

FILED

OCT 08 2014

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

FILED
OCT 15 2014

CLERK OF THE SUPREME COURT
STATE OF WASHINGTON
E _____ CF

90889-3

THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON
Plaintiff,

v.

JARROD VEILLEUX
Petitioner,

Case No. 31480-4-111

MOTION FOR
DISCRETIONARY REVIEW

I. IDENTITY OF MOVING PARTY

COMES NOW, JARROD VEILLEUX Petitioner, seeks the relief designated in part II.

II. STATEMENT OF RELIEF SOUGHT

- ISSUE A. - DISMISSAL WITH PREJUDICE DUE TO SPEEDY TRIAL RIGHT AND DUE PROCESS VIOLATIONS.
- ISSUE B. - REMAND FOR RESENTENCING DUE TO MISCALCULATION OF OFFENDERS POINTS.
- ISSUE C. - REVERSAL AND REMAND BACK TO COURT FOR RE-TRIAL DUE TO DUE PROCESS VIOLATIONS.

III. FACTS

MR. VEILLEUX WAS CONVICTED OF FIRST DEGREE UNLAWFUL POSSESSION OF A FIREARM FOLLOWING A JURY TRIAL. HE TIMELY APPEALED HIS CONVICTION TO THE COURT OF APPEALS, DIVISION III. HIS CONVICTION WAS AFFIRMED. MR. VEILLEUX NOW TIMELY MOTIONS FOR DISCRETIONARY REVIEW TO THE SUPREME COURT OF THE STATE OF WASHINGTON.

IV. ARGUMENT

A.

SEE ATTACHMENT - PAGES 1-5

B.

SEE ATTACHMENT - PAGES 6-10

C.

SEE ATTACHMENT - PAGES 11-14

V. CONCLUSION

Based on the above, this Court should accept review.

DATED this 5 day of OCTOBER, 2014.

Signature

JARROD VELLEUX
#316429
COYOTE RIDGE CORRECTION CENTER
PO BOX 769 FA-35
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ISSUE A.

JARRON VEILLEUX WAS ARRAIGNED ON JULY 12, 2012 THUS STARTING THE 90 DAY TIME LIMIT UNDER CrR 3.3. ON AUGUST 24, 2012 THE STATE REQUESTED AN EXTENSION OF TIME TO ACCOMMODATE A TRAINING EXERCISE THAT THEIR LEAD DETECTIVE KURT KEYSER NEEDED TO ATTEND. NO OBJECTION CAME FROM THE DEFENSE BEING THAT THE CONTINUANCE STILL FELL WITHIN THE SPEEDY TRIAL LIMITATION.

ON SEPTEMBER 6, 2012 THE TRIAL COURT GRANTS AN EXTENSION TILL OCTOBER 8, 2012 OVER THE STERN OBJECTION OF THE DEFENSE. THIS WAS TO ACCOMMODATE MR. VEILLEUX'S CO-DEFENDANTS ATTORNEY.

ON OCTOBER 4, 2012 THE DEFENSE MOTIONED THE COURT FOR A TWO DAY CONTINUANCE, FROM OCTOBER 9TH TILL OCTOBER 10TH, WHICH WAS STILL WITHIN THE 90 DAY RULE UNDER CrR 3.3. THIS WAS DUE TO THE DEFENSE ATTORNEY BEING INVOLVED IN ANOTHER TRIAL.

AFTER THE DEFENSE FILED A MOTION FOR A TWO DAY EXTENSION, THE PROSECUTOR REQUESTED AN EXTENSION OF TWO WEEKS TO ACCOMMODATE A PRE-PLANNED VACATION BY DETECTIVE KEYSER. THE TWO WEEK EXTENSION PUT MR. VEILLEUX WELL PAST THE 90 DAY LIMIT SET BY CrR 3.3 AND SO HE OBJECTED.

NO DOCUMENTATION WAS PRODUCED BY THE PROSECUTION TO JUSTIFY THE MOTION FOR THE CONTINUANCE. EXAMPLE I.E., COPIES OF PROOF OF PRIOR VACATION NOTICE FROM SHERIFFS DEPARTMENT, PRE-PAID AIRLINE TICKETS, HOTEL OR MOTEL ROOMS, CAR RENTAL OR RESTAURANT RESERVATIONS. THE STATE MUST PRODUCE DOCUMENTATION TO SUPPORT "GOOD CAUSE." SEE RCW 5.44.040. OTHERWISE, THE STATE'S MOTION FOR THE CONTINUANCE IS BASED ON "HEARSAY."

A CONTINUANCE GRANTED BEYOND THE SPEEDY TRIAL PERIOD MUST BE SUPPORTED BY FINDINGS SHOWING A NEED FOR A CONTINUANCE IN THE "DUE ADMINISTRATION OF JUSTICE." SEE STATE V. ADAMSKI,

111 WA.2D 574, 581, 761 P.2D 621. IN ORDER TO GRANT AN EXTENSION WITH "GOOD CAUSE" AND "DUE DILIGENCE" THE COURT AND STATE NEEDS TO SHOW DOCUMENTATION OF THIS SO CALLED PRE-ARRANGED VACATION. SEE STATE V. KOBOT, 42 WN. APP. 733, 713 P.2D 1121 (MANIFEST ABUSE OF DISCRETION). THE TRIAL COURT ABUSED ITS DISCRETION IN GRANTING THE CONTINUENCE DUE TO LACK OF SUPPORTING EVIDENCE AND DOCUMENTATION.

THE CONCLUSION OF THIS HEARING WAS A CONTINUENCE UNTIL THE 5TH OF NOVEMBER, 2012, 26 DAYS PAST THE SPEEDY TRIAL RULE. THE GRANTING OF THE STATES CONTINUENCE TO ACCOMADATE A STATE WITNESS AND COUNTY EMPLOYEE DETECTIVE KEYSERS' UNSUPPORTED PRE-PLANNED VACATION IS AN ABUSE OF DISCRETION. MR. VEILLEUX CONTENDS THAT THE RECORD WAS INSUFFICIENT TO SUPPORT A CONTINUENCE. THAT THERE WAS NOTHING SUBBESTING THAT A SUBPOENA WAS EVER ISSUED MUCH LESS SUFFICIENT DOCUMENTATION TO SUPPORT SUCH A CONTINUENCE. SEE STATE V. WAKE, 56 WASH. APP. 472, 783 P.2D 1131.

THE FOLLOWING MOTION FOR A CONTINUENCE WAS FILED BY DEFENSE IN ORDER TO ACCOMADATE THEIR EXPERT WITNESS, DOCTOR DAVENPORT. THIS HEARING TOOK PLACE ON THE 18TH OF OCTOBER, 2012. THIS WAS A DIRECT RESULT OF THE COURT GRANTING THE CONTINUENCE TO ACCOMADATE THE PROSECUTIONS WITNESS DETECTIVE KEYSER ON OCTOBER 4, 2012. DOCTOR DAVENPORT WAS AVAILABLE TO ATTEND THE TRIAL SET WITHIN THE 90 DAY CLOCK OF THE SPEEDY TRIAL TIME LIMIT. BECAUSE THE STATE ASKED FOR THE CONTINUENCE FOR DETECTIVE KEYSER, DOCTOR DAVENPORT WAS NOW UNABLE TO ATTEND THE NEW TRIAL DATE OF NOVEMBER 5, 2012. ULTIMATELY, MR. VEILLEUX WAS NOW PUT IN A POSITION WHERE HE NEEDED TO CHOOSE EITHER TO PRESERVE HIS RIGHT TO A FAST AND SPEEDY TRIAL OR HIS RIGHT TO MAKE AN ADEQUATE DEFENSE. OF COURSE, HE CHOSE TO PRESERVE HIS RIGHT TO AN ADEQUATE

DEFENSE. NO PERSON SHOULD BE PUT IN A POSITION WHERE THEY NEED TO CHOOSE BETWEEN TWO CONSTITUTIONAL RIGHTS. THE COURT GRANTED THE CONTINUENCE TO NOVEMBER 26, 2012.

THE FINAL CONTINUENCE WAS A MOTION FILED BY THE STATE ON OR ABOUT THE DAY OF TRIAL SET ON NOVEMBER 26, 2012. THIS WAS TO ACCOMMODATE ANOTHER STATE WITNESS, MS. DEWEY, WHO LEFT THE STATE OF WASHINGTON AND WOULD NOT RETURN UNTIL AFTER THE HOLIDAY SEASON DUE TO A PERSONAL INCONVENIENCE. WITHOUT SUFFICIENT SUPPORTING DOCUMENTS THE STATE WAS GRANTED A SEVEN WEEK CONTINUENCE OVER THE STERN OBJECTIONS OF THE DEFENSE.

IN THIS HEARING THE STATE CLAIMED THAT MS. DEWEY'S HUSBAND HAD CANCER. THIS ALLEGED CLAIM LACKED ANY LEGAL DOCUMENTATION OR PROOF SUPPORTING THIS HEARSAY STATEMENT. THE STATE FAILED TO PROVIDE MEDICAL RECORDS OR DOCTORS NOTES TO BACK THIS ALLEGATION. THE STATE MUST PRODUCE DOCUMENTATION TO SUPPORT "GOOD CAUSE." SEE RCW 5.44.040. A CONTINUENCE GRANTED BEYOND THE SPEEDY TRIAL PERIOD MUST BE SUPPORTED BY FINDINGS SHOWING A NEED FOR A CONTINUENCE IN THE "DUE ADMINISTRATION OF JUSTICE." SEE STATE V. ADAMSKI, 111 WASH.2D 574, 581, 761 P.2D 621.

THE PROSECUTION ALSO STATES THAT MS. DEWEY PREFERENCES THE WARM WEATHER IN ARIZONA TO THE BITTER COLD OF SPOKANE, WASHINGTON. MS. DEWEY REFUSED TO RETURN TO ATTEND THE TRIAL EVEN THOUGH SHE WAS SUBPOENAED. THE STATE SURELY LACKS THE SHOWING OF "DUE DILIGENCE" IN THIS MATTER BY NOT ARRESTING MS. DEWEY AND BRINGING HER TO COURT. A DEFENDANT'S SPEEDY TRIAL RIGHTS DO NOT DEPEND ON HOW CONVENIENT THE TRIAL DATE IS TO POTENTIAL WITNESSES. SEE STATE V. INIGUEZ, 143 WN APP. 845, 140 P.3D 855 (2008). FURTHERMORE IN INIGUEZ THE COURTS DECIDED THAT "THE UNAVAILABILITY OF

A KEY WITNESS IS A VALID REASON FOR DELAYING A TRIAL, FOR PURPOSES OF A SPEEDY TRIAL ANALYSIS; HOWEVER, FOR THIS REASON TO SERVE AS A VALID JUSTIFICATION FOR DELAY, THE GOVERNMENT MUST NOT BE RESPONSIBLE FOR THE WITNESS'S UN-AVAILABILITY AND IT MUST DELEGENTLY ATTEMPT TO LOCATE THE WITNESS OR OTHERWISE MAKE THEM AVAILABLE TO TESTIFY." WHICH THE PROSECUTION CLEARLY DID NOT DO. INSTEAD THE STATE ALLOWS THIS WITNESS TO BREAK THE LAW AND TO MANIPULATE THE COURT SYSTEM.

THE DEFENSE ARGUED THAT IF THE STATES ALLEGED CLAIM BE TRUE THERE IS STILL NO SUPPORTING EVIDENCE THAT MS. DEWEY CAN NOT LEAVE THE COMPANY OF HER HUSBAND FOR A 24 HOUR PERIOD. THE DEFENSE ARGUES THAT MS. DEWEY SHOULD OF BEEN FLOWN IN TO TESTIFY FOR TRIAL ON THE DATE SPECIFIED BY THE SUBPOENA. NOT WHEN THE WITNESS PREFERS TO COME TO TRIAL TO TESTIFY.

THE CONCLUSION TO THIS HEARING WAS THE COURT GRANTING A SEVEN WEEK CONTINUENCE TO THE 7TH OF JANUARY, 2013. THIS WAS A MANIFEST ABUSE OF DISCRETION BY THE COURTS. ANOTHER 42 DAYS IS AN ENORMOUS EXTENSION TO GIVE TO ACCOMADATE A UNCOOPERATIVE STATE WITNESS. ESPECIALLY, WITH OUT PROPER LEGAL DOCUMENTATION AND PROOF TO THEIR ALLEGATIONS. IN STATE V. WOODALL, 32 WN. APP. 407, 647 P.2D 1051 (1982) THE COURTS RULED THAT "A CONTINUENCE LONGER THAN THE 5 DAY PERIOD SET FORTH IN CR 3.3 DOES NOT REQUIRE DISMISSAL OF THE CHARGES WHEN THE CONTINUENCE WAS REASONABLE IN THE LIGHT OF A NATURAL DISASTER WHICH PARALYZED TRANSPORTATION IN THE AREA." MS. DEWEY ENJOYING THE WARM WEATHER OF SUNNY ARIZONA IS FAR FROM A NATURAL DISASTER. A BRIEF 4 DAY CONTINUENCE WAS GRANTED BY THE COURT IN STATE V. HOWELL, 119 WN. APP. 644, 79 P.3D 451. IN STATE V. JONES, 117

WN.APP. 721, 72 P.3D 1110 THE COURT GRANTED A 4 DAY EXTENSION TO ACCOMMODATE THE ARRESTING OFFICERS' MANDATORY TRAINING EXERCISE. IT GRANTED TWO ONE DAY CONTINUENCES DUE TO THE PROSECUTOR BEING IN ANOTHER TRIAL. THE COURT ALSO GRANTED A ONE WEEK EXTENSION TO ACCOMMODATE A PRE-PLANNED VACATION. ALL OF THESE CONTINUENCES WERE NOT AN ABUSE OF DISCRETION BECAUSE THEY WERE BRIEF DELAYS. A SEVEN WEEK CONTINUENCE TO ACCOMMODATE A SINGLE STATE WITNESS IS MANIFESTLY UNREASONABLE AND BASED ON UNTENABLE GROUNDS AND WAS MADE FOR UNTENABLE REASONS. SEE STATE V. WAKE, 56 WASH.APP. 472, 783 P.2D 1131.

FINALLY, THE APPELLANT ARGUES THAT THIS SITUATION WAS NOT AN UNAVOIDABLE OR UNFORSEEN CIRCUMSTANCE. THE STATE HAD KNOWLEDGE OF MS. DEWEY'S SITUATION WEEKS IF NOT MONTHS BEFORE NOVEMBER 26, 2012 THE DAY OF TRIAL. IN STATE V. WAKE, 56 WASH.APP. 472, 783 P.2D 1131, THE COURTS FOUND WHERE THE PROSECUTOR KNEW OF THE CONFLICT ALMOST 2 WEEKS BEFORE TRIAL WAS SCHEDULED, AND HAD AN OPPORTUNITY TO MAKE ALTERNATIVE ARRANGEMENTS WAS NOT AN UNAVOIDABLE OR UNFORSEEN CIRCUMSTANCE BEYOND THE CONTROL OF THE STATE.

THIS IS A CLEAR MANIFEST ABUSE OF DISCRETION BY THE PROSECUTION AND THE TRIAL COURT. FAILURE TO STRICTLY COMPLY WITH THE SPEEDY TRIAL RULE REQUIRES DISMISSAL, REGARDLESS OF WHETHER THE DEFENDANT CAN SHOW PREJUDICE. C.R. 3.3 (2001) SEE STATE V. RASCHKA, 124 WN.APP. 103, 100 P.3D 339.

ISSUE B.

JARROD VEILLEUX ENTERED A GUILTY PLEA TO A FORTY FIVE COUNT INFORMATION, DC-02-289, OUT OF GALLATIN COUNTY, MONTANA. IN THAT INFORMATION IT IS STATED "TOTAL POTENTIAL IMPRISONMENT OF 310 YEARS AT THE STATE PRISON FOLLOWED BY 13 1/2 YEARS IN THE COUNTY JAIL." SEE-ATTACHED APPENDIX A-COPY OF THE INFORMATION, PAGE 4307.

UNDER MONTANA LAW EACH AND EVERY CRIME COMMITTED MUST RUN CONSECUTIVE WITH ONE ANOTHER. UNLESS SPECIFIC CIRCUMSTANCES COME INTO PLAY, THEN UNDER MCA 46-18-401 THE SENTENCING JUDGE CAN RULE OTHERWISE. SEE-ATTACHED APPENDIX B-MONTANA STATUTE AND COMMISSION NOTES. WHICH WAS THE CIRCUMSTANCE IN MR. VEILLEUX'S 2002-2003 CONVICTION. THE COURT DID NOT IMPOSE CONSECUTIVE SENTENCES AS MANDATED BY MCA 46-18-401 (4). AS PREVIOUSLY NOTED THE COMMISSION COMMENTS NOTE THAT SUBSECTION (4) WAS INCLUDED IN AN ATTEMPT TO AVOID CONSECUTIVE SENTENCES WHERE ONLY A SINGLE CRIMINAL EPISODE WAS FOUND.

THE TRIAL COURT RULED THAT THESE CRIMES WERE AN ACT OF A SINGLE CRIMINAL EPISODE AND SO SENTENCED AS ONE. THIS IS SHOWN BY THE SENTENCING OF EACH CHARGE CONCURRENT WITH ONE ANOTHER. MR. VEILLEUX WAS NOT SENTENCED TO THE 323 1/2 YEARS THAT COULD OF BEEN IMPOSED IF THIS WAS NOT FOUND TO BE A SINGLE CRIMINAL EPISODE. HE WAS SENTENCED TO 20 YEARS WITH 12 YEARS SUSPENDED AND TO SERVE 8 YEARS AT THE MONTANA STATE PRISON TO BE RAN CONCURRENT WITH EACH OTHER.

MR. VEILLEUX ARGUES THAT THE WASHINGTON TRIAL COURT SHOULD GRANT AND HONOR "FULL FAITH AND CREDIT" TO THE MONTANA SENTENCING COURT. THE U.S.C.A. CONST. ART. IV SUB-SECTION (1) STATES "FULL FAITH AND CREDIT SHALL BE GIVEN IN EACH STATE TO THE PUBLIC ACTS, RECORDS, AND JUDICIAL PROCEEDINGS OF EVERY

OTHER STATE." CONGRESS ENACTED IMPLEMENTING LEGISLATION FOR THE CLAUSE IN 1790 AND HAS AMENDED THAT LEGISLATION ONLY ONCE, IN 1948. WHICH SHOWS JUST HOW FUNDAMENTAL THAT CLAUSE IS. "FULL FAITH AND CREDIT CLAUSE REQUIRES THAT WASHINGTON COURTS RECOGNIZE THE VALIDITY OF A SISTER STATE'S CRIMINAL CONVICTIONS." SEE - STATE V. BUSH, 102 WN APP. 372, 9 P.3D 219. IN ADAR V. SMITH, 639 F.3D 146, 152 (C.A. 5 (LA.) 2011), THE SUPREME COURT SOON REJECTED THE ARGUMENT THAT FULL FAITH AND CREDIT OBLIGATIONS ENTAILED A MERE EVIDENTIARY REQUIREMENT, AND INSTEAD HELD THAT STATES COURTS WOULD BE OBLIGED TO AFFORD A SISTER-STATE JUDGMENT THE SAME RES-JUDICATA EFFECT WHICH THE ISSUING COURT WOULD GIVE IT. - MILLS V. DURYEE, 11 U.S. (7 CRANCH) 481, 485, 3 L.ED. 411 (1813) (STORY, J.); - HAMPTON V. MCCONNELL, 16 U.S. (3 WHEAT.) 234, 235, 4 L.ED. 378 (1818) (MARSHAL, C.J.). SINCE THEN, ADHERING TO THE ORIGINAL PURPOSE OF THE CLAUSE, THE COURT HAS INTERRELATED THE REQUIREMENT OF "FULL FAITH AND CREDIT" OWEN TO JUDGMENTS WITH THE PRINCIPLES OF RES-JUDICATA. 639 F.3D AT 154 (QUOTES) (NO FEDERAL QUESTION ARISES UNTIL A STATE COURT FAILS TO GIVE FULL FAITH AND CREDIT TO THE LAW OF A SISTER STATE.) THE WASHINGTON TRIAL COURT SHOULD HAVE GAVE "FULL FAITH AND CREDIT" TO THE RES-JUDICATA OF THE MONTANA TRIAL COURT'S JUDGMENT, AND HONORED THE SENTENCING OF THE CHARGES AS A "SINGLE CRIMINAL EPISODE" AND NOT ENHANCED MR. VELLEUX'S OFFENDER SCORE.

A VALID FOREIGN JUDGMENT MAY BE CALLATERALLY ATTACKED ONLY IF THE COURT LACKED JURISDICTION OR CONSTATUTIONAL VIOLATIONS WERE INVOLVED; ABSENT THESE GROUNDS, A WASHINGTON COURT MUST GIVE "FULL FAITH AND CREDIT" TO THE FOREIGN JUDGMENT AND REGARD THE ISSUES THEREBY ADJUDGED TO BE PRECLUDED IN A WASHINGTON PROCEEDING. SEE - STATE V. BERRY, 141 WN.2D 121, 5 P.3D 658. THE MONTANA JUDGMENT AND SENTENCE HAS

RAISED NEITHER A JURISDICTIONAL ISSUE OR A CONSTITUTIONAL VIOLATION AND SO SHOULD HAVE BEEN GIVEN "FULL FAITH AND CREDIT". THE JUDGMENT RENDERED VALID BY A COURT OF ONE STATE, IF VALID, IS ENTITLED TO RECOGNITION IN COURTS OF ANOTHER STATE BY VIRTUE OF THE FULL FAITH AND CREDIT CLAUSE. USCA CONST. ART. IV § 1.

ALTHOUGH THE FULL FAITH AND CREDIT CLAUSE REQUIRES ONLY STATES TO RECOGNIZE AND ENFORCE THE JUDGMENTS OF THE COURTS OF OTHER STATES, AND THUS GIVE THOSE JUDGMENTS THE SAME PRECLUSIVE FORCE THEY WOULD ENJOY IN THE ORIGINATING STATE, THE STATUTE THAT IMPLEMENTS THE FULL FAITH AND CREDIT CLAUSE GOES FURTHER THAN THE CONSTITUTIONAL CLAUSE AND REQUIRES FEDERAL AS WELL AS STATE COURTS TO GIVE STATE COURT JUDGMENTS THE SAME PRECLUSIVE EFFECT THAT THE STATE COURTS THAT ISSUED THE JUDGMENTS WOULD GIVE THEM. SEE - DEGVELLE V. CAMILLI, 729 F.3D 933, (CA. 7 (WIS.) 2013).

WASHINGTON STATE HAS RESPECTED MONTANA TRIAL COURTS JUDGMENT AND CONVICTION AS FAR AS BEING ABLE TO CHARGE MR. VEILLEUX WITH FIRST DEGREE UNLAWFUL POSSESSION OF A FIREARM. THIS STATE ACKNOWLEDGES THAT MR. VEILLEUX WAS PREVIOUSLY CONVICTED OF A BURGLARY IN THE STATE OF MONTANA. THE TRIAL COURT HAD NO ISSUES THERE BUT IS WRONG, MISLEADING, AND INCONSISTANT IN THE FACT THAT IT DID NOT GIVE "FULL FAITH AND CREDIT" TO THE MONTANA TRIAL COURTS RULING ON THE CRIME SPREE BEING A "SINGLE CRIMINAL EPISODE".

IN MR. VEILLEUX'S 2002-2003 CASE, ALL CHARGES IN THE MONTANA JUDGMENT OF CONVICTION RAN CONCURRENTLY. AS MONTANA SENTENCES MUST RUN CONSECUTIVELY UNLESS THE COURT ORDERS OTHERWISE, AND AS CONCURRENT SENTENCES OCCUR IN AN ATTEMPT TO AVOID CONSECUTIVE SENTENCES WHERE ONLY A "SINGLE CRIMINAL EPISODE" WAS INVOLVED, IT SHOWS THAT

THE MONTANA COURT MADE A FINDING THAT THIS WAS A "SINGLE CRIMINAL EPISODE." SUCH A FINDING IS EQUIVALENT TO WASHINGTON'S "SAME CRIMINAL CONDUCT" AND THUS SHOULD HAVE COUNTED AS ONE POINT ON THE DEFENDANT'S STANDARD SENTENCING RANGE.

THE BURDEN WAS ON THE STATE TO PROVE BEYOND A REASONABLE DOUBT, THAT THE RULING IN THE MONTANA COURT, DC 02-289, WAS NOT A "SINGLE CRIMINAL EPISODE." THEY FAILED TO PROVIDE ANY COURT DOCUMENTATION TO PROVE THE CONTRARY. SEE-RCWA-5.44.040. SEE ALSO-VSCA TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE PART IV. PROCEDURE CHAPTER 115. EVIDENCE; DOCUMENTARY SUBSECTION 1738. STATE AND TERRITORY STATUTES AND JUDICIAL PROCEEDINGS; FULL FAITH AND CREDIT STATES "THE RECORDS AND JUDICIAL PROCEEDINGS OF ANY SUCH STATE, TERRITORY OR POSSESSION, OR COPIES THEREOF, SHALL BE PROVED OR ADMITTED IN OTHER COURTS WITHIN THE U.S. AND ITS TERRITORIES AND POSSESSIONS BY THE ATTESTATION OF THE CLERK AND SEAL OF THE COURT ANNEXED; IF A SEAL EXISTS, TOGETHER WITH A CERTIFICATE OF A JUDGE OF THE COURT THAT THE SAID ATTESTATION IS IN PROPER FORM. SUCH ACTS, RECORDS AND JUDICIAL PROCEEDINGS OR COPIES THEREOF, SO AUTHENTICATED, SHALL HAVE THE SAME FULL FAITH AND CREDIT IN EVERY COURT WITHIN THE U.S. AND ITS TERRITORIES AND POSSESSIONS AS THEY HAVE BY LAW OR USAGE IN THE COURTS OF SUCH STATE, TERRITORIES OR POSSESSIONS FROM WHICH THEY ARE TAKEN."

BASED ON THE CHARGING INFORMATION AND THE SENTENCING DATES BEING ON THE SAME DAY AND THAT MR. VEILLEUX'S 2003 MONTANA SENTENCE IS RUNNING CONCURRENTLY. SEE-ATTACHED APPENDIX C-WASHINGTON'S JUDGMENT AND SENTENCE, PAGES 3-4. SEE-APPENDIX D-DEFENDANT'S CRIMINAL HISTORY. SEE ALSO-ATTACHED APPENDIX E-FINDING OF FACTS, PAGE 3 BOTTOM. MR. VEILLEUX ARGUES THAT THE WASHINGTON TRIAL COURT COMMITTED ERROR WHEN IT DID NOT GIVE "FULL FAITH AND CREDIT" TO THE MONTANA JUDGMENT AND RULING. MR. VEILLEUX

BELIEVES HIS OFFENDER SCORE SHOULD BE THREE WITH A STANDARD SENTENCING RANGE OF 31-41 MONTHS.

ISSUE C.

JARRON VEILLEUX HAD HIS MOTION IN LIMINE HEARING ON JANUARY 7, 2013. AT THIS HEARING THERE WAS MULTIPLE ISSUES ARGUED. THE ISSUE THAT RAISES MR. VEILLEUX'S ARGUMENT HERE IS THE EXCLUSION OF WITNESSES MOTION GRANTED BY THE COURT ON BEHALF OF THE DEFENSE. SEE-ATTACHED APPENDIX F-TRIAL TRANSCRIPT, MOTION IN LIMINE, PAGES 73-74. THE COURT ADVISED BOTH STATE AND DEFENSE TO ADVISE ALL WITNESSES THAT THEY COULD NOT SIT IN THE COURTROOM NOR TALK ABOUT THEIR TESTIMONY UNTIL AFTER THEY HAD TESTIFIED.

AT THE REQUEST OF A PARTY THE COURT MAY ORDER WITNESSES EXCLUDED SO THAT THEY CAN NOT HEAR THE TESTIMONY OF OTHER WITNESSES, AND IT MAY MAKE THE ORDER OF ITS OWN MOTION. THIS RULE DOES NOT AUTHORIZE EXCLUSION OF (1) A PERSON WHO IS A NATURAL PERSON, OR (2) AN OFFICER OR EMPLOYEE OF A PARTY WHICH IS NOT A NATURAL PERSON DESIGNATED AS ITS REPRESENTATIVE BY ITS ATTORNEY, OR (3) A PERSON WHOSE PRESENCE IS SHOWN BY A PARTY TO BE REASONABLY NECESSARY TO THE PRESENTATION OF THE PARTIES CASE. EVID. RULE 615. EXCLUSION OF WITNESSES. THIS RULE OF EVIDENCE WAS ENACTED TO KEEP COLLUSIVE TESTIMONY ABSENT FROM A CRIMINAL PROCEEDING. DETECTIVE KURT KEYSER WAS THE STATES EXEMPT WITNESS TO THE RULE. HE WAS ALLOWED TO SIT IN DURING TRIAL TO CONFER WITH THE PROSECUTION. "WHEN THE EXCLUSIONARY RULE IS INVOKED, IT IS CUSTOMARY TO EXEMPT ONE WITNESS TO CONFER WITH THE PROSECUTOR DURING THE TRIAL." SEE-STATE V. WEAVER, 60 W.N.2D 87, 371 P.2D 1006 (1962). SEE ALSO-STATE V. WITFIELD, 129 WASH. 134, 224 P. 559. MR. VEILLEUX HAS NO ARGUMENT TO THIS RULE, BUT TO THE CONDUCT AND DUE PROCESS VIOLATIONS BY THE STATE AND TRIAL COURT IS WHAT RAISES HIS ISSUES HERE.

DETECTIVE KEYSER WAS PRESENT DURING THE MOTION IN LIMINE HEARING AND SO HEARD THE SPECIFIC ORDERS OF THE JUDGE. PAYING NO MIND, DETECTIVE KEYSER WENT AGAINST THOSE SPECIFIC RULINGS

GIVEN BY THE TRIAL COURT JUDGE AND COLLUDED WITH AT LEAST TWO OTHER STATE WITNESSES ON MULTIPLE OCCASIONS. THE SEQUESTRATION ORDER EXCLUDING WITNESSES FROM THE COURTROOM IS SO THEY COULD NOT HEAR AND CONFORM THEIR TESTIMONY TO THAT OF OTHER WITNESSES. SEE-FED. R. EVID. 615/WA. R. EVID. 615. THIS EVIDENTIARY AND PROCEDURAL PRECAUTION IS DESIGNED TO CURB COLLUSION BY WITNESSES BUT DOES NOT ADDRESS THE SEPERATE PROBLEM OF WITNESSES WHO COORDINATE THEIR STORIES BEFORE TESTIFYING. SEE-U.S. V. BENDER, 539 F.3D 449, 455 (C.A.7 (IND.) 2008). THIS WAS A CLEAR VIOLATION OF EVIDENCE RULE 615 BY THE STATE. WASHINGTON PRACTICE STATES "(1) THAT NO WITNESS IS PERMITTED IN THE COURTROOM WHILE TRIAL IS IN PROGRESS EXCEPT WHEN THAT WITNESS IS TESTIFYING, (2) THAT AFTER A WITNESS HAS TESTIFIED HE MAY NOT DISCUSS HIS TESTIMONY WITH ANY OTHER WITNESS UNTIL ALL WITNESSES HAVE TESTIFIED, AND (3) THAT COUNSEL MAY NOT DISCUSS THE CASE WITH ONE WITNESS IN THE PRESENCE OF A SECOND WITNESS. WA. PRAC. SERIES VOL.13, SUBSECTION 4308, PAGE 234. THE STATE CONTINUED TO UNDERMINE THE COURT PROCESS BY ALLOWING DETECTIVE KEYSER TO COLLUDE WITH OTHER WITNESSES BEFORE ANY ONE OF THEM TESTIFIED.

MANY EARLY WASHINGTON CASES FOUND NO ERRER IN PERMITTING THE DISOBEDIENT WITNESS TO TESTIFY SO LONG AS THE PARTY CALLING THE WITNESS HAD NOT PARTICIPATED IN THE VIOLATION. SEE- STATE V. FAIRFAX, 42 WASH.2D 777, 258 P.2D 1212 (1953)- STATE V. ILOMAKI, 40 WASH. 629, 82 P. 873 (1905)- STATE V. COLOTIS, 151 WASH. 557, 276 P. 857 (1929). MR. VEILLEUX ARGUES THAT THE STATE WAS PARTICIPATING IN THIS OUE PROCESS VIOLATION. THAT DETECTIVE KEYSER WAS THE STATES EXEMPT WITNESS AND THAT HE WAS IN FACT COLLUDING WITH OTHER STATE WITNESSES PRIOR TO ANY TESTIMONY GIVEN BY ANY WITNESS. THIS IS BACKED BY THE TESTIMONY OF MR. SHINES, ON CROSS EXAMINATION, WHOM WAS ALSO A STATE WITNESS. SEE- ATTACHED APPENDIX G - TRIAL TRANSCRIPT - MR. SHINES ON CROSS

EXAMINATION, PAGE 187. THE PROSECUTOR DID NOT COMMENT ON NOR STOP THESE DILIBERATE ACTIONS BY HIS EXEMPT WITNESS, DETECTIVE KEYSER. THIS IS A DIRECT VIOLATION OF THE TRIAL COURT'S RULING AND TO MR. VEILLEUX'S 14 CONST. AMENDMENT OF OUR PROCESS.

THERE WAS A MOTION PUT IN BY THE DEFENSE THAT BROUGHT UP MULTIPLE ISSUES DURING TRIAL. ONE OF THESE ISSUES BROUGHT BEFORE THE TRIAL COURT WAS THE COLLUSION BETWEEN STATE WITNESSES. IN SPECIFIC IT WAS DETECTIVE KEYSER, MR. SHINES AND DEPUTY PETERSON. DETECTIVE KEYSER WAS OVER HEARD SAYING "THE ONE WITH A SHAVED HEAD, THE SHORTER ONE, THAT IS MR. VEILLEUX." SEE - ATTACHED APPENDIX H - TRIAL TRANSCRIPT - MOTION FOR MISTRIAL, PAGES 385 - 386. ALTHOUGH, THE DEFENSE PUT IN A WRITTEN MOTION FOLLOWED BY ORAL ARGUMENT BEFORE THE JUDGE, THE TRIAL COURT FAILED TO MAKE ANY RULING. IN FACT, THE TRIAL COURT NEVER EVEN ACKNOWLEDGED THE ISSUE AT ALL.

RULE 615 SPECIFIES NO PARTICULAR SANCTIONS FOR A VIOLATION OF THE EXCLUSIONARY ORDER OR THE COURT'S ADMONISHMENT NOT TO DISCUSS THE CASE WITH OTHER WITNESSES. THREE SANCTIONS ARE GENERALLY RECOGNIZED - CONTEMPT, COMMENT BY THE COURT TO THE JURORS, AND REFUSAL TO PERMIT THE OFFENDING WITNESS TO TESTIFY. MISTRIALS HAVE OCCASIONALLY BEEN GRANTED FOR VIOLATIONS OF RULE 615. SEE - WA. PRACT., EVIDENCE (BOOK 5A), SECTION 615.5. WHERE THE TRIAL COURT HAD GRANTED DEFENDANT'S MOTION TO EXCLUDE NONPARTY WITNESSES FROM THE COURTROOM, THE TRIAL COURT PROPERLY STRUCK THE TESTIMONY OF A DEFENSE WITNESS AFTER THE WITNESS ADMITTED ON CROSS EXAMINATION THAT HE HAD HAD LUNCH WITH THE DEFENDANT'S PRESIDENT AND DEFENSE COUNSEL TO DISCUSS THE CASE DURING TRIAL. SEE - SERRY PARKS EQUIPMENT CO. V. SOUTHEAST EQUIPMENT CO., INC., 817 F.2D 340 (5TH CIR. 1987). CITING E.R. 615, THE TRIAL COURT EXPLAINED THAT SKUZA AND SPENCER'S CONVERSATION UNDERMINED THE TRIAL COURT'S REASONS FOR EXCLUDING SPENCER FROM THE COURTROOM DURING SKUZA'S TESTIMONY. THE TRIAL COURT PROHIBITED SKUZA

FROM CALLING SPENCER AS A WITNESS IN HIS DEFENSE. SEE - STATE V. SKUZA, 156 W.N.A.P.P. 886, 846, 235 P.3D 842. TRIAL COURT WAS WITHIN ITS DISCRETION IN GRANTING DEFENDANT'S MOTION FOR A MISTRIAL. SEE - U.S. V. POE, 713 F.2D 579 (10TH CIR. 1983).

MR. VEILLEUX BELIEVES THAT THE STATE VIOLATED EVIDENCE RULE 615 AND THE SPECIFIC RULING OF THE TRIAL COURT. BY DOING SO MR. VEILLEUX'S TRIAL WAS TAINTED BY COLLUSION. MR. VEILLEUX ALSO BELIEVES THAT THE TRIAL COURT ERRORED IN THAT IT MADE NO DECISION OR RULING ON THE MOTION BROUGHT FORWARD BY THE DEFENDANT. THIS WAS A MAJOR VIOLATION OF CONSTITUTE MAGNITUDE UNDER THE DUE PROCESS CLAUSE OF THE 14TH AMMONDMENT OF THE CONSTITUTION.

APPENDIX A

INFORMATION-DC 02-289

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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, BY GAL

THE STATE OF MONTANA,

Plaintiff,

No. DC-02-289

v.

INFORMATION

JARROD EUGENE VEILLEUX

Defendant.

* * * * *

In open court comes Todd S. Whipple, a Deputy Gallatin County Attorney, having first obtained leave of this court and by this Information accuses the defendant with committing the following crimes in Gallatin County, Montana:

COUNT 1: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Ted Jacobsen, an occupied structure, with the purpose to commit a theft therein.

COUNT 2: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Ted Jacobsen without consent; to wit, damaged a window and a padlock.

COUNT 3: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully in a garage owned by Ted Jacobsen.

COUNT 4: THEFT, common scheme, a Felony, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to Ted Jacobsen, consisting of Sears Craftsman

tool box; Craftsman socket set; Craftsman box end and open-end wrenches-standard and metric; Electric drill; Craftsman crescent wrenches; a socket set-unknown brand; "Solar" battery charger-10/2 amp-Model # 1010; a "Makita" air compressor (oil less)-Model # MAC500; One green in color, plastic tackle box containing miscellaneous fishing tackle-value; a metallic blue and gray tackle box containing miscellaneous fishing tackle and a Penn Fly Fishing Reel, with the purpose to deprive Jacobsen of his property. The aggregate value of the property exceeds \$1000.00.

COUNT 5: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Harold Jenson, an occupied structure, with the purpose to commit a theft therein.

COUNT 6: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Harold Jenson without consent; to wit, damaged a window and garage door.

COUNT 7: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully in a garage owned by Harold Jenson.

COUNT 8: THEFT, a Misdemeanor, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to Harold Jenson with the purpose of depriving Jenson of his property; specifically, One electric drill-unknown brand; Numerous drill bits; One electric saw possibly a Craftsman; One air compressor; Ten end wrenches; Twelve sockets; Paper towels, toilet paper, snack food, and spices.

COUNT 9: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Doug Child (Cabin #1) without consent; to wit, damaged a door.

COUNT 10: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Doug Child (Cabin #1), an occupied structure, with the purpose to commit a theft therein.

COUNT 11: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Doug Child (Cabin #2) without consent; to wit, damaged a door.

COUNT 12: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Doug Child (Cabin #2), an occupied structure, with the purpose to commit a theft therein.

COUNT 13: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully upon the premises owned by George Caine.

COUNT 14: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Dan Russell, an occupied structure, with the purpose to commit a theft therein.

COUNT 15: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Dan Russell without consent; to wit, damaged a screen and hasp.

COUNT 16: THEFT, common scheme, a Felony, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to Dan Russell with the purpose of depriving Russell of his property; specifically, a "V Tech" digital 2.4 OHZ cordless telephone; One "RCA" 20 inch television with a remote control; "Sharp" VCR; One Honda water pump; a portable multi-band radio; one hunting knife in a black sheath; Twenty fishing flies; One pair of binoculars-b power; One CB base station radio; One blue in color terry cloth bathrobe. The aggregate value of the property exceeds \$1000.00.

COUNT 17: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by James Lyon, an occupied structure, with the purpose to commit a theft therein.

COUNT 18: CRIMINAL MISCHIEF, a Felony, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the

Defendant purposely or knowingly injured, damaged or destroyed property owned by James Lyon without consent; to wit, damaged a door, two windows, a screen and an interior sliding door. The value of the property injured, damaged or destroyed exceeds \$1000.00.

COUNT 19: THEFT, a Misdemeanor, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to James Lyon with the purpose of depriving Lyon of his property; specifically, two pairs of gloves; an air compressor, a garden sprayer; and a fishing tackle box.

COUNT 20: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Ernest Lee, an occupied structure, with the purpose to commit a theft therein.

COUNT 21: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully upon the premises (a garage) owned by Ernest Lee.

COUNT 22: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Ernest Lee without consent; to wit, damaged a garage door, a window blind and a padlock.

COUNT 23: THEFT, a Misdemeanor, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to Ernest Lee with the purpose of depriving Lee of his property; specifically, a Makita reciprocating saw.

COUNT 24: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Nicholas Bishop, an occupied structure, with the purpose to commit a theft therein.

COUNT 25: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Nicholas Bishop without consent; to wit, damaged a shutter, a screen, closet door, bed frame, baby crib, and a vacuum.

COUNT 26: THEFT, a Misdemeanor, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant

purposely or knowingly exerted unauthorized control over property belonging to Nicholas Bishop with the purpose of depriving Bishop of his property; specifically, a shotgun and a pair of spurs.

COUNT 27: CRIMINAL TRESPASS TO VEHICLES, a Misdemeanor, in violation of Section 45-6-202, MCA, committed on or about May 15, 2002, when the Defendant knowingly or purposely and without authority entered a vehicle owned by Nicholas Bishop.

COUNT 28: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Earl Booth, an occupied structure, with the purpose to commit a theft therein.

COUNT 29: CRIMINAL MISCHIEF, a Felony, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Earl Booth without consent; to wit, damaged a 4 padlocks, 3 doors, a window, rock wall, bed box, briefcase, screwdriver, reading glasses, van window and van door. The value of the property injured, damaged or destroyed exceeds \$1000.00.

COUNT 30: THEFT, common scheme, a Felony, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to Earl Booth with the purpose of depriving Booth of his property; specifically, 2 L.E.D. flashlights ; One "Coleman" propane lantern; Three canisters of "Coleman" propane; One green in color "Coleman" lantern and battery; One "Coleman" florescent lantern and battery; One steel camp grill-9"xl 1"; One camp candle holder One folding travel clock;.Silver jewelry which includes a necklace, earrings, a bracelet, tie pins, and cuff links; Five gallons of gasoline; One pair of binoculars; One black in color camp sink; A first aid kit; A brown and beige in color fishing tackle box and fishing tackle; A "Coleman" air pump; Two "Wrist Rocket" slingshots; A gold in color twin sheet; One black in color, titanium folding "Buck" knife; One brass and teak wood folding "Buck" knife; One "Old Timer" pocket knife; Two "Coleman" handheld radios; Two "Cobra" handheld radios; One "Cabelas" fly tying kit in a wood case; One multifunction ratchet; One leatherman; One small buck knife with a orange and black belt tie; One boat key on a float; Several door keys; A cast iron hook with a bear design; One "Makita" saws-all; One gray in color toolbox with miscellaneous tools; One grinder-two grinding wheels; Two air rifles;.One "Daisy" BB gun, and one cast iron griddle. The aggregate value of the property exceeds \$1000.00.

COUNT 31: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully upon the premises (a garage) owned by Earl Booth.

COUNT 32: CRIMINAL TRESPASS TO VEHICLES, a Misdemeanor, in violation of Section 45-6-202, MCA, committed on or about May 15, 2002, when the Defendant knowingly or purposely and without authority entered a vehicle owned by Earl Booth.

COUNT 33: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by George Fischer, an occupied structure, with the purpose to commit a theft therein.

COUNT 34: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by George Fischer without consent; to wit, damaged a window, 4 shutters, 3 screens, and latches.

COUNT 35: THEFT, a Misdemeanor, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to George Fischer with the purpose of depriving Fischer of his property; specifically, a chainsaw, and a butane stove.

COUNT 36: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Bill Hess (Cabin #1), an occupied structure, with the purpose to commit a theft therein.

COUNT 37: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Bill Hess without consent; to wit, damaged 4 padlocks.

COUNT 38: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by Bill Hess (Cabin #2), an occupied structure, with the purpose to commit a theft therein.

COUNT 39: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Bill Hess without consent; to wit, damaged 4

padlocks and a lantern globe.

COUNT 40: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully upon the premises (a garage) owned by Zane Hall.

COUNT 41: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by Zane Hall without consent; to wit, damaged a door jamb and knob.

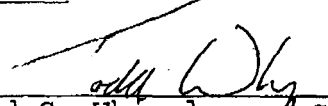
COUNT 42: BURGLARY, a Felony, in violation of Section 45-6-204, MCA, committed on or about May 15, 2002, when the Defendant, knowingly entered or remained in the cabin owned by George Troy, an occupied structure, with the purpose to commit a theft therein.

COUNT 43: CRIMINAL TRESPASS, a Misdemeanor, in violation of Section 45-6-203, MCA, committed on or about May 15, 2002, when the Defendant knowingly entered or remained unlawfully upon the premises (a garage) owned by George Troy.

COUNT 44: CRIMINAL MISCHIEF, a Misdemeanor, in violation of Section 45-6-101 committed on or about May 15, 2002, when the Defendant purposely or knowingly injured, damaged or destroyed property owned by George Troy without consent; to wit, damaged a screen and padlock.

COUNT 45: THEFT, a Misdemeanor, in violation of Section 45-6-301, MCA, committed on or about May 15, 2002, when the Defendant purposely or knowingly exerted unauthorized control over property belonging to George Troy with the purpose of depriving Troy of his property; specifically, a coins and cans of food.

DATED October 9, 2002.



Todd S. Whipple
Chief Deputy County Attorney

A person convicted of the offense of Theft, a Felony, shall be imprisoned in the state prison for a term not to exceed 10 years, be fined an amount not to exceed \$50,000, or both. (FOR EACH COUNT)

A person convicted of the offense of Theft, a Misdemeanor, shall

be imprisoned in the county jail for a term not more than 6 months and fined an amount not more than \$1000 or both (FOR EACH COUNT)

A person convicted of the offense of Burglary shall be imprisoned in the state prison for any term not to exceed 20 years or be fined not to exceed \$50,000 or both. (FOR EACH COUNT)

A person convicted of the offense of Criminal Trespass to property or vehicles shall be imprisoned in the county jail for a term not more than 6 months and fined an amount not more than \$500 or both. (FOR EACH COUNT)

A person convicted of Criminal Mischief a Felony shall be imprisoned in the state prison for a term not more than 10 years and fined an amount not more than \$50,000 or both (FOR EACH COUNT)

A person convicted of Criminal Mischief a Misdemeanor, shall be imprisoned in the county jail for a term not more than 6 months and fined an amount not more than \$500 or both (FOR EACH COUNT)

(Total potential imprisonment 310 years at the state prison followed by 13 ½ years in the county jail)

WITNESSES:

TED JACOBSEN
HAROLD JENSON
DOUG CHILD
GEORGE CAINE
DAN RUSSELL
JAMES LYON
ERNEST LEE
NICK BISHOP
NICHOLAS "JACOB" BISHOP
EARL BOOTH
BILL HESS
GEORGE FISCHER
ZANE HALL
GEORGE TROY
MATT DAUGHERTY
TOM PALLACH
SHANE BARSTAD
RYAN STRATMAN
BILL PRONOVOST
TODD RUDNER
STEVE ETT
JASON JARRETT
DAN SPRINGER
RUSS SANKEY
CRAIG BUSHMAN
CALVIN DUNBAR

CLARI HOWARD
 DUSTIN SLOAN
 NATHAN GEORGE BISHOP
 GEORGE ASBOE
 CARRIE BOURNE
 BLUE FLORES
 STEVEN LITTLEFIELD
 TODD WILLOUGHBY
 MATT JAMISON
 BRIAN GILLETTE
 NATHAN KRAFT
 DALE GRIFFITHS
 JAY REED
 SHANNA CASTLEBURY
 JANENE GINES

STATE OF MONTANA } ss
 County of Gallatin }
 JENNIFER BRANDON, Clerk of the
 Montana Eighteenth Judicial District Court, Gallatin County, do
 hereby certify that the above is a full, true and correct copy of the
 original as the same appears in the files and records of this office.
 WITNESS MY HAND and the Seal of this Court this 16 day of
July 2012
 By Jennifer Brandon JENNIFER BRANDON, CLERK
 Deputy

APPENDIX B

MONTANA STATUTE AND COMMISSION NOTES

MCA 46-18-401 (4)

46-18-401. Consecutive sentences, MCA 46-18-401West's Montana Code Annotated CurrentnessTitle 46. Criminal Procedure
Chapter 18. Sentence and Judgment (Refs & Annos)
Part 4. Factors That Reduce SentenceMCA 46-18-401
46-18-401. Consecutive sentences

(1) Unless the judge otherwise orders:

(a) whenever a person serving a term of commitment imposed by a court in this state is committed for another offense, the shorter term or shorter remaining term may not be merged in the other term; and

(b) whenever a person under suspended sentence or on probation for an offense committed in this state is sentenced for another offense, the period still to be served on suspended sentence or probation may not be merged in any new sentence of commitment or probation.

(2) The court, whether or not it merges the sentences, shall immediately furnish each of the other courts and the penal institutions in which the defendant is confined under sentence with authenticated copies of its sentence, which must cite any sentence that is merged.

(3) If an unexpired sentence is merged pursuant to subsection (1), the court that imposed the sentence shall modify it in accordance with the effect of the merger.

(4) Separate sentences for two or more offenses must run consecutively unless the court otherwise orders.

Credits

Enacted 95-2213 by Laws 1967, ch. 196, § 1. Amended by Laws 1977, ch. 340, § 2; Revised Code of Montana 1947, 95-2213; amended by Laws 1979, ch. 116, § 23; amended by Laws 1981, ch. 583, § 11; amended by Laws 1989, ch. 76, § 1; amended by Laws 1995, ch. 372, § 2.

COMMISSION COMMENTS

Source: Model Sentencing Act, sections 19, 21 and 22, General Laws of Massachusetts Chapter 279, Section 27.

The merger is not mandatory, but is in the discretion of the judge, although the language suggests that in most instances the merger should occur. The result of this approach is a unified sentence rather than a multiplicity of sentences.

Subsection [(4)] is included in an attempt to avoid consecutive sentences where only a single criminal episode was involved.

46-18-401. Consecutive sentences, MCA 46-18-401

Notes of Decisions (22)

MCA 46-18-401, MT ST 46-18-401

Statutes are current with all 2011 laws, 2011 Code Commissioner changes, and 2010 ballot measures.

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APPENDIX C

WASHINGTONS JUDGMENT & SENTENCE

**SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE
STATE OF WASHINGTON**

Plaintiff,

v.

JARROD E. VEILLEUX
WM 12/03/82

Defendant.

No. 12-1-01185-1

PA# 12-9-44582-0

RPT# CT III: 109-12-0056736

RCW CT III: 9.41.040(1)(A)-F (#37060)

FELONY JUDGMENT AND SENTENCE (FJS)
Prison

Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2,
5.3, 5.5 and 5.7

Defendant Used Motor Vehicle

Juvenile Decline Mandatory Discretionary

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. Findings

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon
 guilty plea (date) _____ jury verdict (date) 01/18/13 bench trial (date) _____:

Count No.: III **FIRST DEGREE UNLAWFUL POSSESSION OF A FIREARM**
RCW 9.41.040(1)(A)-F (#37060)
Date of Crime February 24, 2012
Incident No. 109-12-0056736

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

to the Information

Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

- The defendant used a **firearm** in the commission of the offense in Count(s) _____. RCW 9.94A.825, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in committing the offense in Count(s) _____. RCW 9.94A.825, 9.94A.533.
- For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020. (For offenses pled and proven on or after August 11, 2011.)
- Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435 took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count(s) _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. 9.94A.833.
- Count _____ is the crime of **unlawful possession of a firearm**. The defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A._____.
- The defendant committed **vehicular homicide** **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- In Count _____ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.
- Count _____ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- In Count _____, assault in the first degree (RCW 9A.36.011) or assault of a child in the first degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).
- Counts 4 THEFT encompass the same criminal conduct and count as one crime in determining the offender score (RCW 9.94A.589) MONTANA THEFT 2003

2 Criminal Mischief

[] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

	Crime	Cause Number	Court (county & state)
1.			
2.			

* DV: Domestic Violence was plead and proved.

[] Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History: (RCW 9.94A.525):

Crime	Date of Crime	Type of Crime	Adult or Juv	Sentencing Court (County & State)	Date of Sent.	DV* Yes
BURGLARY	103108		A	LEWIS AND CLARK CO, MT	012209	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
THEFT (F)	100502		A	GALLATIN CO, MT	052203	
THEFT (F)	100502		A	GALLATIN CO, MT	052203	
THEFT (E)	100502		A	GALLATIN CO, MT	052203	
THEFT (E)	100502		A	GALLATIN CO, MT	052203	
CRIM MISCHIEF	100502		A	GALLATIN CO, MT	052203	
CRIM MISCHIEF	100502		A	GALLATIN CO, MT	052203	

SAME
CRIMINAL
CONDUCT
↓

*DV: Domestic Violence was pled and proved.

[] Additional criminal history is attached in Appendix 2.2

[] The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

[] The prior convictions listed as number(s) _____ above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525).

[] The prior convictions listed as number(s) _____ above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA:

CT NO	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus enhancements*	Total Standard Range (including enhancements)	Maximum Term
1	14*	VII	87-116 MONTHS			10 YEARS

*(F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12).

* Defense believes should be 3

Additional current offense sentencing data in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended **sentencing agreements or plea agreements** are attached as follows: _____

2.4 **Exceptional Sentence:** The Court finds substantial and compelling reasons that justify an exceptional sentence:

below the standard range for Count(s) _____.

above the standard range for Count(s) _____.

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory.

within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

Findings of fact and conclusions of law are attached in Appendix 2.4. Jury's special interrogatory is attached. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings:

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____

The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

- 3.1 The defendant is **guilty** of the Counts and Charges listed in paragraph 2.1 and Appendix 2.1
- 3.2 The defendant is found NOT GUILTY of Counts 1 & 11 in the charging document.
- The Court **DISMISSES** Counts in the charging document.

IV. Sentence And Order

IT IS ORDERED:

4.1 **Confinement.** The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

116 (months) on Count No. 1;
 _____ (months) on Count No. _____;
 _____ (months) on Count No. _____.

The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

The confinement time on Count _____ includes _____ months as enhancement for firearm deadly weapon VUCSA in a protected zone manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 116 MONTHS.

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth at Section 2.3, and except for the following counts which shall be served consecutively: _____.

The sentence herein shall run consecutively with the sentence in cause number(s) _____ but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served. - **SEE SECTION 4.6** since
- (c) **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement. 5/10/12

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

- (A) The defendant shall be on community custody for the longer of:
(1) the period of early release. RCW 9.94A.728(1)(2); or
(2) the period imposed by the court, as follows:
Count(s) _____ 36 months for Serious Violent Offenses.
Count(s) _____ 18 months for Violent Offenses.
Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

The DOC is directed that the total terms of confinement and community custody must not exceed the statutory maximum sentence for the convicted offense(s).

- (B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

- consume no alcohol.
- have no contact with: _____
- remain within outside of a specified geographical boundary, to wit: _____
- not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.
- participate in the following crime-related treatment or counseling services: _____
- undergo an evaluation for treatment for domestic violence substance abuse mental health anger management and fully comply with all recommended treatment.
- comply with the following crime-related prohibitions: _____
- Other conditions: _____

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3 Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS.CODE

PCV \$500.00 Victim Assessment RCW 7.68.035
 PDV \$ _____ Domestic Violence Assessment RCW 10.99.080
 CRC \$200.00 Court costs, including: RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190
 Criminal Filing fee \$ _____ FRC
 Witness costs \$ _____ WFR
 Sheriff service fees \$ 37⁰⁰ SFR/SFS/SFW/SRF
 Jury demand fee \$ _____ JFR
 Extradition costs \$ _____ EXT
 Other \$ _____

PUB \$ _____ Fees for court appointed attorney RCW 9.94A.760
 WRF \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.760

FCM/MTH \$ _____ Fine RCW 9A.20.021; [] VUCSA chapter 69.50 RCW, [] VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI

FCD/NTF/
 SAD/SDI \$ _____ Drug enforcement fund of _____ RCW 9.94A.760

MTH \$ _____ Meth/Amphetamine Cleanup Fine, \$3000. RCW 69.50.440, 69.50.401(a)(1)(ii)
 \$ _____ DUI fines, fees and assessments

CLF \$ _____ Crime lab fee [] suspended due to indigency RCW 43.43.690
 \$ 100 DNA collection fee RCW 43.43.7541

FVP \$ _____ Specialized forest produces RCW 76.48.140
 \$ _____ Other fines or costs for: _____

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide Felony DUI only, \$1,000 maximum) RCW 38.52.430

RTN/RJN \$ None Restitution to: _____
 \$ _____ Restitution to: _____

\$ _____ Restitution to: _____
(Name and Address-address may be withheld and provided confidentially to Clerk's Office)

\$ ~~837⁰⁰~~ 837⁰⁰ TOTAL RCW 9.94A.760

[] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:
 [] shall be set by the prosecutor
 [] is scheduled for _____

[] The defendant waives any right to be present at any restitution hearing (sign initials): _____

[] **Restitution.** Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:
NAME of other defendant **Cause Number** (Victim Name) (Amount\$)

RJN

[X] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8)

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by the DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing 03/15/13 RCW 9.94A.760.

The defendant SHALL report to the Spokane County Superior Court Clerk's Office immediately after sentencing if out of custody or within 48 hours after release from confinement if in custody. The defendant is required to keep an accurate address on file with the Clerk's Office and to provide financial information when requested by the Clerk's Office. The defendant is also required to make payments on the legal-financial obligations set by the court. **Failure to do any of the above will result in a warrant for your arrest.** RCW 9.94A.760(7)(b).

[] The Court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754 **FAILURE TO REPORT FOR TESTING MAY BE CONSIDERED CONTEMPT OF COURT.**

[] **HIV Testing.** The defendant shall submit to HIV testing. If out of custody, the defendant shall provide documentation of HIV testing to Spokane County Prosecutor's Office no later than 14 days after sentencing or release from custody, whichever comes first. RCW 70.24.340 **FAILURE TO PROVIDE DOCUMENTATION FOR TESTING MAY BE CONSIDERED CONTEMPT OF COURT.**

[] The victim, based upon their request, shall be notified of the results of the HIV test whether negative or positive. (Applies only to victims of sexual offenses under RCW 9A.44.) RCW 70.24.105(7)

4.5 No Contact:

The Defendant shall not have contact with ^{Aaron} ~~AR~~ SCOTT HAYMOND (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until 01/05/13 which does not exceed the maximum statutory sentence.)

The defendant is excluded or prohibited from coming within _____ (distance) of: _____ (name of protected person(s))'s home/residence work place school (other location(s)) _____, or

other location: _____, until _____ (which does not exceed the maximum statutory sentence).

A separate Domestic Violence No-Contact Order or Anti-Harassment No-Contact Order is filed concurrent with this Judgment and Sentence.

4.6 Other:

DEFENDANT SHALL RECEIVE CREDIT FOR TIME SERVED STARTING ON 5/10/12 SINCE WHEN HE WAS SERVED WARRANT IN THIS

4.7 Off-Limits Order.

(Known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: CASE. STOR

V. Notices and Signatures

5.1 Collateral Attack on Judgment.

If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090

5.2 Length of Supervision.

If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purposes of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 Notice of Income-Withholding Action.

If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an

amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606

5.4 Community Custody Violation.

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

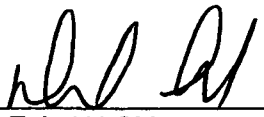
5.5 Firearms. You may not own, use or possess any firearm and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which your are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047.

5.6 Reserved.

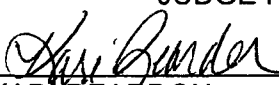
5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: Any pre-trial surety bond not previously forfeited shall be exonerated.

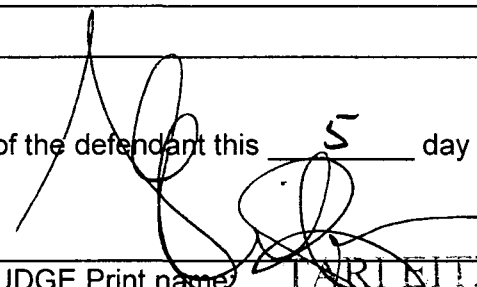
Done in Open Court in the presence of the defendant this 5 day of FEBRUARY, 2013.

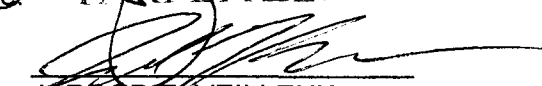


DALE A. NAGY
Deputy Prosecuting Attorney
WSBA# 33619



KAR REARDON
Attorney for Defendant
WSBA# 26112



JUDGE Print name: TARTITZEN


JARROD E. VEILLEUX
Defendant

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: 

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at _____, on _____
(city) (state) (date)

Interpreter Print Name

VI. Identification of the Defendant

SID No.

Date of Birth 12/03/1982

(If no SID complete a separate Applicant card form FD-258 for State Patrol)

FBI No.

Local ID No. 0376617

PCN No.

Other

DOB 12/03/1982

Alias name

Race:

Ethnicity:

Sex:

Asian/Pacific Islander

Black/African-American

Caucasian

Hispanic

Male

Native American


Other: _____

Non-hispanic

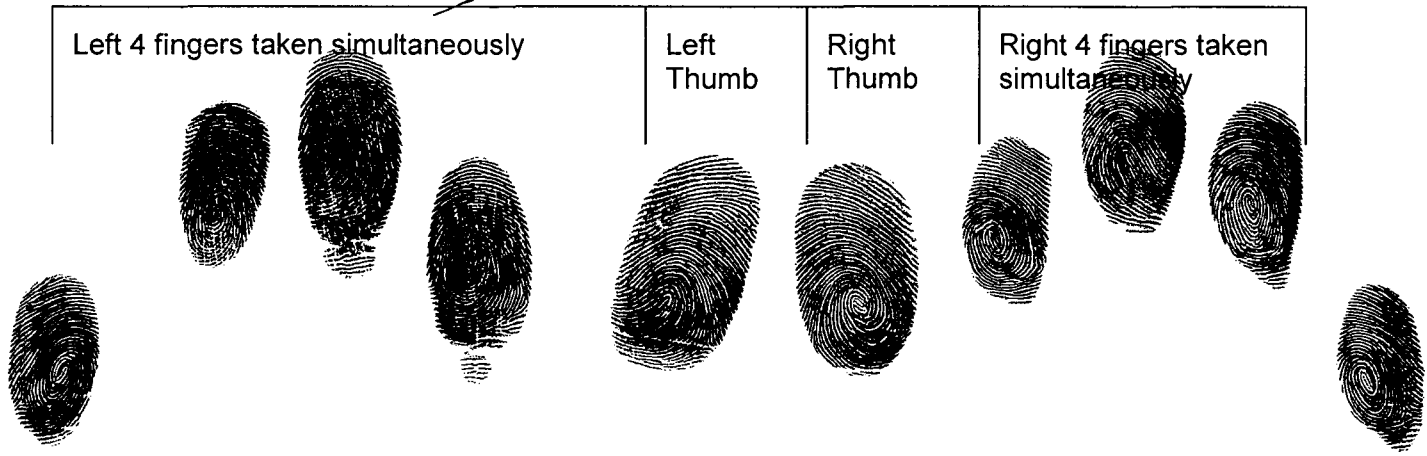
Female

Fingerprints I attest that I saw the same defendant who appeared in Court affix his or her fingerprints and signature on this document.

THOMAS R. FALLQUIST, Clerk of the Court


_____, Deputy Clerk.
Dated: 2/5/2013

DEFENDANT'S SIGNATURE: 



APPENDIX D

DEFENDANT'S CRIMINAL HISTORY

FILED

FEB 05 2013

THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON	)	No. 12-1-01185-1
)	
Plaintiff,	)	PA# 12-9-44582-0
	)	RPT# CT III: 109-12-0056736
v.	)	RCW CT III: 9.41.040(1)(A)-F (#37060)
)	
JARROD E. VEILLEUX	)	UNDERSTANDING OF DEFENDANT'S
WM 12/03/82	)	CRIMINAL HISTORY
	)	(ST)
Defendant(s).)	

Pursuant to CrR 4.2 (e) the parties set out the following:

1.4 PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(RCW 9.94A.525):

Crime	Date of Crime	Type of Crime	Adult or Juv	Sentencing Court (County & State)	Date of Sent.	DV* Yes
BURGLARY	103108		A	LEWIS AND CLARK CO, MT	012209	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
BURGLARY	100502		A	GALLATIN CO, MT	052203	
THEFT (F)	100502		A	GALLATIN CO, MT	052203	
THEFT (F)	100502		A	GALLATIN CO, MT	052203	
THEFT (F)	100502		A	GALLATIN CO, MT	052203	
THEFT (F)	100502		A	GALLATIN CO, MT	052203	

Defense believes these should have been counted as one offense SAME CRIME CONSULT

SAME
CRIMINAL
CONDUCT

CRIM MISCHIEF	100502	A	GALLATIN CO, MT	052203
CRIM MISCHIEF	100502	A	GALLATIN CO, MT	052203

() Prior convictions counted as one offense in determining offender score (RCW 9.94A.525(5)): _____


1.4(a) This statement of Prosecutor's Understanding of Defendant's Criminal History is based upon present information known to the Prosecutor and does not limit the use of additional criminal history if later ascertained.


1.5 Defendant's understanding of defendant's criminal history is as set out above. Defendant agrees that, unless otherwise noted in writing here, each of the listed convictions counts in the computation of the offender score and that any out-of-state or foreign conviction is the equivalent of a Washington felony offense.

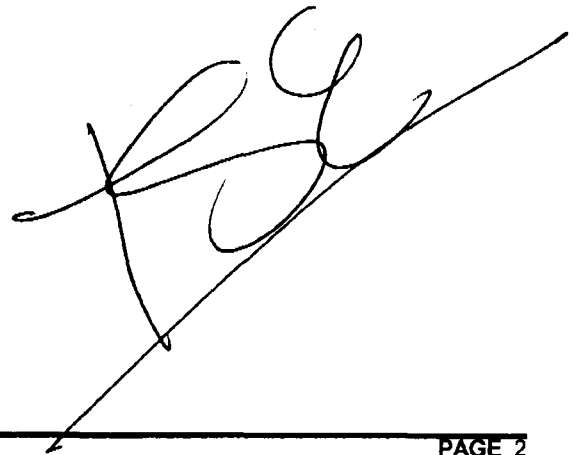
() The defendant committed the current offense while on community placement/community custody at the time of the offense. RCW 9.94A.525

Date: 2/5/13

JARROD E. VEILLEUX
Defendant

Date: 4/5/13

KARI REARDON
Lawyer for Defendant
26178
WSBA #

Date: 02/05/13

DALE A. NAGY
Deputy Prosecuting Attorney
33619
WSBA #



APPENDIX E

FINDINGS OF FACTS

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FILED

MAR - 7 2013

THOMAS R. FALLQUIST
SPOKANE COUNTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON	)	No. 12-1-01185-1
)	
Plaintiff,)	
)	
v.	)	DEFENDANT'S PROCEEDINGS TSE
JARROD E. VEILLEUX	)	FINDINGS OF FACT AND
WM 12/03/82	)	CONCLUSIONS OF LAW
	)	RE:DEFENDANT'S OFFENDER SCORE
)	
Defendant(s).)	

TSE

THIS MATTER came before the court on February 5, 2013, for sentencing after a jury trial. Present were the defendant, JARROD E. VEILLEUX, his attorney, KARI REARDON, and for the State of Washington, DALE A. NAGY, Deputy Prosecuting Attorney. The court having reviewed the motions, responses and replies submitted by the parties and after having heard from all the above, now makes the following findings and conclusions:

UNDISPUTED FACTS

1. Mr. Veilleux was convicted of Burglary in Montana in 2009, under Montana Cause number CDC 2008-420. The parties stipulated that this crime is factually compatible to either Washington's residential burglary or second degree burglary. A certified copy of the Judgment and Commitment in this matter was admitted by the court into the case file during trial.
2. Mr. Veilleux was convicted of on 45 counts to include: 13 counts of Burglary, 4 counts of theft and 2 counts of Criminal Mischief in Montana in 2003 under Montana Cause number DC-02-289. A certified copy of the Sentence and Judgment in this matter was admitted by the court into the case file during trial.

1 FINDINGS OF FACT

- 2 1. The defendant committed this crime in Washington, he was convicted in Washington and
3 he is sentenced pursuant to Washington law. The court does not use Montana law to
4 determine the defendant's offender score, the court uses Washington law.
- 5 2. Under cause number DC-02-289 the following Montana Burglary convictions are factually
6 comparable to Washington's residential burglary statutes. They all occurred at residences
7 or dwellings. Counts 1, 5, 10, 14, 17, 20, 24, 28, 33, 36, and 42 all have different victims. All
8 13 counts below occurred at different locations. It is mandatory that the court count each
9 conviction below as one point toward the defendant's offender score :
10 a. Count 1 – Jacobson garage and cabin
11 b. Count 5 – Jenson garage and cabin
12 c. Count 10 – Child cabin #1
13 d. Count 12 – Child cabin #2
14 e. Count 14 – Russell cabin
15 f. Count 17 – Lyons cabin
16 g. Count 20 – Lee cabin and garage
17 h. Count 24 – Bishop cabin
18 i. Count 28 – Booth cabin and garage
19 j. Count 33 – Fisher cabin
20 k. Count 36 – Hess cabin #1
21 l. Count 38 – Hess cabin #2
22 m. Count 42 – Troy cabin
- 23 3. It does not matter that Mr. Veilleux went from one cabin to the next cabin in committing
24 these crimes. They are separate incidents. They count as 13 points in Mr. Veilleux's
25 offender score.
- 1 4. Under cause number DC-02-289 the following Montana Theft convictions are legally
2 comparable to theft in Washington (second degree theft) however the court, exercising its
3 discretion, finds they are the same criminal conduct, same victim and same location, as the
4 residential burglaries discussed above: :
5 a. Count 4 – Victim Jacobson, same conduct, same location, same victim as Count 1
6 b. Count 16 – Victim Russell, same conduct, same location, same victim as Count 14
7 c. Count 19 – Victim Lyons, same conduct, same location, same victim as Count 17
- 8 5. Under cause number DC-02-289 the following Criminal Mischief convictions are factually
9 comparable to malicious mischief in Washington (second degree malicious mischief)
10 however the court, exercising its discretion, finds they are the same criminal conduct, same
11 victim and same location, as the residential burglaries discussed above: :
12 a. Count 18 – Victim Lyons, same conduct, same location, same victim as Count 17
13 b. Count 29 – Victim Booth, same conduct, same location, same victim as Count 28
- 14 6. Mr. Veilleux was on probation from Montana when he committed this crime. As part of his
15 parole conditions he was not permitted to leave the state of Montana, he was not permitted
16 to possess a firearm, and he was not permitted to drink alcohol. He violated all of these
17 conditions in committing this crime.

- 1 7. Mr. Veilleux's Montana conviction for burglary in 2008 is factually comparable to Washington's residential burglary and brings Mr. Veilleux's offender score to 14.
- 2 8. It does not matter whether the court found the 14 Montana burglaries above to be
- 3 equivalent to residential burglaries or second degree burglaries in Washington, they would
- 4 result in the same offender score (14).

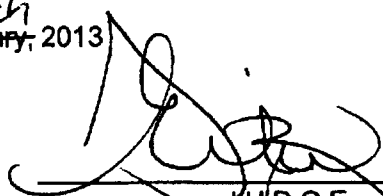
CONCLUSIONS OF LAW

- 5 1. Based on the above, the defendant's offender score in this matter for the purpose of
- 6 sentencing is 14.
- 7 2. The standard range for First Degree Unlawful Possession of a Firearm with an offender
- 8 score of 9 is 87 to 116 months.
- 9 3. The court is not imposing an exceptional sentence; but with an offender score of 14 the
- 10 court is imposing the high end of the standard range, 116 months.
- 11 4. The sentencing alternatives of Work Ethic Camp and DOSA would not be appropriate in
- 12 this case.

The court's oral ruling is incorporated by reference.


The Verbatim Report of Proceedings, February 5, 2013, was provided to defendant and is attached to the court copy.

SO ORDERED this 7 day of ^{March} ~~February~~, 2013




 JUDGE
 TARI FEITZEN

Presented by:



 DALE A. NAGY
 Deputy Prosecuting Attorney
 WSBA #33619

Agreed as to form only/objections as noted:



 ELECTRONIC SIGNATURE 3/6/13
 KARI REARDON
 Attorney for Defendant
 WSBA #26142

21 The defense argues as follows, and requests these legal arguments*
 22 The defense disputes finding 2 and 3, and conclusion 1 and 2. The defense believes that full faith
 23 and credit should have been given to Montana's running the cases concurrently, which indicates a
 24 finding that the burglaries were part of a single criminal episode and that those burglaries should
 25 have counted as one point. The defense believes that the appropriate offender score is 3. The
 defense further believes that there was insufficient evidence contained in the Montana Information
 and Judgment to find that the Count 10 and Count 12 occurred at different places and that Count
 36 and Count 38 occurred at different places. ^{The defense argues that there} There was no evidence that Childs cabin 1 and 2
 were on separate curtilage and no evidence that Hess cabin 1 and 2 were separate curtilage.

* Be set forth in the court's written findings regarding the court's
 calculation of offender score.
 This paragraph does not represent
 the court's findings.

APPENDIX F

TRIAL TRANSCRIPTS, PAGES 73-74
MOTIONS IN LIMINE

MOTIONS IN LIMINE

1 the law. But my main concern is that we ask people to use
2 names as much as possible. It is my ultimate thing I
3 dislike the most when law enforcement is up there the
4 entire time and instead of saying, you know, I interviewed
5 Mr. Haymond or spoke to Mr. Haymond, and they're always
6 calling him the victim, or they're always calling
7 Mr. Veilleux and Mr. Riley, the defendant. As much as
8 possible, I think it's very, you know, for law enforcement,
9 it clearly know names at this point in time. So I think
10 asking them to use names as much as possible for regular
11 lay witnesses, it doesn't disturb me quite as much. I
12 think maybe just because they don't have that professional
13 role coming into court.

14 THE COURT: So your motion is?

15 MS. REARDON: To ask that everybody use names as
16 much as possible and not descriptive terms of defendant and
17 victim.

18 THE COURT: I'm certainly, in this case, it would be
19 for a clarity issue. If a witness were to say the
20 defendant, I mean, it's hard to tell who they are talking
21 about. We have two defendants. So I think for that reason
22 alone it makes sense to always try to refer to each
23 defendant individually by name.

24 MS. REARDON: I had written into my motions in
25 limine to exclude all witnesses except Mr. Villeux and

APPENDIX G

TRIAL TRANSCRIPTS, PAGE 187

KEVIN SHINES CROSS EXAM.

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Ms. Reardon.

CROSS EXAMINATION

BY MS. REARDON:

Q Mr. Shines, you've been waiting some time to testify.
Is that correct?

A Yes!

Q In fact, you waited in the hallway for a couple of
hours yesterday?

A About, yeah, pretty close.

Q And then you were in the hallway this morning again;
is that correct?

A Yes.

Q And in the hallway with you yesterday was Deputy
Petersen?

A Yes.

Q And in the hallway with you this morning was Deputy
Petersen?

A Yes!

Q And when I left the courtroom this morning, I saw you
and Deputy Petersen and Detective Keyser speaking.

A Yes!

Q Do you recall being interviewed by me on August 17 of
this, it's now this past year, but within the last few
months, August 17?

APPENDIX H

TRIAL TRANSCRIPTS, PAGES 385-386

MOTION FOR MISTRIAL

DEFENDANT RILEY MOTION FOR MISTRIAL

1 make it very unpretty.

2 I may be able to deal with the issue of Ms. Pease.
3 I'm scheduling an interview with her. I think I can fix
4 things. The issue becomes my office doesn't have the money
5 to get her back from Montana, and I may need to ask the
6 court that we take her testimony over the telephone because
7 I just wasn't -- I very repeatedly asked that the State
8 provide me notice of which order the witnesses were coming
9 in. And while I got dates and times, I have asked Mr. Nagy
10 and he gave me ones for today. I imagine we have messed
11 his schedule up again at this point, but I need to know
12 when they're coming up because it throws you when just
13 somebody out of the blue pops up. So that's the issue.

14 The other issue I will say, Judge, I am very, very
15 concerned, my understanding that Detective Keyser was
16 outside yesterday telling witnesses, the one with the
17 shaved head, it's the shorter one, "that's Mr. Veilleux."
18 It is so inappropriate for him to be telling witnesses
19 those things. He may be able to sit here in trial. That's
20 to assist Mr. Nagy. It is not to go outside and help
21 witnesses testify in a different manner.

22 And it was a very clear motion that witnesses were
23 not to discuss their testimony with each other. He is a
24 witness. He should not be discussing testimony with
25 anybody, which means you're discussing the case at this

DEFENDANT RILEY MOTION FOR MISTRIAL

1 point in time. So that is also a basis for a mistrial
2 because he has been assisting the witnesses and I don't
3 believe that's appropriate.

4 THE COURT: Mr. Nagy.

5 MR. NAGY: Thank you, Your Honor.

6 I will start with the last one first, Your Honor.
7 All of the witnesses have been instructed not to talk to
8 one another. I don't believe they have talked to one
9 another. Ms. Wade is out there to make sure they don't
10 talk about one another. I repeatedly instructed them to
11 make sure they don't talk about this. And I know that
12 Detective Keyser certainly is not out there coaching
13 witnesses. I don't believe that's a point, but, if you
14 want me to put them on the stand, I will certainly be
15 willing to do so, Your Honor.

16 There is no new evidence. As Ms. Reardon said, her
17 new evidence is evidence she discovered through her
18 investigator, not new evidence from the State. Your Honor,
19 and I ask for time, that's fine, I will do this orally and
20 submit it later in an affidavit. On October 31st,
21 Detective Keyser completed a report, which included
22 everything Ms. Pease was going to say and, in fact, did say
23 while she was on the stand. Most of the stuff actually --
24 a lot of stuff was left out, all about the drug dealings
25 and she worried about Mr. Veilleux dealing drugs and her

FILED
AUG 12, 2014
In the Office of the Clerk of Court
WA State Court of Appeals, Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON,)	
	)	No. 31480-4-III
Respondent,)	
)	
v.)	
)	
JARROD VEILLEUX,	)	UNPUBLISHED OPINION
)	
Appellant.)	

KORSMO, J. — Jarrod Veilleux appeals his conviction for unlawful possession of a firearm, arguing that he was denied a timely trial and that the court should have given a mitigated exceptional sentence. We affirm.

FACTS

Mr. Veilleux, who was on parole from the state of Montana, visited a tavern in Spokane Valley with a friend, Terrance Riley, on February 24, 2012. Mr. Veilleux, who was not allowed to possess any guns, carried a gun in his waistband. An altercation later developed and Mr. Veilleux shot Aaron Haymond.

Charges of attempted first degree murder, first degree assault, and first degree unlawful possession of a firearm were filed against Mr. Veilleux, while Mr. Riley was charged with first degree rendering criminal assistance. An arrest warrant was issued for

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Mr. Veilleux on April 9, 2012. The warrant noted that Mr. Veilleux was in prison in Montana.

Mr. Veilleux was returned to Spokane County and arraigned on July 12, 2012. His trial date was initially set for September 4, 2012, but was re-set to September 10, at a pre-trial hearing. Riley's counsel moved to continue the trial as he was in trial on another case before Judge Eitzen, who ultimately was assigned to the Veilleux and Riley trial. Veilleux's counsel objected, arguing that her expert witness could appear less expensively in September before the college school year started up. She requested that the court sever the cases and retain the September 10, trial date. The prosecutor argued against severance, noting that he had 24 witnesses who would then be subjected to two trials instead of one and that the pre-school discount for one witness paled in comparison to the additional costs to the court and prosecutor. The court denied severance and set the joint trials for October 8.

Mr. Veilleux's counsel sought to continue trial from October 8 to October 10, but a State's witness had a vacation schedule conflict starting October 12, so the court found good cause to continue the case and re-scheduled trial for November 5. The defense expert had a conflict with the new trial date and Mr. Veilleux's counsel sought an additional continuance. The court found good cause to continue the case and set trial for November 26. The prosecutor learned that a witness would be unavailable for that date

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and sought a continuance to January 7, 2013. The court again found good cause for the continuance and granted the extension over defense objection.

Jury trial began January 7. The defense conceded the unlawful possession charge, but raised self-defense and lawful use of force defenses to the remaining counts. The jury subsequently acquitted Mr. Veilleux on the attempted murder and assault charges, but convicted him on the unlawful possession charge. Mr. Riley also was acquitted.

The trial court imposed a top-end sentence of 116-months on the unlawful possession conviction despite a defense request for an exceptional sentence below the standard range, and declined to reduce the sentence after hearing a defense motion for reconsideration. The court reasoned that Mr. Veilleux had violated his parole by leaving Montana, going to a bar, and possessing the gun. Mr. Veilleux then timely appealed to this court.

ANALYSIS

Mr. Veilleux argues that the trial continuances violated his right to a timely trial under CrR 3.3 and his constitutional right to a speedy trial. He also contends that the court erred in not granting him a mitigated sentence. We will address those contentions in the order stated.

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CrR 3.3

Mr. Veilleux argues initially that his time for trial rights were violated by the continuances of the initial trial date rather than severing the defendants. As the trial court properly found good cause to grant the continuances, this argument is without merit.

CrR 3.3 requires trial within 60 days of arraignment for defendants who are detained on the current charges, while requiring trial within 90 days for all others, including those held in custody on unrelated matters. CrR 3.3(a)(3)(v); CrR 3.3(b)(1), (2). When a trial is continued in accordance with CrR 3.3(f)(2), the effect of the continuance is to exclude the period of the continuance from the time for trial period. CrR 3.3(e)(3).¹ The decision to grant or deny a continuance is reviewed for abuse of discretion. *State v. Ollivier*, 178 Wn.2d 813, 822-23, 312 P.3d 1 (2013). Discretion is abused when it is exercised on untenable grounds or for untenable reasons. *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971).

Mr. Veilleux primarily argues that the trial court erred in continuing the cases from the September 10 trial date to October 8 in order to keep the two defendants joined. As Mr. Veilleux was in custody in Montana, the 90 day time for trial period applied to his case. CrR 3.3(a)(3)(v). Since he had been arraigned on July 12, trial was required to be held by October 10, 2012. Thus, even if the court had erred in granting severance and

¹ When there is an excluded period, the time for trial does not expire until 30 days after the end of the excluded period. CrR 3.3(b)(5). This is colloquially known as a “buffer” period.

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continuing the trial from the September 10th date, there was no violation of the rule because the new October 8th trial date was still set within the original 90-day period. Mr. Veilleux's argument is of no consequence.²

His real complaint is with the ensuing continuances, although he quite understandably does not take issue with them, particularly since two of them were at defense request.³ Continuances in order to obtain a witness for trial or to accommodate a witness or attorney's vacation are long recognized as valid under CrR 3.3. *E.g.*, *Torres*, 111 Wn. App. at 331; *State v. Selam*, 97 Wn. App. 140, 143, 982 P.2d 679 (1999); *State v. Grilley*, 67 Wn. App. 795, 799, 840 P.2d 903 (1992). Since each of the continuances beyond the original trial date were for the valid purpose of obtaining or accommodating witness schedules, there was no abuse of discretion.

Mr. Veilleux received a timely trial under CrR 3.3.

Constitutional Speedy Trial

Mr. Veilleux also contends that his constitutionally guaranteed right to a speedy trial was also violated. Since he was tried within six months of his arraignment, he has failed to articulate a constitutional speedy trial claim.

² Joinder of defendants and maintaining joinder of defendants are valid bases for continuing a case. *State v. Torres*, 111 Wn. App. 323, 332, 44 P.3d 903 (2002). Thus, the court did not err in granting the continuance and denying severance.

³ The continuance rule concludes with this observation: "The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay." CrR 3.3(f)(2) (final sentence).

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Both the Sixth Amendment and article I, section 22 of the Washington Constitution provide a right to a speedy trial. The rights provided by the two constitutions are equivalent. *State v. Iniguez*, 167 Wn.2d 273, 290, 217 P.3d 768 (2009). We review de novo an allegation that these rights have been violated. *Id.* at 280. Because some delay is both necessary and inevitable, the appellant bears the burden of demonstrating that the delay between the initial accusation and the trial was unreasonable and created a “presumptively prejudicial” delay. *Id.* at 283. Once this showing is made, courts must consider several nonexclusive factors in order to determine whether the appellant’s constitutional speedy trial rights were violated. *Id.* These factors include the length and reason for the delay, whether the defendant has asserted his right, and the ways in which the delay caused prejudice. *Barker v. Wingo*, 407 U.S. 514, 530, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972). None of the *Barker* factors are either sufficient or necessary to demonstrate a constitutional violation. *Iniguez*, 167 Wn.2d at 283.

A delay of less than 8 to 12 months will seldom even present a constitutional question. *Id.* at 291-93. The more limited delay at issue here is not enough to raise a claim of presumptive prejudice and there is no need to even conduct an analysis of the other factors. *Id.* at 282-83. Our Supreme Court has expressly rejected any formulaic presumption that leads to a threshold showing of presumptive prejudice; rather, it has stated that this inquiry is necessarily dependent upon the specific circumstances of each case. *Id.* at 283. Several factors to be considered in this initial inquiry include not only

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the length of the delay, but the complexity of the charges and reliance on eyewitness testimony. *Id.* at 292.

Those factors suggest a much lengthier delay in this case would have been justified under the constitutions. The State listed 24 witnesses, and the defense would need to interview many of those people. The defense also had its own witnesses, including an important expert, and had to develop its self-defense case. As the charges included attempted first degree murder, this was not a simple case to prepare. It is impressive that the parties were able to bring the matter to a jury as rapidly as they did.

Mr. Veilleux has not established that there was a significantly long delay to justify an inquiry into the constitutional speedy trial rights. Accordingly, there was no violation of either constitutional speedy trial guarantee.

Sentencing

Lastly, both appellate counsel and Mr. Veilleux, in his Statement of Additional Grounds (SAG), claim that the court erred in not granting him a mitigated sentence.⁴ Appellant presents no reviewable issue for our consideration.

The general rule is that a standard range sentence cannot be appealed. RCW 9.94A.585(1). Accordingly, when the trial court declines to impose an exceptional

⁴ The SAG also raises a claim, without adequate supporting argument, that the officers improperly communicated with each other during trial. The claim presents no basis for relief. We also note that since he was acquitted on the other counts and admitted his guilt on the unlawful possession charge, he could not possibly have been prejudiced by any trial errors.

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sentence, the only available method of attacking that decision is to establish that the trial court failed to do something it was required to do at sentencing. *State v. Mail*, 121 Wn.2d 707, 712, 854 P.2d 1042 (1993). A defendant may also challenge the trial court's usage of an impermissible basis for refusing an exceptional sentence.

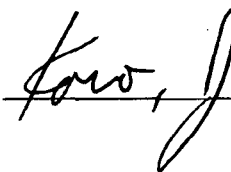
State v. Garcia-Martinez, 88 Wn. App. 322, 329-30, 944 P.2d 1104 (1997).

Here, Mr. Veilleux has not identified any required procedures that the sentencing judge failed to follow. She considered, and ultimately rejected, his request for a mitigated sentence. She similarly considered, and again rejected, his request that she reconsider the sentence. He simply presented insufficient grounds for an exceptional sentence.


Mr. Veilleux has not presented any basis for challenging the standard range sentence imposed in this case. This argument, too, is without merit.

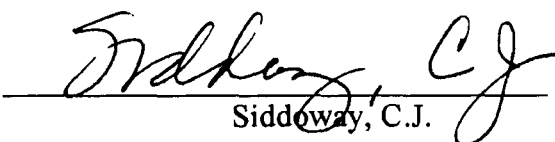
The conviction is affirmed.

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.


Korsmo, J.

WE CONCUR:


Brown, J.


Siddoway, C.J.