IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Appellant, v. MATTHEW THOMAS CATLETT, JR., Respondent.	No. 40417-6-II UNPUBLISHED OPINION

Quinn-Brintnall, J. — The State appeals the trial court's order granting Matthew Thomas Catlett, Jr.'s motion to suppress all evidence obtained as a result of Deputy Christopher Helton's contact with Catlett. Because Catlett was legally detained prior to his arrest on a valid felony warrant, the evidence obtained after the police arrested Catlett is admissible. Accordingly, we reverse and remand for further proceedings.

FACTS

On December 10, 2009, Deputy Helton of the Skamania County Sheriff's Office was on patrol. At approximately 2:30 pm, Helton received a call that the burglar alarm at Digitron Electronics had been activated. Detective Garrity of the Skamania County Sheriff's Office also responded to the burglar alarm. Garrity was closer to the area and when he arrived he observed two men walking on the side of the highway. Garrity did not contact the men because he was in

plain clothes and was not wearing body armor.

Deputy Helton arrived at Detective Garrity's location 60 to 90 seconds after he received the call. Helton observed two men walking down the road in "work-type" clothing approximately one-quarter of a mile from the Digitron site.[1] Report of Proceedings (RP) at 6. Helton pulled to the side of the road, activated the lights on his unmarked traffic car, and contacted the two men.

Deputy Helton asked the men what they were doing on the side of the highway and the men replied that they were "scrapping."[2] RP at 6. Helton then asked the men for identification. Helton identified one of the men as Catlett. After obtaining Catlett's identification, Helton ran a wants and warrants check and learned that Catlett had an outstanding felony warrant for his arrest. Helton verified the warrant and then placed Catlett in custody.

While Deputy Helton was contacting Catlett, Deputy Manning of the Skamania County Sheriff's Office arrived at the Digitron site. Manning informed Helton that a door had been kicked in and that there was a boot print on the door. Helton observed that Catlett was wearing boots. Helton brought Catlett to the Digitron site and observed that the boot print on the door was "extremely close" to the pattern on the sole of Catlett's boot. RP at 9. Helton then arrested Catlett for burglary.

On December 11, 2009, the State charged Catlett with second degree burglary. On January 19, 2010, Catlett filed a CrR 3.6 motion to suppress the evidence obtained incident to his

[1] The record does not indicate how close the men had been to the Digitron site at the time Detective Garrity first observed them or the amount of time that had passed between the time that Garrity saw the men and Deputy Helton arrived at the scene 60 to 90 seconds after the dispatcher called him.

[2] "Scrapping" refers to gathering scrap metal, presumably for resale.

arrest. Specifically, Catlett sought to suppress the boot print on the door at the Digitron site and the testimony recounting the similarity between the boot print on the door and the boot Catlett had been wearing at the time of his arrest. Catlett alleged that Deputy Helton's initial contact with him constituted an illegal seizure and argued that all evidence discovered as a result of the illegal seizure should be suppressed.

On January 28, 2010, the trial court held a hearing on Catlett's suppression motion. In addition to the facts stated above, Deputy Helton testified that he had been employed by the Skamania County Sheriff's office for approximately 15 years. Helton thought it was unusual for the men to say they were "scrapping" on the side of the highway because he had never contacted anyone scrapping there and there was very little scrap metal in the area. Helton also explained that when he stops his car on the side of the highway, it is his practice to activate the emergency lights to alert passing motorists of his presence. Helton was concerned about the risk to himself and to the people he was contacting because the shoulder along the side of the highway was very narrow. In response to Catlett's question on cross-examination, Helton confirmed that the majority of burglar alarms he has responded to have been false alarms.

The trial court found that, at the time Deputy Helton approached Catlett, the only information Helton had was that a burglar alarm had been activated and Catlett was approximately one-quarter mile from the scene of the burglar alarm. The trial court entered findings of fact consistent with its earlier oral findings. The trial court also entered the following conclusions of law:

> 2. [Catlett] was seized when the officer activated his lights and [Catlett] was stopped walking on the side of the road.
> 3. This was a warrantless seizure.
> 4. At the time [Catlett] was seized the officer did not have articulable facts

> that [Catlett] was involved in criminal activity. The fact of a person lawfully walking down the road 1/4 of mile [sic] away from an area where an alarm sounded is not specific articulable facts sufficient to show that [Catlett] was involved in criminal activity especially when coupled with the high number of false alarms that officers respond to.

Clerk's Papers at 22. Based on its findings of fact and conclusions of law, the trial court granted Catlett's motion to suppress.

Apparently, based on the trial court's ruling suppressing the evidence of Catlett's boot print, the State asked the court to dismiss the charge against Catlett.[3] The State timely appeals the trial court's order granting Catlett's motion to suppress.

ANALYSIS

The State argues that the trial court erred when it granted Catlett's motion to suppress because, based on the totality of the circumstances, Deputy Helton had reasonable suspicion to justify an investigative *Terry*[4] stop. We agree that the trial court erred in concluding that Catlett was illegally seized prior to his arrest on the valid felony warrant, and we reverse the order granting Catlett's motion to suppress.

We review a trial court's factual findings for substantial evidence and conclusions of law de novo. *State v. Whitney*, 156 Wn. App. 405, 408, 232 P.3d 582, *review denied*, 170 Wn.2d 1004 (2010). The State does not challenge the trial court's factual findings, thus they are verities on appeal. *State v. Acrey*, 148 Wn.2d 738, 745, 64 P.3d 594 (2003). Therefore, we limit our review to whether the trial court's findings support its legal conclusions that (1) Catlett was

[3] Catlett does not challenge the State's right to appeal the trial court's suppression ruling and dismissal order. *See* RAP 2.2(b)(2).

[4] *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

seized at the time Deputy Helton activated his emergency lights and (2) Helton did not have reasonable suspicion to justify an investigative *Terry* stop.

Seizure

A person is "seized" under the Fourth Amendment only if, "in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave." *United States v. Mendenhall*, 446 U.S. 544, 554, 100 S. Ct. 1870, 64 L. Ed. 2d 497 (1980). Whether a reasonable person believed he was free to leave depends on the particular, objective facts surrounding the encounter. *State v. Ellwood*, 52 Wn. App. 70, 73, 757 P.2d 547 (1988); *State v. Armenta*, 134 Wn.2d 1, 10-11, 948 P.2d 1280 (1997). "Not every encounter between an officer and an individual amounts to a seizure." *State v. Crespo Aranguren*, 42 Wn. App. 452, 455, 711 P.2d 1096 (1985).

Similarly, a person is seized under article I, section 7 of the state constitution only when, by means of physical force or a show of authority, his freedom of movement is restrained and when, in light of all of the circumstances, a reasonable person would not believe he is free to leave or to otherwise decline an officer's request and end the encounter. *State v. Young*, 135 Wn.2d 498, 510-11, 957 P.2d 681 (1998). This is a purely objective standard defined by the actions of the law enforcement officer. *Young*, 135 Wn.2d at 510-11.

The trial court concluded that Catlett was unlawfully seized when Deputy Helton activated the emergency lights on his vehicle. The facts do not support this conclusion. It is well established that activating emergency lights constitutes a seizure of a vehicle. *See, e.g.*, *State v. DeArman*, 54 Wn. App. 621, 624, 774 P.2d 1247 (1989) (holding that activating emergency lights and high beams to summon the occupants of a parked vehicle is a sufficient show of force

to constitute a seizure (quoting *State v. Stroud*, 30 Wn. App. 392, 396, 634 P.2d 316 (1981), *review denied*, 96 Wn.2d 1025 (1982))). But the courts have also recognized a distinction between motorists and pedestrians. *State v. Rankin*, 151 Wn.2d 689, 697, 92 P.3d 202 (2004). In *Rankin*, our Supreme Court reasoned that a passenger in a motor vehicle "does not have the realistic alternative of leaving the scene as does a pedestrian." 151 Wn.2d at 697. Therefore, Helton's cautionary use of emergency lights here is not necessarily dispositive, and we examine the totality of the circumstances to determine whether Catlett was actually seized prior to his arrest on a felony warrant.

An officer may contact an individual and ask for identification without the contact amounting to a seizure if a reasonable person would feel free to decline the officer's request and walk away. *State v. Nettles*, 70 Wn. App. 706, 709, 855 P.2d 699 (1993), *review denied*, 123 Wn.2d 1010 (1994). In *Nettles*, the defendant had been walking down the street when an officer asked him to come over to her car so she could speak with him. 70 Wn. App. at 708. Nettles walked over to the officer's car. *Nettles*, 70 Wn. App. at 708. While Nettles was approaching, the officer asked him to remove his hands from his pockets. *Nettles*, 70 Wn. App. at 708. When Nettles removed his hands, he threw a small plastic bag containing cocaine under the officer's car. *Nettles*, 70 Wn. App. at 708. Division One of this court determined that the cocaine was admissible because Nettles was not seized at the time the officer contacted him. *Nettles*, 70 Wn. App. at 709. The court held that "a police officer has not seized an individual merely by approaching him in a public place and asking him questions, as long as the individual need not answer and may simply walk away." *Nettles*, 70 Wn. App. at 709.

Here, Deputy Helton contacted Catlett, asked why he was in the area of a sounding

burglar alarm, and requested identification from him. There is nothing in the record that indicates Helton told Catlett to stop or that he was not free to leave. Moreover, Helton testified that his vehicle was protruding into the road because of the narrow shoulder and that he had activated his emergency lights to warn approaching motorists; the lights were activated as a safety precaution, not as a show of force. There is nothing in the record before us indicating that Catlett was not free to terminate the encounter with Helton prior to his arrest on a valid felony warrant. Accordingly, Catlett was not seized prior to his arrest on the outstanding warrant and the trial court erred by granting his motion to suppress.

Reasonable Suspicion

Even if Deputy Helton "seized" Catlett when he activated his patrol car's emergency lights, Helton had reasonable suspicion to justify an investigative *Terry* stop. The trial court relied on what it considered to be a large percentage of false alarms in finding that it was not reasonable for Helton to detain Catlett to ask about his knowledge of or possible involvement in the Digitron burglary. But the percentage of burglar alarms that are ultimately proved to be false alarms has no bearing on whether triggering an alarm gives rise to a reasonable suspicion that a burglary is in progress sufficient to justify an investigative *Terry* stop of individuals in the immediate area of the alarm.

An officer may conduct an investigative *Terry* stop and briefly detain and question an individual if that officer has a well-founded suspicion based on objective facts that the individual may have information about or be connected to actual or potential criminal activity. *State v. Sieler*, 95 Wn.2d 43, 46, 621 P.2d 1272 (1980) (citing *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)). A police officer may conduct an investigatory stop of an individual for

the limited purpose of verifying or dispelling a reasonable suspicion that criminal activity is occurring or is about to occur. *Acrey*, 148 Wn.2d at 747. To justify this stop, police must have a reasonable and articulable suspicion that the individual has information about or is involved in criminal activity. *Acrey*, 148 Wn.2d at 747 (citing *United States v. Hensley*, 469 U.S. 221, 105 S. Ct. 675, 83 L. Ed. 2d 604 (1985)). A reasonable suspicion is the "substantial possibility that criminal conduct has occurred or is about to occur." *State v. Kennedy*, 107 Wn.2d 1, 6, 726 P.2d 445 (1986).

Officers are permitted to briefly stop individuals near the scene of a burglar alarm in order to obtain identification and determine the individual's reason for being in the area. *See State v. Williams*, 102 Wn.2d 733, 739, 689 P.2d 1065 (1984) (assuming that officers' initial stop of the defendant was proper when the defendant was in the vicinity of a burglar alarm that had been activated).[5] Here, the trial court reasoned that because many burglar alarms are false alarms, the officers could not have specific and articulable facts indicating criminal activity until they confirmed a burglary had been committed. But officers do not need to confirm a burglary has been committed prior to initiating a *Terry* stop. *See State v. Wheeler*, 43 Wn. App. 191, 196-97, 716 P.2d 902 (1986) (upholding a *Terry* stop made after the police detained a man matching the description of an individual whom neighbors had reported was behaving suspiciously even though the officers did not confirm a burglary had been committed until after detaining the suspect), *aff'd*, 108 Wn.2d 230, 737 P.2d 1005 (1987). Moreover, a burglar alarm is a "substantial indication" that someone has forced entry into a building. *State v. Clark*, 13 Wn. App. 21, 24,

[5] Williams's conviction was reversed by our Supreme Court because it felt the length of time Williams was detained exceeded the *scope* of a valid *Terry* stop, but it did not hold the initial stop was unlawful. *Williams*, 102 Wn.2d at 739.

533 P.2d 387 (1975), *review denied*, 58 Wn.2d 1018 (1975). The burglar alarm at Digitron was sufficient to give rise to reasonable suspicion that a burglary had at least been attempted and to justify an investigative *Terry* stop of persons in the vicinity of the alarm.

Moreover, that Catlett was "lawfully walking down the road" does not support the conclusion that Deputy Helton lacked reasonable articulable suspicion to stop him and ask what he was doing and if he had seen anyone. The trial court concluded that it is not a crime to be lawfully walking within one-quarter mile of a burglar alarm, so the officer could not have had reasonable suspicion.[6] Catlett makes the same argument to us. But an investigative *Terry* stop does not require evidence that a crime has been committed, as Catlett and the trial court suggest. *See, e.g., Sieler*, 95 Wn.2d at 46 (*Terry* stop is justified if officer has the objective belief that the subject is involved in potential criminal activity); *Acrey*, 148 Wn.2d at 747 (*Terry* stop is justified if the officer has reasonable suspicion that a crime may occur). In fact, *Terry* stops generally arise from when the subject's behavior appears lawful at the time. *See, e.g.*, *Young*, 135 Wn.2d at 512 (at the time officers initiated the valid *Terry* stop, Young was lawfully out on a public street and the officers had no evidence that criminal activity had actually taken place). Although it is not a crime to walk on a road one-quarter mile from a recently activated burglar alarm, it does not follow that it is unlawful for police to investigate and inquire as to what brings the person to a place near a sounding burglar alarm and ask whether the person being questioned has seen anyone

[6] The dissent asserts that "[f]or Catlett to be a quarter mile away from the Digitron site within a minute and a half would require him to run at a speed of 10 miles per hour, the pace required for a fairly impressive six-minute mile. And there was no evidence that Catlett was or had been running." Dissent at 14. We note that however reasonable this observation, and although the evidence cannot be used to justify Catlett's initial detention, the investigation conducted after Catlett was arrested on an outstanding warrant apparently resulted in finding Catlett's boot print on Digitron's broken door.

else in the area.

This is what Deputy Helton was doing at the time he initially contacted Catlett. It was only when he discovered there was a warrant for Catlett's arrest that Catlett was seized and transported to the Digitron site where, based on an apparent similarity between the boot print on the Digitron door and the boots Catlett was wearing, he was also arrested on probable cause for the Digitron burglary.

We hold that Catlett was legally detained in connection with an investigation into a burglary in progress prior to his arrest on an outstanding warrant. The officer had a reasonable articulable suspicion that a burglary had occurred to justify an investigative stop under *Terry*, and probable cause to arrest Catlett, first on the outstanding warrant and later for the attempted burglary of Digitron. Accordingly, the trial court erred when it granted Catlett's motion to suppress. We reverse and remand for further proceedings consistent with the law and this opinion.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

QUINN-BRINTNALL, J.

I concur:

HUNT, J.

Worswick, A.C.J. (dissenting) — I respectfully dissent from the majority's holding that a seizure did not occur when Skamania County Sheriff's Deputy Helton activated the emergency lights on his vehicle and requested identification from Catlett. I also dissent from the majority's alternative holding that even if Deputy Helton did seize Catlett, Deputy Helton had reasonable articulable suspicion sufficient to justify a *Terry*[7] stop. Accordingly, I would affirm.

I. Seizure

Catlett was seized when Deputy Helton activated the emergency lights on his vehicle and requested Catlett's identification. The majority relies on *State v. Nettles*, 70 Wn. App. 706, 708-09, 855 P.2d 699 (1993), to hold that Deputy Helton's activating his lights and sirens was not a seizure. The majority concludes that there was no seizure here because, as in *Nettles*, a police officer "merely approach[ed] [the defendant] in a public place and ask[ed] him questions." 70 Wn. App. at 709. Those are not the facts before us, and *Nettles* is distinguishable.

In *Nettles*, a police officer parked her patrol car, exited the vehicle, and contacted Nettles, who was on foot. 70 Wn. App. at 708. When Nettles stopped, the officer asked him to remove his hands from his pockets and come toward her car. 70 Wn. App. at 708. In holding that this was not a seizure, the *Nettles* court specifically noted that the officer did not activate her emergency lights and made no attempt to immobilize Nettles by requesting and retaining his identification or directing him to move to any particular place or assume any particular position. 70 Wn. App. at 711.

[7] *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

In contrast here, Deputy Helton activated his emergency lights before exiting his patrol car, obtained Catlett's identification, and proceeded to run a warrant check. Thus, while the officer in *Nettles* merely asked the defendant to remove his hands from his pockets and come closer, Deputy Helton both activated his emergency lights and obtained Catlett's identification. Both of these factors, specifically noted as being absent in *Nettles*, impugn the majority's holding that there was no seizure here.

The majority holds that Deputy Helton activated his emergency lights for traffic safety purposes, not as a show of authority. While the record reflects that this was Deputy Helton's subjective intent, the test for whether a seizure occurs is objective, not subjective. *State v.* Young, 135 Wn.2d 498, 510-11, 957 P.2d 681 (1998). It is impossible, as a practical matter, to separate the show of authority represented by Deputy Helton's emergency lights from their traffic safety function. I might hold differently if Deputy Helton had activated his rear lights only, but Deputy Helton testified that in his unmarked patrol car, this was not possible. As such, when Deputy Helton contacted Catlett, he was using both front and rear lights as if he were effecting a stop, rather than simply warning traffic. Under these circumstances, a reasonable pedestrian would not have felt free to leave. I would therefore hold that Catlett was seized.

II. *Terry*

I would further hold that Deputy Helton's warrantless seizure of Catlett was not justified as a valid investigative stop under *Terry*. At the inception of the seizure, Deputy Helton knew (1) Catlett was lawfully walking down a public road, (2) at two o'clock in the afternoon, (3) a quarter mile away from where a burglar alarm had sounded, (4) 90 seconds after the police had received the burglary alarm call.[8] These facts do not create specific articulable suspicion sufficient to show

that Catlett was involved in, or had information about criminal activity.

The majority relies on *State v. Williams*, 102 Wn.2d 733, 739, 689 P.2d 1065 (1984), for the proposition that police may validly stop individuals in the vicinity of a burglar alarm to obtain information and determine the individual's reason for being in the area. *Williams* held that an officer had the articulable suspicion necessary to seize the defendant, who was parked directly in front of a house where a burglar alarm was sounding and who attempted to drive away when the officer approached his vehicle. 102 Wn.2d at 734, 739. The majority also relies on *State v. Wheeler*, 43 Wn. App. 191, 196-97, 716 P.2d 902 (1986), for the proposition that police need not confirm that a crime has been committed before executing a *Terry* stop based on a burglar alarm. But in *Wheeler*, the reasonable articulable suspicion necessary to justify the *Terry* stop was based not only on the defendant's proximity to the site of a suspected burglary, but also on the fact that the defendant was seen behaving suspiciously. 43 Wn. App. at 197.

The majority errs by applying *Williams* and *Wheeler* beyond their facts. Unlike Williams, Catlett was a quarter mile away from the site of the alarm when he was seized. And unlike Wheeler, Catlett was not behaving suspiciously. Because there were more facts than just the suspected burglaries giving rise to articulable suspicion in *Williams* and *Wheeler*, it was not

[8] The majority holds that the record does not indicate how long Skamania County Sherriff's Detective Garrity had been observing Catlett and his companion before Deputy Helton arrived. But Deputy Helton's testimony indicates that both he and Detective Garrity responded to the same call. Deputy Helton testified that "we received a call of burglary alarm," suggesting that this was not a call to Deputy Helton alone. Report of Proceedings (RP) at 4. He further testified that Detective Garrity "responded from his location," suggesting that Detective Garrity responded to the same call. RP at 4. Thus, the record suggests that although Detective Garrity arrived first, both Deputy Helton and Detective Garrity arrived at Catlett's location within 90 seconds of the burglar alarm call. Moreover, it is the State's burden to prove that an exception to the warrant requirement applies. *State v. Doughty*, 170 Wn.2d 57, 61, 239 P.3d 573 (2010). The State did not offer any evidence that Detective Garrity had been observing Catlett for more than 90 seconds and this court cannot draw any such inference in the State's favor.

necessary for the police to confirm whether a crime had been committed to support a *Terry* stop in those cases. But here, the burglar alarm was the only evidence that a crime had been committed, and the only fact casting suspicion on Catlett was that he was in the general vicinity.

Thus, it is relevant that at the time of the seizure, no one had investigated the Digitron property to confirm whether criminal activity had occurred; the officers knew only that an alarm had been tripped. Furthermore, Deputy Helton testified that the majority of alarms are not generated by criminal activity; they are typically false alarms. While the majority is correct that a burglar alarm is some evidence that a crime has been committed, it is far from reliable evidence. In the absence of any facts beyond Catlett's general proximity to the alarm, I would hold that it was necessary, *at the very least*, for the police to ascertain whether a crime had been committed before detaining Catlett. *Williams* and *Wheeler* correctly relied on more than just proximity to a suspected burglary to justify *Terry* stops. The majority errs here by relying only on general proximity to a burglar alarm in the absence of any confirmation that a crime had occurred.

This might be a different case if the record showed that Catlett was stopped in the *immediate* vicinity of the alarm, as in *Williams.* If Catlett was seen leaving the Digitron site after the alarm, I would more readily hold that there was reasonable articulable suspicion to stop him. But Deputy Helton testified that he arrived at the point of contact with Catlett within a minute and a half of the call from dispatch notifying him of the alarm. For Catlett to be a quarter mile away from the Digitron site within a minute and a half would require him to run at a speed of 10 miles per hour, the pace required for a fairly impressive six-minute mile. And there was no evidence that Catlett was or had been running. Thus, to the extent that proximity to an alarm justified the *Terry* stop in *Williams,* here Catlett was too distant from the site of the alarm for his

proximity to cast reasonable suspicion on him.

Furthermore, the trial court here found that when Deputy Helton stopped Catlett, Deputy Helton was aware of *no facts* casting suspicion on Catlett except that Catlett was a quarter mile away from the site of a burglar alarm. As the majority points out, this is a verity on appeal. Thus, any justification for the stop must rest on proximity to the burglar alarm alone.

In *State v. Doughty*, 170 Wn.2d 57, 239 P.3d 573 (2010), our Supreme Court rejected the notion that proximity to suspected criminal activity, without more, can justify a *Terry* stop. *Doughty* noted that neither a person's presence in a high-crime area at a late hour, nor a person's mere proximity to others independently suspected of criminal activity are sufficient to justify a *Terry* stop. 170 Wn.2d at 62 (quoting *State v. Ellwood*, 52 Wn. App. 70, 74, 757 P.2d 547 (1988); *State v. Thompson*, 93 Wn.2d 838, 841, 613 P.2d 525 (1980)). And the court held that a *Terry* stop of Doughty was not justified based solely on a police officer observing Doughty approach and then leave a suspected drug house at 3:20 am. *Doughty*, 170 Wn.2d at 64. In other words, Doughty's mere proximity to the site of suspected criminal activity was insufficient to justify a *Terry* stop.

Catlett's case is stronger than Doughty's, as he was stopped a quarter mile away from the site of the burglar alarm, with no evidence that he had been there. If there was insufficient articulable suspicion to stop Doughty, who was actually observed approaching and leaving the site of suspected criminal activity, then the same is true here where Catlett was not seen approaching or leaving the Digitron site.

By validating the seizure of Catlett based only on his proximity to a suspected crime, the majority carves a large exception into the well-settled privacy protections of this state. Under the

majority's holding, a burglar alarm justifies a dragnet search in which the police may stop everyone within the general vicinity, whether or not the police know that a crime has been committed. This drastic expansion of the *Terry* doctrine ignores the well-settled principle that the exceptions to the warrant requirement in Washington are "jealously and carefully drawn." *State v. Hendrickson*, 129 Wn.2d 61, 70, 917 P.2d 563 (1996) (quoting *State v. Houser*, 95 Wn.2d 143, 149, 622 P.2d 1218 (1980)) (internal quotation marks omitted). I would limit *Williams* and *Wheeler* to their facts and hold that presence in the general vicinity of a burglar alarm, without more, does not give rise to the reasonable and articulable suspicion necessary to justify a *Terry* stop.

For the foregoing reasons, I would uphold the trial court's decision to suppress the evidence against Catlett obtained after the illegal seizure. Accordingly, I dissent.

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Worswick, A.C.J.