

Excerpt from Statement of Facts
State v. Sam Nang You, 2014 Wash. App. LEXIS 338 *

¶2 Shortly after 11:00 PM on March 4, 2012, Puyallup Tribal Police Officer Joey Tracy responded to the 3700 block of East Roosevelt Avenue to assist Tacoma police officers in finding a vehicle involved in a drive-by shooting near the 6400 block of East Portland Avenue. The majority of Tracy's work involves investigating gang-related crimes. Based on his training and experience, Tracy knew this location to be a high-crime area with frequent incidents of gang activity and violence.

¶3 Tacoma dispatch described the suspect car as a black Pontiac Grand Prix last seen heading northbound on East Portland Avenue. While Officer Tracy was patrolling the area in search of the Pontiac, his vehicle was approached from behind by a dark blue sedan with its high beam headlights activated. Tracy saw the blue sedan, which contained three occupants, circle the block and leave the area. Tracy continued to investigate the drive-by shooting.

¶4 About five minutes later, Officer Tracy saw the blue sedan turn from East 35th onto East Portland Avenue. The sedan turned out in front of Tracy, who then followed it. As he did so, the driver continuously looked back at the patrol vehicle. After both vehicles turned right onto East 29th Street, Tracy saw the sedan turn right onto East R Street and drive southbound to East 35th Street, where it turned and made a full circle from where Tracy had initially seen the car.

¶5 Officer Tracy wondered why the sedan was driving in circles in an area that had just experienced a drive-by shooting. He suspected that the sedan had some involvement in the shooting based on these facts: its circling of the neighborhood moments after a drive-by shooting, the lateness of the hour, the sedan's use of its high beams, the neighborhood's many incidents of gang-related crimes and violence, the number of passengers, and the driver's behavior on noticing the officer. Although he knew he was not following a Pontiac, he thought that the dark blue sedan could have been mistaken for that vehicle.

¶6 Officer Tracy decided to stop the sedan and investigate. The driver was waiting with his license and registration paperwork and appeared both combative and unusually talkative, as though he was trying to distract the officer. Tracy noticed that the driver had the number four tattooed on each forearm, which Tracy understood to be a gang-related symbol. Tracy also saw that the passengers were wearing red, which is the color associated with a Tacoma gang. The driver told Tracy he was attempting to drive through Salishan, which is an area claimed by a gang.

¶7 While Officer Tracy was contacting the driver, he noticed that Cho, the front seat passenger, was sitting motionless. After Tracy had the driver step out of the vehicle for a pat-down, he opened the passenger door and brought Cho out. When Cho moved his feet, Tracy saw a revolver between them that was protruding from under his seat. The gun was blocked from going completely under the seat by a plastic bottle, and its handle was wrapped with toilet paper.

¶8 Officer Tracy arrested Cho and the other occupants and obtained a search warrant for the vehicle. In the front center console, he found .357 ammunition that matched the ammunition in the gun. Tracy found a 9 mm semi-automatic pistol underneath the back seat and a 9 mm bullet in the jacket that had been next to the rear passenger. That passenger's identification was in the jacket.