IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	**No. 27569-8-III**
Respondent,	)	
	)	**Division Three**
v.	)	
	)	
DAVID L. CRAFT,	)	**UNPUBLISHED OPINION**
	)	
Appellant.	)	
	)	

Brown, J. ─ David L. Craft appeals the trial court's denial of his motion to suppress his confession to his employer that he attempted to burglarize a home he previously cleaned carpets in. He contends the confession was directly related to evidence illegally seized inside his home and, therefore, should have been excluded. Because, under these facts, the employer is not a state agent, we affirm.

FACTS

While investigating an attempted burglary, Deputy Sheriff Mike Northway saw a shoe print with distinctive markings. The home owners suspected a Stanley Steemer employee named "David" as the individual who attempted to unlawfully enter the home.

Deputy Northway contacted Stanley Steemer's owner, Anthony Fleetwood, who informed the deputy the individual's name was David Craft.

The deputy went to Mr. Craft's home and seized a pair of shoes near the front door with soles that matched the pattern of the print outside the home. Another investigating officer, Detective Daniel Spivey contacted Mr. Fleetwood. Mr. Fleetwood told the officer that he would have Mr. Craft call him. The detective arranged to meet with Mr. Craft at Stanley Steemer's the next day. Before the detective arrived, Mr. Fleetwood asked whether Mr. Craft committed the crime. Mr. Craft replied, "yeah." Trial Report of Proceedings at 89. Mr. Craft confessed to Detective Spivey as well.

The State charged Mr. Craft with attempted residential burglary. Prior to trial, Mr. Craft requested suppression of the shoes, his confession to Detective Spivey and his confession to Mr. Fleetwood. The court suppressed the physical evidence and his confession to the police, but allowed his confession to his employer. The court found there was no link between the seizure of the shoes and the statement to Mr. Fleetwood. The jury found Mr. Craft guilty as charged. He appealed.

ANALYSIS

The issue is whether the trial court erred in denying Mr. Craft's motion to suppress testimony regarding his confession to his employer. He contends the confession was directly, or indirectly, related to the shoes illegally seized from his home and, thus, should have been excluded under the exclusionary rule.

When reviewing the denial of a suppression motion, we determine whether substantial evidence supports the challenged findings of fact and whether the findings support the conclusions of law. *State v. Hill,* 123 Wn.2d 641, 644, 870 P.2d 313 (1994). Evidence is substantial when it is enough "to persuade a fair-minded person of the truth of the stated premise." *State v. Reid,* 98 Wn. App. 152, 156, 988 P.2d 1038 (1999). We review conclusions of law from an order pertaining to the suppression of evidence de novo. *State v. Duncan,* 146 Wn.2d 166, 171, 43 P.3d 513 (2002).

If a search or seizure violates an individual's constitutional rights, evidence found as a result of that search or seizure must be suppressed under the exclusionary rule. *State v. Rose,* 146 Wn. App. 439, 458, 191 P.3d 83 (2008). Additionally, any statements made as a result of the unlawful search must also be suppressed as indirect fruits of an illegal search. *Wong Sun v. United States,* 371 U.S. 471, 484-85, 83 S. Ct. 407, 9 L. Ed. 2d 441 (1963). But, constitutional protections do not extend to actions by non-state actors. *See City of Pasco v. Shaw,* 161 Wn.2d 450, 459, 166 P.3d 1157 (2007) (the Fourth Amendment and article I, section 7 are not violated unless alleged violator is a state actor).

Mr. Fleetwood was Mr. Craft's employer. There is no evidence in the record to suggest Mr. Fleetwood questioned Mr. Craft about his involvement for anything other than employment purposes. As such, Mr. Fleetwood was not a state agent. The employer/employee relationship between Mr. Craft and Mr. Fleetwood supports

admissibility. Accordingly, the court properly concluded Mr. Craft's statement to Mr. Fleetwood was admissible at trial.

Affirmed.

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

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Brown, J.

WE CONCUR:

_____ _____
Kulik, A.C.J. Sweeney, J.