on the plat map utilized as Plaintiff's Exhibit 1 at trial (*Id.*);

22. On or about February 14, 1996, Ms. Hurtado responded to the request for further information by refusing to provide any information by informal discovery concerning the writing by the Kinko's employee on the Exhibit prior to trial (R. 359, letter from Ms. Monette Hurtado to appellate counsel, dated February 14, 1996, attached to Motion For Continuance of Hearing as Attachment 2);

23. On February 23, 1996, Defendant / Appellant filed a Motion For Continuance of Hearing and a Motion For Discovery seeking information related to the determination of the exhibit tampering issue (R. 347-50, Motion For Discovery);

24. After a hearing before the trial court on February 29, 1996, the trial court granted the Motion For Discovery and required that Plaintiff, Weber County, respond to Defendant's request for discovery on or before March 29, 1996 (R. 365-66, Order);

25. On or about March 27, 1996, Plaintiff, Weber County, by and through Deputy Weber County Attorney Monette Hurtado, responded by written answers to Defendant's discovery request (R. 368-72, Weber County's Response to Defendant's Discovery Request; R. 373, Discovery Certificate);

26. Contrary to the representations made by Plaintiff through Ms. Hurtado prior to filing Weber County's responses, Weber County, through Deputy Weber County Attorney Monette Hurtado, responded to Defendant's discovery requests by identifying the handwriting on the plat map, i.e., Plaintiff's Exhibit 1, as her own writing (R. 368, Response of Weber County to Request No. 1 of Defendant's Motion For Discovery). Such writing was made on the Exhibit on the morning of January 12, 1995, prior to trial (R. 369, Response of Weber County to Request Nos. 3, 4, and 7 of Defendant's Motion For Discovery);

27. On June 26, 1996, the trial court signed its Findings, which were entered on July 10, 1996, and received by Defendant's counsel on July 12, 1996 (R. 374-76, Findings);

28. On July 22, 1996, Defendant filed a Motion to Amend and Clarify Findings and a Memorandum in Support of the Motion to Amend and Clarify Findings (R. 377-85, Motion to Amend and Clarify Findings and Memorandum in Support of same).<sup>4</sup> In the Motion, Defendant specifically objected to various findings of the trial court, moved the trial court for additional findings concerning matters that the trial court failed to address based on the evidence before it, and requested further evidence by deposition concerning the circumstances surrounding the alteration to the Exhibit (R. 381-84, Memorandum in Support of Motion to Amend and Clarify Findings);

29. On July 25, 1996, Defendant, through counsel, filed a Notice of Deposition (R. 386-87, Notice of Deposition) and on July 26, 1996, served Ms. Hurtado with a Subpoena for the purpose of taking her deposition on August 13, 1996 (R. 388-90, Subpoena and Affidavit of Service);

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<sup>4</sup>Both of the July 22, 1996, date stamps on the Motion to Amend and Clarify Findings and the Memorandum in Support in the record, which were filed on July 22, 1996, have inexplicably been crossed out and date stamped as July 23, 1996. Appellate counsel, when filing these documents, obtained a date stamped copy of the same, which show that the documents were filed on July 22, 1996.



30. On August 2, 1996, Plaintiff, Weber County, through Ms. Hurtado, filed a Motion to Quash and Supporting Memorandum to Quash (R. 391-97, Motion to Quash and Supporting Memorandum);

31. On August 13, 1996, Defendant, through counsel, filed another Notice of Deposition (R. 400-01, Notice of Deposition) and on August 13, 1996, served Ms. Hurtado with a Subpoena for the purpose of taking her deposition on August 23, 1996 (R. 388-90, Subpoena and Affidavit of Service);

32. On August 14, 1996, Defendant filed a Rule 4-501 Notice to Submit for Decision, informing the trial court that the Motion to Amend and Clarify Findings, which was filed on July 22, 1996, and to which Plaintiff did not respond, was at issue and ready for decision by the court (R. 402-04, Rule 4-501 Notice to Submit For Decision);

33. On August 16, 1996, Plaintiff, through Ms. Hurtado, filed a Motion to Quash and Supporting Memorandum to Quash (R. 405-07, Motion to Quash and Supporting Memorandum);

34. On August 16, 1996, Plaintiff, through Ms. Hurtado, mailed a copy of the proposed Findings of Fact and Conclusions of Law and Order to appellate counsel (R. 413, Certificate of Mailing);

35. On August 22, 1996, the trial court quashed the subpoena served on Ms. Hurtado on July 26, 1996 (R. 417-18, Order Granting Weber County's Motion to Quash);

36. On August 28, 1996, Defendant filed his Response in Opposition to Motion to Quash (R. 421-26, Response of Defendant in Opposition to Motion to Quash);

37. On August 28, 1996, Defendant, through counsel, filed an Objection to Proposed Findings of Fact and Conclusions of Law and Order, in which Defendant incorporated his Motion to Amend and Clarify Findings previously filed on July 22, 1996 (R. 427-29, Objection to Proposed Findings of Fact and Conclusions of Law and Order);

38. Without any reference or ruling on the pending Motion to Amend and Clarify Findings, the trial court, on August 28, 1996, signed the Findings of Fact and Conclusions of Law and Order (R. 408-13, Findings of Fact and Conclusions of Law and Order);

39. On several subsequent occasions, appellate counsel contacted and spoke with both the clerk's office, and at least on one occasion spoke with the trial court's clerk concerning the trial court's rulings on the pending Motions;

40. Almost sixteen months later, on December 26, 1997, the Utah Court of Appeals received the trial court's Findings and Fact and Conclusions of Law and Order signed by the trial court on August 28, 1996.

#### **SUMMARY OF ARGUMENTS**

1. The State's evidence at trial was insufficient to establish, as an integral element of the charged crimes, Defendant's

ownership of the subject property beyond a reasonable doubt inasmuch as the State all but completely failed, among other things, to prove ownership of the property by Defendant during the time period alleged in the Information. Moreover, the Trial Court erred in its determination, both in its denial of Defendant's Motion to Dismiss and in its ruling, that the State had proved Defendant's ownership of the property as an element of the crimes charged beyond a reasonable doubt and thereby denied Defendant of his constitutional right to due process.

2. By refusing to rule on the pending motions, the trial court not only failed to fully and fairly address all the issues surrounding the altered exhibit as implicitly required by this Court's order concerning temporary remand, but it frustrated the judicial process by its failure to fully and fairly resolve the matters before it pertaining to the altered exhibit.

#### **ARGUMENTS**

**I. THE STATE'S EVIDENCE AT TRIAL WAS INSUFFICIENT TO ESTABLISH, AS AN INTEGRAL ELEMENT OF THE CHARGED CRIMES, DEFENDANT'S OWNERSHIP OF THE SUBJECT PROPERTY BEYOND A REASONABLE DOUBT INASMUCH AS THE STATE ALL BUT COMPLETELY FAILED, AMONG OTHER THINGS, TO PROVE OWNERSHIP OF THE PROPERTY BY DEFENDANT DURING THE TIME PERIOD ALLEGED IN THE INFORMATION.**

**a) The Trial Court erred in its determination that the State had proved Defendant's ownership of the property as an element of the crimes charged beyond a reasonable doubt and thereby denied**

**Defendant of his constitutional right to due process.**

When reviewing a claim of insufficiency of the evidence in a bench trial, the appellate court applies the "clearly erroneous" standard, "which requires that 'if the findings (or the trial court's verdict in a criminal case) are against the clear weight of the evidence, or if the appellate court otherwise reaches a definite and firm conviction that a mistake has been made, the findings (or verdict) will be set aside.'" *State v. Featherson*, 781 P.2d 424, 431-32 (Utah 1989) (quoting *State v. Walker*, 743 P.2d 191, 193 (Utah 1987)); *Provo City Corp. v. Spotts*, 861 P.2 437 (Utah Ct. App. 1993). The appellate court will not disturb the findings unless they are clearly erroneous." *Featherson*, 781 P.2d at 432 (citing *Lemon v. Coates*, 735 P.2d 58, 60 (Utah 1987)). In addition, the appellate court gives due regard to the opportunity of the "trial court to judge the credibility of the witnesses." Utah R. Civ. P. 52(a) (made applicable to criminal cases by virtue of Utah Code Ann. § 77-35-26(7)).

"A fundamental precept of our criminal law is that the State must prove all elements of a crime beyond a reasonable doubt." *State v. Starks*, 627 P.2d 88, 92 (Utah 1981) (citing *State v. Torres*, 619 P.2d 694 (Utah 1980)). Moreover, "it has long been assumed that proof of a criminal charge beyond a reasonable doubt is constitutionally required." *In re Winship*, 397 U.S. 358, 362, 90

S.Ct. 1068, 1071 (1970). "It is the duty of the Government to establish . . . guilt beyond a reasonable doubt. This notion -- basic in our law and rightly one of the boasts of a free society -- is a requirement and a safeguard of due process of law in the historic, procedural content of 'due process.'" *Leland v. Oregon*, 343 U.S. 790, 802-03, 72 S.Ct. 1002, 1009 (1952) (Frankfurter, J., dissenting); see also *Patterson v. New York*, 432 U.S. 197, 210, 97 S.Ct. 2319, 2327 (1977) ("the Due Process Clause requires the prosecution to prove beyond a reasonable doubt all of the elements included in the definition of the offense of which the defendant is charged").<sup>5</sup>

The standard of evidence of guilt beyond a reasonable doubt plays a vital role in the American scheme of criminal procedure. In *re Winship*, 397 U.S. at 363, 90 S.Ct. at 1072. "It is a prime instrument for reducing the risk of convictions resting on factual error. The standard provides concrete substance for the presumption of innocence -- that bedrock 'axiomatic and elementary' principle

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<sup>5</sup>According to well-settled United States Supreme Court case law, the requirement that the State prove all elements beyond a reasonable doubt, together with its surrounding rules of evidence, "developed to safeguard men [and women] from dubious and unjust convictions, with resulting forfeitures of life, liberty and property." *Brinegar v. United States*, 338 U.S. 160, 174, 69 S.Ct. 1302, 1310 (1949). In fact, "the requirement [of guilt beyond a reasonable doubt] is implicit in 'constitutions . . . [which] recognize the fundamental principles that are deemed essential for the protection of life and liberty.'" In *re Winship*, 397 U.S. 358, 362, 90 S.Ct. 1068, 1072 (1970) (quoting *Davis v. United States*, 160 U.S. 469, 488, 16 S.Ct. 353, 358 (1895)).

whose 'enforcement lies at the foundation of the administration of our criminal law.'" *Id.* (quoting *Coffin v. United States*, 156 U.S. 432, 453, 15 S.Ct. 394, 403 (1895)).

As a matter of well-settled law, "circumstantial evidence alone may be sufficient to establish the guilt of the accused." *State v. Nickles*, 728 P.2d 123, 126 (Utah 1986). Circumstantial evidence is sufficient to convict "if it is of 'such quality and quantity as to justify a [a determination of] guilt beyond a reasonable doubt.'" *State v. Span*, 819 P.2d 329, 332 (Utah 1991) (quoting *Nickles*, 728 P.2d at 127). Moreover, "[c]riminal convictions cannot rest on conjecture or supposition; they must be established by proof beyond a reasonable doubt." See *Workman*, 852 P.2d at 987 (noting that the State's argument that "speculative inferences can constitute proof beyond a reasonable doubt is to attack one of the most sacred constitutional safeguards at its core").

When challenging the sufficiency of the evidence, a "[d]efendant has the burden of marshaling all the evidence that supports the verdict, and then showing that, when viewed in the light most favorable to the verdict, the evidence is insufficient.'" *State v. Hayes*, 860 P.2d 968, 972 (Utah Ct. App. 1993) (quoting *State v. Vigil*, 840 P.2d 788, 793 (Utah Ct. App. 1992), *cert. denied*, 857 P.2d 948 (Utah 1993)). Notwithstanding, the appellate court has the ultimate power to conduct an independent review of constitutional claims such as the issue in this case concerning the State's failure

to prove all of the elements of the crimes charged beyond a reasonable doubt as required by the constitutional right to due process. *See State v. Thurman*, 846 P.2d 1256, 1266 (Utah 1993).

The State, in the case at bar, charged Defendant by way of Information with a zoning ordinance violation allegedly in violation of Weber County Zoning Ordinance 5-1 et seq., and a fire ordinance violation allegedly in violation of Weber County Fire Code Ordinance 11-1-1 et seq., and the Utah Fire Code § 79.101 et seq. (R. 1-3, Information). The alleged violations occurred on the subject property located at approximately 4425 East Highway 162 in Weber County between September 22, 1992, and June 22, 1994 (Count I), and May 6, 1994, and June 22, 1994 (Count II), respectively (*Id.*). An integral element of the crimes charged against Defendant is ownership of the property in question.

Even when the evidence presented by the State during its case-in-chief, as set forth verbatim in the Statement of Facts above (see Statement of Facts, ¶¶3-11), is viewed in a light most favorable to the trial court's ruling,<sup>6</sup> the evidence is wholly insufficient to establish, beyond a reasonable doubt, Defendant's ownership of the property during the alleged time periods in the Information. In the State's case-in-chief, in the course of presenting Plaintiff's

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<sup>6</sup>The trial court, as the record indicates, did not enter any written findings of fact in support of its ruling. Moreover, the transcript of the trial court's ruling is essentially devoid of any verbal findings of fact in support of its ruling.

Exhibit 1, the State failed to make the foundational showing necessary to authenticate the Exhibit as an accurate plat map from the Weber County Recorder's Office. In so doing, the State failed to prove ownership by Defendant of the subject property during the alleged time periods attendant to the charged crimes.

In the course of Mr. Barker's testimony as Director of the Weber County Planning Commission during the State's case-in-chief, Mr. Barker referred to and utilized Plaintiff's Exhibit 1 to establish ownership by Defendant of the property (R. 76-77, Transcript of Trial). Mr. Barker's testimony further indicates that he utilized ownership books from his own office rather than those from the Weber County Recorder's Office to research ownership of the property (*Id.*). On cross-examination, Mr. Barker admitted, in contradiction to his prior testimony, that he actually utilized the correspondence in his file to determine ownership of the property (*see id.* at R. 84-85), that there was another person in his office more qualified to answer questions concerning ownership of the property (*see id.* at R. 84, lines 22-24), and that he did not recall a property plat (*see id.* at R. 84, lines 21-22).

During its case-in-chief, the State, in the course of testimony by Mr. Edward T. Reed, a former Weber County Planning Commission member, attempted to establish Defendant's ownership of the subject property by having Mr. Reed refer to Plaintiff's Exhibit 1 (*Id.* at R.



87, lines 6-14).<sup>7</sup> Again, the State failed to establish any foundational accuracy as to the alleged plat map utilized as Plaintiff's Exhibit 1. In addition, the State failed to make any showing by someone at least familiar with the preparation of the plat map in the Weber County Recorder's Office to establish that indeed the exhibit accurately represented the status of property ownership as depicted by the plat. Further, even if one were to assume that the plat accurately reflected the status of property ownership, which under the circumstances of the evidence presented at trial is a leap, the State also failed to make the requisite showing to establish the time period of property ownership represented by the plat map. See *State v. Harman*, 767 P.2d 567, 568 (Utah Ct. App. 1989) (stating that the appellate court "will not make 'speculative leap[s] across . . . remaining gap[s]' in the evidence") (quoting *State v. Petree*, 659 P.2d 443, 445 (Utah 1983)).

The State's utilization of Plaintiff's Exhibit 1, during its case-in-chief, to establish Defendant's ownership of the subject property is especially troubling in light of the fact that

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<sup>7</sup>On cross-examination, Mr. Reed admitted that he based his determination concerning Defendant's ownership of the property on Plaintiff's Exhibit 1 (see R. 99, lines 5-13, Transcript of Trial). When asked when Plaintiff's Exhibit 1 was made, Mr. Reed responded that he "couldn't tell [Defendant's counsel] when it was made." (See *id.* at R. 99, lines 14-16). In fact, upon further cross-examination, Mr. Reed admitted that, precisely speaking, he actually didn't remember in the course of his investigation who he was told as being the owner of the property (*Id.* at R. 102-03).

Plaintiff's counsel, Deputy Weber County Attorney Hurtado, hand-wrote the name "Ronnie Earl Chambers" on Plaintiff's Exhibit 1 prior to trial on the morning of January 12, 1995 (R. 369, Response of Weber County to Request Nos. 3, 4, and 7 of Defendant's Motion For Discovery; see also Statement of Facts, ¶¶20-26).<sup>8</sup> Equally troubling, is the failure by Deputy Weber County Attorney Hurtado, as Plaintiff's counsel, to inform either the trial court or opposing counsel of her alteration or enhancement to the trial exhibit prior to offering Plaintiff's Exhibit 1 and referring to the Exhibit as evidence at trial. This fact alone, underscores the failure by the prosecution to prove every element of the crimes charged beyond a reasonable doubt. See *Harman*, 767 P.2d at 568 ("Every element of the crime[s] charged must be proven beyond a reasonable doubt. If the evidence does not support those elements, the verdict must fail.").

Also during the State's case-in-chief, in the course of eliciting testimony by Ms. Yvonne E. Storey, a prior owner of the subject property, testified that, according to her understanding, the subject property had been "deeded" to Mr. Earl Chambers, Defendant's father (See R. 111, Transcript of Trial). This testimony is

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<sup>8</sup>Ms. Hurtado's alteration or enhancement of Plaintiff's Exhibit 1 is exacerbated by the fact that she, in response to requests concerning the altered exhibit, initially represented that a Kinko's employee, per her instructions, had handwritten the name "Ronnie Earl Chambers" on the plat map utilized as Plaintiff's Exhibit 1 at trial (see R. 345-46, letter from appellate counsel to Deputy Weber County Attorney Hurtado, dated February 13, 1996, and filed on February 20, 1996).

indicative of the confusion that existed at trial, both on the part of the prosecution and the trial court, concerning the crucial distinction to be made between the identity of Defendant, Ronnie Earl Chambers, and his father, Earl Chambers (see, e.g., R. 139-41, Transcript of Trial; see also Statement of Facts ¶11).<sup>9</sup> As evinced by the foregoing evidence presented at trial, there existed at least a hypothesis that someone other than Defendant owned the subject property. The evidence at trial also supports the existence of the hypothesis that even if one were to assume that Defendant did own the subject property, that he did not own the property during the time periods alleged in the Information. The existence of these hypotheses necessarily raises a reasonable doubt as to Defendant's guilt. Therefore, the evidence is insufficient to support Defendant's convictions. See *State v. Hill*, 727 P.2d 221, 222 (Utah 1986); see Utah Code Ann. § 76-1-501.<sup>10</sup>

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<sup>9</sup>See Plaintiff's Exhibit 14 (Letter dated June 16, 1994, from Mr. Glen H. Burton, Weber District Fire Chief, to Deputy County Attorney Hurtado, a true and correct copy of which is attached hereto as Addenda C), in which Mr. Burton represents to Ms. Hurtado that the subject property "is a construction equipment storage site owned by Earl Chambers." Mr. Earl Chambers is Defendant's father.

<sup>10</sup>Utah Code Ann. § 76-1-501 provides, in relevant part:

(1) A defendant in a criminal proceeding is presumed to be innocent until each element of the offense charged against him is proved beyond a reasonable doubt. In absence of such proof, the defendant shall be acquitted.

(2) As used in this part the words "elements of the offense" mean:

(a) The conduct, attendant

As can be see from a review of the evidence at trial, the evidence is insufficient to support Defendant's convictions inasmuch as the evidence, or essentially the total lack thereof, leads to a definite and firm conviction that a mistake was made by the trial court. Reversal for insufficiency of the evidence is therefore appropriate in the instant case.

- b) The Trial Court, in the course denying Defendant's Motion to Dismiss after the State rested its case and in the course of its ruling, erred in its determination that the State had proved Defendant's ownership of the property as an element of the crimes charged beyond a reasonable doubt -- thereby denying Defendant of his constitutional right to due process.**

The appellate court has the ultimate power to conduct an independent review of constitutional claims such as the issue in this case concerning the standard of guilt beyond a reasonable doubt as required by the constitutional right to due process. See *State v. Thurman*, 846 P.2d 1256, 1266 (Utah 1993). Although considerable deference is accorded to factual findings, the trial court's conclusion of law that ownership by Defendant of the subject property was proven beyond a reasonable doubt is given no special deference

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circumstances, or results of conduct proscribed, prohibited, or forbidden in the definition of the offense; or  
(b) The culpable mental state required.

. . . .

and thus reviewed for correctness. See *State v. Pena*, 869 P.2d 932, 939 (Utah 1994).

Upon the State resting its case, Defendant's trial counsel moved to dismiss on the grounds that the State had failed to tie the charges to Defendant inasmuch as there had "been absolutely no testimony whatsoever" that Defendant was "conducting anything on that property . . ." and that there had been only "futile attempts to establish that he is the supposed property owner . . . ." (R. 162, lines 4-14, Transcript of Trial). The trial court denied the motion, stating, "The testimony has, in fact, been -- and is shown up there -- that that particular plat [Plaintiff's Exhibit 1] -- that can be challenged, clearly -- shows that the owner of this property is the defendant. As a result of that, the motion is denied at this point." (R. 162, lines 19-23, Transcript of Trial). In response, Defendant's trial counsel argued that

There's been no testimony . . . as to when that map was created. There is no testimony that that map was created during the periods of time that the allegation is made that [Defendant] made that offense. And I don't think the Court can rely upon that to attach criminal activity to my client. Simply that somebody has put his name on something that hasn't been established, a foundation or anything like that.

(R. 163, Transcript of Trial). Further, in the course of its determination that Defendant violated the zoning ordinance, the trial court, as the basis for its ruling, stated:

Some question had been raised about whether or not -- who owns this property. *The prima facie standard* was met when the plats were admitted from the county recorder's office showing the defendant owns that. There is a deed here in '91. The brother has testified that this is the other brother's property and he allows him on with that equipment.<sup>11</sup>

(R. 327, lines 5-10, Transcript of Trial) (Emphasis added).

By determining, in the course of its foregoing rulings, that the State had proven Defendant's ownership of the subject property beyond a reasonable doubt, the trial court denied Defendant of his constitutional right to due process.

**II. BY REFUSING TO RULE ON THE PENDING MOTIONS, THE TRIAL COURT NOT ONLY FAILED TO FULLY AND FAIRLY ADDRESS ALL THE ISSUES SURROUNDING THE ALTERED EXHIBIT AS IMPLICITLY REQUIRED BY THIS COURT'S ORDER CONCERNING TEMPORARY REMAND, BUT IT FRUSTRATED THE JUDICIAL PROCESS BY ITS FAILURE TO FULLY AND FAIRLY RESOLVE THE MATTERS BEFORE IT PERTAINING TO THE ALTERED EXHIBIT.**

Utah Rule of Civil Procedure 52(b), in relevant part, provides that "[u]pon motion of a party made not later than 10 days after

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<sup>11</sup>During the cross-examination of Defendant's witness, Mr. Greg Chambers, Defendant's brother, the prosecution, inappropriately and beyond the scope of direct examination, presented, over the objection of Defendant's counsel, Plaintiff's Exhibit 16, which is apparently a Quit-Claim Deed from Mr. Eric B. Storey to Mr. Ronnie Earl Chambers, dated March 20, 1998, and recorded that same day (R. 286-87, Transcript of Trial; see a true and correct copy of Plaintiff's Exhibit 16 (Quit-Claim Deed), attached hereto as Addenda D). Notwithstanding, the State failed to establish that the legal description on the Deed is in fact the same property as that of the subject property. Further, even if one were to assume that it was the same property, the State again failed to establish the period of time of Defendant's ownership of the property.

entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly." Rule 52(b) is made applicable to criminal proceedings by Utah Rule of Civil Procedure 81(e), which provides that "[t]hese rules of procedure shall also govern in any aspect of criminal proceedings where there is not other applicable statute or rule. . . ." See *State v. Goodman*, 763 P.2d 786 (Utah 1988).

In the Motion to Amend and Clarify Findings filed on July 22, 1996, Defendant specifically objected to the trial court's finding that "No objections where [sic] raised by the defendant either to the introduction, use or acceptance [of Plaintiff's Exhibit 1]." Rather, the record indicates that Defendant's trial counsel moved to dismiss and objected to the trial court's reliance on Plaintiff's Exhibit 1 for lack of foundation and other reasons, which the trial court overruled (See R. 162-63, Transcript of Trial, pp. 103-04).

Defendant, by way of his Motion to Amend and Clarify Findings, also objected to the trial court's finding that "[b]ecause the attorney [i.e., Deputy Weber County Attorney Monette Hurtado] felt that it may be difficult to see the names on the map [i.e., Plaintiff's Exhibit 1] at a distance, she traced over the letters in ink." To the contrary, Plaintiff's Exhibit 1 evinces that Ms. Hurtado did not, in fact, trace over letters on the plat map. Rather, new and different letters were handwritten in on the plat map, which was utilized by Plaintiff's counsel as Plaintiff's Exhibit

1 at trial. Such a finding by the trial court is against the clear weight of evidence shown by the blown up copy of the plat map. Further, by way of his Motion to Amend and Clarify Findings, and based on grounds previously cited, Defendant objected to and challenged the trial court's conclusion that "the exhibit was not tampered with, that any enhancements to the poster [Plaintiff's Exhibit 1] took place prior to the exhibit being offered and then inspected by the attorney for the defendant, and that no objection was raised on the acceptance of the exhibit."

Additionally, the trial court neglected to make any findings addressing Plaintiff's counsel's initial representation to Defendant's appellate counsel that a Kinko's employee, per the instructions of Plaintiff's counsel, handwrote the new matter on the Exhibit. The trial court also failed to make any findings as to the failure of Plaintiff's counsel to inform either the trial court or Defendant's trial counsel of the alteration to Plaintiff's Exhibit 1 prior to offering the same as an exhibit at trial.

The trial court failed to rule of Defendant's Motion to Amend and Clarify Findings and his Objection to the proposed Findings of Fact and Conclusions of Law and Order, which incorporated the Motion to Amend and Clarify Findings filed on July 22, 1996. By so doing, the trial court failed to completely address the issues related to the alteration of the Exhibit as Ordered by this Court on January 29, 1996. As a result, the trial court frustrated the judicial process



and failed to comply with this Court's Order concerning temporary remand.

### **CONCLUSION**

Based on the foregoing, Mr. Ronnie Earl Chambers respectfully requests that this Court reverse his convictions and remand the case for further proceedings consistent with this Court's instructions as stated in its opinion.

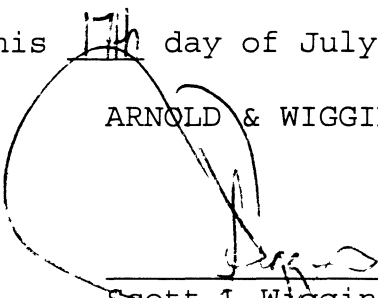
### **STATEMENT REGARDING ORAL ARGUMENT** **METHOD OF DISPOSITION, RETAINING JURISDICTION**

Defendant requests oral argument because oral argument will materially enhance the decisional process due to the significant and novel issues in the instant appeal dealing with the constitutional right to due process by requiring the State to prove all elements of the charged crimes beyond a reasonable doubt, which, based on the facts of the instant appeal, involve issues requiring further development in these areas of criminal law for the benefit of bar and public. Counsel for Defendant further requests that the method of disposition of the instant appeal be by opinion designated by the

Court "For Official Publication" for purposes of precedential value and direction in future cases.

RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of July, 1998.

ARNOLD & WIGGINS, P.C.



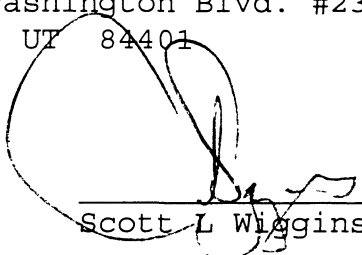
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Scott L Wiggins  
Attorneys for Appellant

**CERTIFICATE OF MAILING**

I, Scott L Wiggins, hereby certify that I personally caused to be mailed two (2) true and correct copies of the foregoing **BRIEF OF APPELLANT**, postage prepaid, to the following, on this 17th day of June, 1998:

Ms. Monette Hurtado  
Deputy Weber County Attorney  
2380 Washington Blvd. #230  
Ogden, UT 84401



\_\_\_\_\_  
Scott L Wiggins

### **ADDENDUM**

- Addenda A: Judgment, Sentence (Commitment) - entered April 20, 1995
- Addenda B: Copy of Altered Portion of Plaintiff's Exhibit 1 (as altered by Deputy County Attorney Hurtado)
- Addenda C: Copy of Plaintiff's Exhibit 14 - Letter (dated June 16, 1994) from Glen H. Burton, Chief of the Weber Fire District, to Deputy Weber County Attorney Hurtado)
- Addenda D: Copy of Plaintiff's Exhibit 16 - Quit-Claim Deed

## Addendum A

SECOND CIRCUIT COURT- OGDEN  
WEBER COUNTY, STATE OF UTAH

STATE OF UTAH  
VS

JUDGMENT, SENTENCE  
(COMMITMENT)

CHAMBERS, RONNIE EARL  
3352 E 3350 N  
EDEN UT 84310

CASE NO: 941002275  
DOB: / /  
TAPE: B57 COUNT: 5445  
DATE: 04/20/95  
CITATION: ,

THE ABOVE NAMED DEFENDANT BEING ADJUDGED GUILTY FOR THE  
OFFENSE(S) AS FOLLOWS:

Charge: 5-1.1 ZONING VIOL

|       |        |                      |        |
|-------|--------|----------------------|--------|
| Plea: |        | Find: Guilty - Bench |        |
| Fine: | 750.00 | Susp: 0.00           |        |
| Jail: | 90 DA  | Susp: 90 DA          | ACS: 0 |

Charge: UFC-79-103 FLAMMABLE LIQUID STORAGE

|       |        |                      |        |
|-------|--------|----------------------|--------|
| Plea: |        | Find: Guilty - Bench |        |
| Fine: | 750.00 | Susp: 0.00           |        |
| Jail: | 90 DA  | Susp: 90 DA          | ACS: 0 |

FEES AND ASSESSMENTS:

Fine Description: Fine- Prosecutor Spl

|         |      |       |      |      |          |
|---------|------|-------|------|------|----------|
| Credit: | 0.00 | Paid: | 0.00 | Due: | 1,500.00 |
|---------|------|-------|------|------|----------|

TOTAL FINES AND ASSESSMENTS:

|         |      |       |      |      |          |
|---------|------|-------|------|------|----------|
| Credit: | 0.00 | Paid: | 0.00 | Due: | 1,500.00 |
|---------|------|-------|------|------|----------|

CALENDAR:

SENTENCING

04/20/95 09:00 AM in rm 2 with PARLEY R. BALDWIN

DOCKET INFORMATION:

Sentence:

Deft present with Counsel, Prosecutor present

ATD: ARNOLD, MARK E.

PRO: HURTADO, M

Tape: B57 Count: 5445

Judge: PARLEY R. BALDWIN

Chrg: ZONING VIOL Plea: Find: Guilty - Be

Fine Amount: 750.00 Suspended: .00

Jail: 90 DAYS Suspended: 90 DAYS

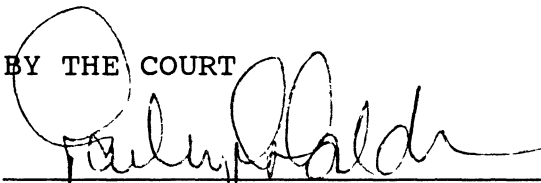
Chrg: STORE FLAM LQUD Plea: Find: Guilty - Be

Fine Amount: 750.00 Suspended: .00

Jail: 90 DAYS Suspended: 90 DAYS

\$1,000 FINE SUSPENDED WITH DEF'S COMPLIANCE WITH THE ORDINANCES  
WITHIN 30 DAYS. DEF TO APPEAR ON 5-18-95 WITH FINE PAID AND  
PROPERTY CLEANED UP  
DEF'S CONVICTION IS ENTERED

BY THE COURT

  
JUDGE, CIRCUIT COURT

NOTE: APPEAL MUST BE FILED WITHIN 30 DAYS  
OF ENTRY OF THIS JUDGMENT.

## Addendum B



[illegible]

EL  
BU

N. 3202116

N. 9353131  
107.36  
E. 131.36

FILED

FEB - 4 1998

COURT OF APPEALS

FILED

Utah Court of Appeals

NOV 14 1995

Marilyn M. Branch  
Clerk of the Court

950322-CA

|   |                               |                                    |                                    |
|---|-------------------------------|------------------------------------|------------------------------------|
| State <input checked="" type="checkbox"/> | City <input type="checkbox"/> | Plaintiff <input type="checkbox"/> | Defendant <input type="checkbox"/> |
| Exhibit                                   | P1                            |                                    |                                    |
| Name                                      | Reynolds, Chambers            |                                    |                                    |
| Case #                                    | 9411018 2375 M/S              |                                    |                                    |
| Date Received                             | 11-12-95                      |                                    |                                    |

## Addendum C



WEBER FIRE DISTRICT  
1871 NORTH 1350 WEST  
OGDEN, UTAH 84404  
782-3580

**BOARD OF TRUSTEES**  
SCOTT W. HADLEY  
PAUL V. SKEEN  
LAMAR HOLT  
JOE ANDERSON  
KEITH BUTLER  
DENNIS MONTGOMERY  
HUNTSVILLE REP.  
WEST HAVEN REP

**ADMINISTRATION**  
GLEN BURTON - CHIEF  
DAVID AUSTIN - ASST CHIEF

June 16, 1994

Monette Hurtado  
County Attorney's Office  
2549 Washington Blvd.  
Ogden, UT 84401

Dear Ms. Hurtado:

On May 6, 1994, Ed Reed and I inspected the property at HWY #162 at approximately 3100 East. This site is a construction equipment storage site owned by Earl Chambers.

At the request of the County Commissioners, I have been observing the site over the past few months. Attention was aimed specifically at the above ground fuel storage tanks. My previous inspections had indicated that the fuel tanks were empty and not being used.

During a drive by in April I noticed a fuel pump had been placed and appeared to be in use. On my inspection on May 6th, I noted the tanks were piped and fitted to the pump for use. A discussion with Earl Chambers confirmed the use and he admitted the contents of the tank were diesel fuel. I indicated to Mr. Chambers that the tanks were not approved for use and that he should remove the tanks as soon as possible.

The fuel tanks located at the Chambers site do not comply with the Uniform Fire Code, Article #79 - Flammable and Combustible Liquids.

If I can be of further assistance, please feel free to call me.

Sincerely,

WEBER FIRE DISTRICT

Glen H. Burton  
Chief - Administrator

GHB:ldp

|                                |                               |   |                                    |
|--------------------------------|-------------------------------|---|------------------------------------|
| State <input type="checkbox"/> | City <input type="checkbox"/> | Plaintiff <input checked="" type="checkbox"/> | Defendant <input type="checkbox"/> |
| Exhibit                        | P14                           |   |                                    |
| Name                           | State vs. R Chambers          |   |                                    |
| Case #                         | 941002275                     |   |                                    |
| Date Received                  | 1-17-95                       |   |                                    |

## Addendum D

Recorded in Book of \_\_\_\_\_  
 at \_\_\_\_\_  
 by \_\_\_\_\_ Day \_\_\_\_\_  
 Mail tax notice to Ernie Chambers 2 North Utah  
**QUIT-CLAIM DEED**

Eric B. Storey  
 of Eden, County of Weber, State of Utah, hereby QUIT-CLAIM to  
Ernie Chambers

of Liberty, Utah  
 Ten \_\_\_\_\_  
**AND OTHER GOOD & VALUABLE CONSIDERATION**  
 the following described tract of land in Eden, Utah  
 State of Utah:

grantee  
 for the sum of \_\_\_\_\_ DOLLARS,  
 \_\_\_\_\_ County,

Part of the Southeast Quarter of section 28, Township 7 North, Range 1 East, Salt Lake Base and Meridian, U.S. Survey: Beginning at a point 3.50 chains South and North 67° 45' East 308.1 feet along western North property line to the center line of a river and South 52° 45' East 409.30 Feet along the center line of said river from the Northwest corner of the Southeast Quarter of said section 28; running thence South 52° 45' East 493.70 Feet, more or less, along the center line of said river to the North line of the State highway; thence Northwesterly along said highway and the arc of a 2831.79 foot radius curve to the right 478.86 Feet, more or less; thence North 22° 06' 55" East 169.29 Feet to the point of beginning. Contains 1.0 acre, more or less.

Reserving to the grantor his successors and assigns an easement to maintain or repair the presently existing culinary water line running across the rear portion of the above-described property, together with the right to enter upon said property or such much thereof as is necessary to perpetually maintain the said water line. Grantor further reserves the right to move said water line towards the State Highway 162, if such relocation is necessitated by a change of course in the North Fork River.

Grantee, his heirs, successors, and assigns shall not interfere with said water line and shall not build or maintain any permanent structures within 15 Feet of either side of said water line.

Grantee, his heirs, successors, and assigns shall not remove any gravel from the river bed portion of the above described property. Violation of this covenant will result in a reversion of the full interest back to the grantor.

Witness the hand of said grantor, this

20th day of March, A.D.

Signed in the presence of

22-022-0144 (22-022-0027)  
 PLATTED ☒ VERIFIED ☒  
 ENTERED ☒ MICROFILMED ☒

STATE OF UTAH.

County of Weber

EX 1134465 WK1596 PK7184  
 DOUG CROFTS, WEBER COUNTY RECORDER  
 20-MAR-71 246 PM. FEE \$7.00 DEPT. 14  
 REC FOR: ERIC B. STOREY

Eric B. Storey the grantor of the foregoing instrument, who duly acknowledges to me that he executed the same,  
 1971, A.D., personally appeared before me and

My commission expires \_\_\_\_\_ My residence is \_\_\_\_\_

☐ Defendant  
☒ Plaintiff  
☐ City  
☒ State  
 Exhibit  
 Name State vs. Chambers  
 Case # 941002275  
 Date Received 11795