

**FILED**

APR 02 2019

SONYA KRASKI  
COUNTY CLERK  
SNOHOMISH CO. WASH.

STATE OF WASHINGTON  
SNOHOMISH COUNTY SUPERIOR COURT

THE STATE OF WASHINGTON,

Plaintiff,

v.

DONALD FRANK ROONEY,

Defendant.

NO. **19 1 00696 31**

INFORMATION

I, Robert W. Ferguson, Attorney General of Washington, in the name and by the authority of the State of Washington, pursuant to RCW 43.10.232 and at the request of the Snohomish County Prosecuting Attorney, hereby allege DONALD FRANK ROONEY did commit the following crime:

**COUNT I**

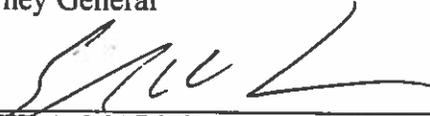
**VIOLATION OF WASHINGTON ANIMAL TRAFFICKING ACT**

On or about the 4<sup>th</sup> day of November, 2017 in the County of Snohomish, State of Washington, DONALD FRANK ROONEY, did sell, offer to sell, purchase, trade, barter for, or distribute a covered animal species part or product to wit: African Elephant ivory, with a combined value of \$250 or more; contrary to RCW 77.15.135 (Maximum Penalty – Five (5) years imprisonment and/or \$10,000 fine pursuant to RCW 77.15.135(4)(d) and

1 RCW 9A.20.021(1)(c), plus \$4,000 Criminal Wildlife Penalty pursuant to RCW 77.15.135(5)  
2 and (7), plus restitution and assessments.)

3  
4 DATED this 2<sup>nd</sup> day of April, 2019.

5 ROBERT W. FERGUSON  
6 Attorney General

7   
8 SCOTT A. MARLOW, WSBA #25987  
9 Assistant Attorney General  
10 Attorney for Plaintiff  
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STATE OF WASHINGTON  
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THE STATE OF WASHINGTON,  
Plaintiff,

NO.

**19 1 00696 31**

AFFIDAVIT OF PROBABLE CAUSE

v.

DONALD FRANK ROONEY, an  
individual

Defendants.

CHRISTOPHER T. CLEMENTSON declares under penalty of perjury of the laws of the State of Washington that the following is true and correct:

Your affiant is employed as a Police Detective (Det.) with the Washington Department of Fish and Wildlife, hereinafter referred to as WDFW. I have been employed by WDFW for fourteen (14) years. I have successfully completed the Washington State Criminal Justice Training Academy, including several other courses and training in the area of investigative techniques, laws of arrest, rules of evidence, crime scene processing, and search and seizure. During the time of my employment I have had several opportunities and experiences dealing with a variety of aspects of fish and wildlife related investigations, including authoring and participating in the execution of numerous search warrants; both commercial and recreational in nature.

1 I have also successfully completed the United States Fish and Wildlife Service's  
2 (USFWS) four-day Ivory Identification course, offered at its forensic laboratory in Ashland,  
3 Oregon. I routinely provide training and assistance in ivory morphological identification to  
4 WDFW Officers and Detectives; enforcement officers of other states; United States Fish and  
5 Wildlife Service Agents and Inspectors; and have twice traveled to the African continent to train  
6 natural resource officers and prosecutors from numerous countries in ivory identification, crime  
7 scene processing, and evidence collection.  
8

9 The Honorable Mark K. Roe, Snohomish County Prosecuting Attorney, granted the  
10 Washington State Office of Attorney General concurrent authority to investigate this case and  
11 conduct any prosecution arising from said investigation.  
12

13 Proboscidean Ivory Background - The word "ivory" is used to describe any mammalian  
14 tooth or tusk which has a commercial value. While many animal species possess teeth/tusks  
15 which meet this definition, the most commonly traded forms of ivory are produced by the  
16 taxonomic orders: Proboscidea (elephants/mammoths/mastodons); Pinnipedia (walrus); Cetacea  
17 (toothed whales and narwhals); Artiodactyla (hippos/warthogs); and Sirenia (manatees and  
18 dugongs). In addition to the previously-listed natural sources of ivory, other sources are  
19 commonly used as substitutes. Examples of these substitute ivories include: bone; shell;  
20 Helmeted-hornbill casque; vegetable sources; or other man-made materials.

21 While conducting a field inspection of a suspected ivory part or product, a person may  
22 typically perform two (2) non-invasive tests to determine the ivory's origin; UV light exposure  
23 and structural comparisons. All mammalian ivory contains the mineral calcium hydroxyapatite  
24 which fluoresces when exposed to long-wave ultraviolet light. Secondly, tooth morphology is  
25 distinctly different for each of the ivory-producing taxa.

26 The taxonomic order, Proboscidea, includes both extant (currently living) and extinct  
species. Extant species include the Asian and African elephants. Extinct species include

1 Mammoth and Mastodon species. While both extinct species are sources of ivory, mammoth is  
2 considered to be the only species which consistently provides for high quality, carvable ivory.

3 The tusks of all Proboscidean species/sub-species possess morphological characteristics  
4 known as Schreger lines, which are unique to the taxonomic order. Other species of ivory-  
5 producing taxa do not possess Schreger lines. These lines appear as: cross-hatching;  
6 overlapping or stacked chevrons; or engine-turnings. More acute (< 90 degrees) Schreger line  
7 angles are associated with Mammoth species/sub-species, while more obtuse angles (>120  
8 degrees) are associated with Mastodon and Elephant species/sub-species. Depending upon the  
9 orientation of carved/processed Proboscidean ivory, Schreger lines may be visible to the naked  
10 eye, or require closer examination under magnification.

11 On 30 Oct 2017, I conducted an online search of Craigslist – Seattle, using the keyword  
12 “netsuke.” Typically associated with Japanese garb/artwork, netsuke are small figures that are  
13 originally used as button-like fixtures on a man's sash, from which small personal belongings  
14 are hung. Netsuke are traditionally made using ivory, wood, metal, or ceramic. I identified the  
15 following post, which was also associated with 24 digital images. According to the information  
16 on the Craigslist post, the seller posted the advertisement on 28 Oct 2017.

17  
18 Old Japanese Carvings – Netsukes for Sale - \$35 (Lynnwood)  
19 A lot of Old & Vintage Japanese Carvings and about 60 Netsukes for sale.  
20 NETSUKE & Carvings vary in Price from \$35.00 to \$150. each. CONDITION:  
21 Very Good – some Minor wear from age but no damage or repairs. SEE PHOTOS!  
22 SHOWN By APPOINTMENT. Send Email or Call (206) 683-5884 for more  
23 information. There are too many to take a photo of each item. Thanks.

24 Based on my experience using and navigating the Craigslist site, I know advertising items  
25 such as ivory is prohibited, and against Craigslist terms of use. Craigslist requires users to  
26 comply with all applicable laws, its terms of use, and all posted site rules. In the Craigslist  
“Prohibited Items List,” the site further defines prohibitions against “endangered, imperiled,  
and/or protected species and any parts thereof, e.g. ivory.” I also recognize person(s) offering

1 items containing ivory will often not fully describe items offered for sale to: circumvent legal  
2 prohibitions; avoid being flagged by other users; or having the post identified and removed by  
3 Craigslist moderators. Item descriptions containing words such as bone, vintage, netsuke, and  
4 carving are often substituted for or used to conceal ivory sales. Upon reviewing the images, I  
5 noted several figurine-type carvings, but none appeared to be netsuke. Based on the photographs  
6 alone, I could not make positive determinations about the construction of the pieces. After  
7 identifying the post, I informed WDFW Det. Wendy Willette of my findings, and requested her  
8 assistance with further investigation.

9 On 31 Oct 2017, about 1000 hours, Det. Willette and I met to review the advertisement  
10 on Craigslist. Together we were able to determine that at least one of the items shown was likely  
11 to be of Proboscidean-origin ivory, based on the presence of Schreger lines visible in the  
12 photograph.

13 Using a law enforcement tool, I was able to identify the seller as Donald Frank  
14 ROONEY, and obtain his date of birth, address and driver license number. I was also able to  
15 determine the eBay user ID and email address used by ROONEY.

16 On 31 Oct 2017, using a covert name and email account, Det. Willette sent a message to  
17 ROONEY in an attempt to schedule an appointment to view the items for sale. ROONEY and  
18 Det. Willette corresponded over the course of the next few days, settling on a day to meet on 3  
19 Nov 2017.

20 On 3 Nov 2017, about 1312 hours, Det. Willette emailed me a copy of the correspondence  
21 she received from ROONEY.

22  
23 Hello Kate, Saturday at 10 am works for me my address is XXXXXX Mukilteo  
24 Speedway just pass the large white with orange trim Public Storage building. As  
25 you drive by the Public Storage building you will see a large 10 foot cement wall  
26 that begins my complex, make the first right into the complex and stay on main  
road for 2 blocks & turn left into cul de sac, I'm on the end unit #XXX. Give me a  
call from your cell phone when you get to Lincoln Way & Mukilteo Speedway and

1 I will help by coming to entrance. I'm not an easy address to find Sincerely, Don  
2 206 XXX-XXXX

3 On Saturday, 4 Nov 2017, about 0900 hours, Det. Willette and I met at the WDFW Mill  
4 Creek office to conduct an Operational Safety Briefing. About 0935 hours, Det. Willette and I  
5 departed the Mill Creek office, and drove in separate vehicles toward ROONEY's residence. We  
6 arrived at ROONEY's residence at roughly 0956 hours. Det. Willette drove directly to  
7 ROONEY's residence, while I drove to a location nearby to observe. Det. Willette was dressed  
8 in plain clothes, driving an unmarked vehicle, equipped with a video-only recording device. Det.  
9 Willette activated the device upon arrival. Det. Willette called ROONEY at the phone number  
10 he provided, 206-683-5884. ROONEY answered using his first name, "Don" and met Det.  
11 Willette outside while still on the phone with her. ROONEY was using a flip-style cell phone.  
12 Det. Willette recognized him from his Washington State DOL photograph. ROONEY walked  
13 with Det. Willette, accompanying her inside his mobile home. ROONEY told Det. Willette that  
14 he inherited the collection of pieces from his brother and sister-in-law. ROONEY said that the  
15 trailer was his sister-in-law's and he inherited it upon her death. He stated he lives there now.  
16 ROONEY directed Det. Willette toward the dining/living room area. Det. Willette saw that  
17 nearly every surface in the dining and living room areas was covered in trays containing what  
18 appeared to be carved ivory; several bearing labels reading "ivory".

19 ROONEY explained that he sold the items online, offering them on Craigslist and Ebay.  
20 ROONEY stated that he could not label the items as "ivory" on Ebay and had to call them bone.  
21 Det. Willette asked if it was illegal. ROONEY said it was not illegal, but Ebay did not want to  
22 be sued for selling ivory products. ROONEY stated he had sold 60 pieces to a local jeweler the  
23 day before (11/3/17). ROONEY stated the jeweler was going to cut the ivory to use with other  
24 materials in handmade pieces.

25 It was very dark in the dining and living room area so Det. Willette asked to turn the  
26 lights on. ROONEY agreed and turned on a few lamps while Det. Willette turned on the dining

1 room chandelier. Det. Willette explained that her friend lived in Japan and had a small  
2 collection. Det. Willette told ROONEY she was buying for her friend for Christmas and that he  
3 would be traveling here around mid-December. Det. Willette asked ROONEY if they could  
4 return to buy more. ROONEY stated that he would be selling the items through the first of the  
5 year. ROONEY referred to the items on the table as "netske's". He pointed out a few and told  
6 Det. Willette about them; their ages, their value. Det. Willette asked how much he was selling  
7 them for. He stated each one was \$100.00.

8 Det. Willette asked if she could take photographs to show her friend. ROONEY agreed.  
9 Det. Willette photographed the various items as he told her about them. ROONEY told Det.  
10 Willette he had already sold a good number of the ivory pieces and wished Det. Willette could  
11 have seen how many he had before. ROONEY said he believed had had over 1,000 pieces before  
12 he started selling them. Det. Willette could see Schreger lines on several pieces that she picked  
13 up and inspected, confirming that they were ivory. ROONEY pointed out a staghorn netsuke  
14 and a walrus carving in the case on the wall. It appeared he was very knowledgeable about the  
15 different types of materials that each item was carved out of.

16 Det. Willette picked out three ivory netsukes from the main table and retrieved \$300.00  
17 cash she had taken out of her Department petty cash account. ROONEY offered to wrap the  
18 three items for her and Det. Willette agreed. Once the items were wrapped in tissue and bagged,  
19 Det. Willette handed ROONEY the money. He thanked her and walked Det. Willette to the  
20 door. Det. Willette cleared the residence at about 1014 hours. Det. Willette ended the video  
21 recording at this time.

22 Following the purchase of the netsukes, Det. Willette and I returned to the Mill Creek  
23 office, where I conducted a debriefing about her contact with ROONEY. After the debriefing, I  
24 conducted presumptive tests of the three netsuke pieces Det. Willette purchased from ROONEY.  
25 All three pieces fluoresced when exposed to long-wave ultraviolet light; indicative of ivory  
26 material. Schreger lines were observed on two of the three pieces, indicative of Proboscidean

1 ivory. Given the carving orientation, and highly polished nature of the third piece, no Schreger  
2 lines were evident. As a result, two of the three pieces were suspected of being of Proboscidean  
3 origin.

4 I subsequently used the Snohomish County Assessor's publicly-available online property  
5 search tool to verify ROONEY's residence address. While he provided Det. Willette with one  
6 address, he was actually found to be residing at a nearby address. The property was described as  
7 Parcel # 00960001618900, a double-wide mobile home, with an attached carport. Donald F.  
8 ROONEY was identified as the parcel tax payer. The directions ROONEY provided to Det.  
9 Willette were also consistent with this address.

10 On 5 Dec 2017, I submitted the three netsuke purchased from ROONEY by Det. Willette  
11 to the USFWS Resident Agent in Charge, (Redmond, WA) for morphological and genetic testing  
12 at its National Fish and Wildlife Forensic Laboratory, in Ashland, Oregon. Upon receipt of the  
13 items, the laboratory identified them as: LAB1 -kabuki with rotating face (ST#WA015749);  
14 LAB2 - 3 men with bowl (ST#WA015750); and LAB3 - old man holding mask  
15 (ST#WA015748). USFWS Forensic Scientist Rachel L. Jacobs conducted morphological  
16 evaluations of the items and found item LAB2 to be consistent with Proboscidean-origin ivory,  
17 while LAB1 and LAB3 were determined to be morphologically inconclusive. USFWS Forensic  
18 Scientist Brian C. Hamlin conducted mitochondrial DNA testing of the items and determined all  
19 three pieces to be of *Loxodonta africana* origin; extant African elephant species.

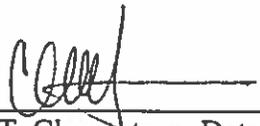
20  
21  
22 Based on the facts set forth in this affidavit, there is probable cause to believe that  
23 DONALD FRANK ROONEY during the period of October 30, 2017, through November 4,  
24 2017, committed the crime of:  
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1. RCW 77.15.135, Unlawful Sale, purchase, trade; barter, or distribution of covered animal species part or product in the 1st Degree – 1 Count

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

DATED this 27<sup>th</sup> day of March, 2019 at Mill Creek, Washington.

  
\_\_\_\_\_  
Christopher T. Clementson, Detective WDFW