99601-6

NO. 53091-1-II Consolidated w/ No. 53015-3-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondents,

v.

LOUIS THIBODEAUX,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR
LOWLITZ COUNTY

HONORABLE MICHAEL EVANS JUDGE

PETITION FOR DISCRETIONARY
REVIEW

LOUIS JAMES THIBODEAUX #941031
SCCC/A1-33L
191 Constantine Way
Aberdeen, WA 98520
Pro Se

Clerk of the Court
Court of Appeals / STATE OF WASHINGTON
DIVISION II

November 16, 2020

RE: Court of Appeals No. 53091-1-II
State of Washington v. Louis James Thibodeaux
Cowlitz County No. 18-1-00825-08
(Consolidated with) No. 53095-3-II

Dear Clerk &

Moving Party, Louis Thibodeaux, moves this Court for Notice to file a petition for discretionary review, which started to run from the date of the ruling which was October 6th 2020, denied reconsideration November 5, 2020.

Dated November 16, 2020

Louis Thibodeaux
Louis Thibodeaux

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES

IN THE COURT OF APPEALS IN STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, V. LOUIS THIBODEAUX, Appellant.	COURT OF APPEALS NO. 53091-1-II Consolidated with NO. 53085-3-II PETITION FOR DISCRETIONARY REVIEW

1. IDENTITY OF MOVING PARTY

Moving Party, Louis Thibodeaux, moves this Court for a petition for discretionary review.

2. STATEMENT OF RELIEF SOUGHT

Pursuant to RAP 12.3 and 12.4 appellant/moving party, Louis Thibodeaux, request review of the unpublished decision in State v. Thibodeaux, 2020 WL 5908725 (Slip Op. October 6, 2020).

. A Copy of the opinion is attached as well exhibits as Appendix A to motion.

A. ASSIGNMENTS OF ERROR

1. The evidence was insufficient to sustain conviction for delivery of methamphetamine. as alleged in Counts I, II, and III. ERROR 1

2. Violations of CrR 4.4 Severance ERROR 2

3. Violation of Offender Score. ERROR 4

4. Speedy Trial Violations CrR 3.3 ERROR Three

B. ISSUES PERTAINING TO ERRORS.

1. Does the trial court violate defendants right to due process Under Washington Constitution, Article 1 § 3, and United States Constitution, Fourteenth Amendments if it enters judgment by use of fraudulent 9 points, speedy trial violation, and severance violations against him for crimes unsupported by substantial evidence?

ERRORS 1-4

C. Statement of the Case

1. Procedural facts:

Louis Thibodeaux was charged in Cowlitz County Superior Court by amended information the day of trial, with three counts of delivery of methamphetamine. Clerk's Papers (CP) 1-3, 72-74. RCW 69.50.401(1) (2)(b). The State alleged in each count that

Mr. Thibodeaux delivered methamphetamine to a police confidential informant, Autumn Stanfield and alleged that Count I took place May 3, 2016, Count II took place May 5, 2016, and Count III occurred on July 5, 2016. CP 72-74. The State alleged Count I took place within 1000 feet of a school bus route stop, and Count III occurred within 1000 feet of the perimeter of a community college and high school. CP 72-74. RCW 69.50.435(a). The matter came for trial on November 7 and 8, 2018, the Honorable Michael Evans presiding. 2 Report of proceedings (RP) at 101-339, 3RP at 345-520.

The record of proceedings consists of the following transcribed hearings: 1RP - August 9, 2017; August 21, 2017; September 25, 2017; October 9, 2017; October 23, 2017; October 30, 2017; November 13, 2017; May 18 2018; June 4, 2018; June 25 2018; July 2, 2018; July 19, 2018; July 26, 2018; August 1, 2018; September 11, 2018; October 25, 2018; November 1, 2018; November 20, 2018; November 29, 2018; and December 18, 2018; Sentencing, December 21, 2018 sent to prison.

Based on an unlawfully created 9 points, by prosecutor Sean Brittian, and unlawful enhancements for Counts I and II was 84 months to 144 months, and 60 months to 120 months,

evidence to support delivery of a controlled substance. (f) Thibodeaux received ineffective assistance of counsel when he failed to move for severance of the three charges (g) the trial court erred in calculations of Thibodeaux's offender score, that's unsupported by fraudulent points (9), created by the prosecutor's misinargreement.

4. GROUNDS FOR RELIEF AND ARGUMENT

1. THE EVIDENCE WAS INSUFFICIENT TO PROVE DELIVERY OF METHAMPHETAMINE AS ALLEGED IN COUNT I, II & III.

a. The State bears the burden to prove every element of the offense beyond a reasonable doubt.

The due process clauses of the federal and state constitutions requires the prosecution prove every element of a crime beyond a reasonable doubt. Apprendi v. New Jersey, 530 U.S. 466, 476-77, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). The critical inquiry on discretionary review is, whether after reveiwing the evidence in light most favorable to the prosecution, a rational trier of fact could have found the elements of the crime beyond a reasonable doubt. Jackson v. Virginia, 433 U.S. 307, 324, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979). Further, this court need to actually view the video, as well for three separate buys,

do not constitute substantial evidence sufficient to meet the requirements of due process, under Washington Constitution, Article 1, § 3, and United States Constitution, Fourteenth Amendment. As a result, this court should reverse the defendant's convictions in Counts I, II, & III and remand with instructions to dismiss.

2. COUNSEL PROVIDED INEFFECTIVE REPRESENTATION BY FAILING TO MOVE FOR SEVERANCE - Ex 11

In Mr. Thibodeaux's additional grounds, at the beginning 8 cases were pending for trial, on each one separately the prosecutor dismissed 4, I was found guilty for the possession, then I was to be brought to trial on the last 3 deliveries separately, then the prosecutor and my attorney without my permission, forced me to trial on all three deliveries.

I was prejudiced from the result of joining my charges, which embarrassed the presentation of separate defenses, that invited the jury to cumulate evidence to find guilt, that inferred my criminal disposition, that was inherently prejudicial. I ask this court review the abuse of discretion under Russell, 125 Wn.2d at 62-63, to determine whether the trial court should have severed charges to avoid prejudice to defendant. See Ex 11

Although CrR 4.3(a)[1] permits two or more offenses of similar character to be joined in a single charging document, "joinder must not be used in such a way as to prejudice a defendant." ***State v. Ramirez***, 46 Wn. App. 223, 226, 730 P.2d 98 (1986). Washington courts recognize that "joinder is inherently prejudicial." *Id.* Even if multiple charges are properly joined in a single charging document, they must be severed for separate trials whenever "the court determines that severance will promote a fair determination of the defendant's guilt or innocence for each offense." CrR 4.4(b).

Consolidation of separate counts in a single trial "should never be used in such a way as to unduly embarrass or prejudice a defendant or deny him or her a substantial right." ***Russell***, 125 Wn.2d at 62. "Prejudice may result from joinder if the defendant is embarrassed in the presentation of separate defenses, or if use of a single trial invites the jury to cumulate evidence to find guilt or infer a criminal disposition." *Id.* at 62-63.

On appeal, a trial court's refusal to sever charges is reviewed for

---

[1] CrR 4.3(a) provides:
(a) Joinder of Offenses. Two or more offenses may be joined in one charging document, with each offense stated in a separate count, when the offenses, whether felonies or misdemeanors or both:
(1) Are of the same or similar character, even if not part of a single scheme or plan; or
(2) Are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan.

abuse of discretion. ***Russell***, 125 Wn.2d at 62-63.

To determine whether a trial court should have severed charges to avoid prejudice to a defendant, the reviewing court considers (1) the strength of the State's evidence on each count; (2) the clarity of defenses as to each count; (3) court instructions to the jury to consider each count separately; and (4) the admissibility of evidence of the other charges even if not joined for trial. ***State v. Sutherby***, 165 Wn.2d 870, 884-85, 204 P.3d 916 (2009); ***Russell***, 125 Wn.2d at 63, 882 P.2d 747.

In this case, consideration of these factors shows the trial court is likely have granted a motion to sever, particularly regarding severance of Count 1 from Counts 2 and 3. First the strength of the State's evidence on Count 1 was markedly weaker than Counts 2 and 3. For Count 1, the State alleged Mr. Thibodeaux delivered methamphetamine to police informant Stansfield inside a house on May 3, 2016. The evidence presented at trial, even when seen in the light most favorable to the state, does not constitute substantial evidence that Mr. Thibodeaux delivered anything to the police informant on May 3, 2018. Only the informant asserted that she saw the defendant possess or deliver methamphetamine. The informant walked to the house where two men were standing outside, and she then went inside the house. 2RP at 310. After leaving the house Stanfield talked with a man who was outside the house and then walked

back to where Detective Mortensen was positioned in a vehicle. 2RP at 311, 3RP at 358. Longview police video recorded Stanfield walking up to and entering the house. 3RP at 355. Officer Libbey was parked diagonally from the house and could see the front door of residence. 3RP at 356. Officer Libbey was able to observe Ms. Stanfield walking on Oregon Way to house and as she entered the house. 3RP at 357. Despite the outside surveillance, after Stansfield entered the house she was out of the view of the officers. 2RP at 310-11.

Unlike Counts 2 and 3, no video or audio recording was made of the alleged drug deal, and no evidence was presented that Mr. Thibodeaux was inside the house at all. In addition, evidence was presented that there were people outside the house, leaving open the possibly that informant Stansfield obtained the methamphetamine from someone in the house other than Thibodeaux or from someone outside the house. Of particular significance is that only the informant stated that Mr. Thibodeaux was inside the house at the time of the alleged drug deal, whereas Mr. Thibodeaux was visible to officers during the alleged drug deals in Counts 2 and 3.

In addition, evidence of one count would not have been admissible at a separate trial on the other counts. This factor rests on the fundamental principle that "[a] defendant must be tried for the offenses charged, and

evidence of unrelated conduct should not be admitted unless it goes to the material issues of motive, intent, absence of mistake or accident, common scheme or plan, or identity." ***Sutherby***, 165 Wn.2d at 887; ER 404(b).[2] The question is whether evidence of one charge would have been admissible under one of these exceptions at separate trials on the other charges. *Id.* Evidence that Mr. Thibodeaux was guilty of Counts 2 and 3 would not have been admissible in a separate trial on Count 1, and vice versa. Evidence showing that Stanfield was seen meeting with Mr. Thibodeaux outside WinCo and outside the hotel was not relevant or admissible to support Stanfield's allegation in Count 1 that she obtained drugs from Mr. Thibodeaux while inside the house on May 3. The evidence would therefore have been inadmissible under ER 404(b). ***Sutherby***, 165 Wn.2d at 887. Thus, this factor also demonstrates that Mr. Thibodeaux was prejudiced by counsel's failure to move to sever the offenses.

If the State's evidence on any count is weak and evidence on each count would not have been admissible at separate trials, a denial of severance amounts to an abuse of discretion. ***State v. Hernandez***, 58 Wn.

---

[2] ER 404(b) provides: "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident."

App. 793, 800, 794 P.2d 1327 (1990), abrogated on other grounds by ***State v. Kjorsvik***, 117 Wn.2d 93, 812 P.2d 86 (1991).

To the extent defense counsel failed to move to sever the counts, Mr. Thibodeaux received ineffective assistance of counsel. As noted above, to prevail on an ineffective assistance of counsel claim, the defendant must show that (1) counsel's representation was deficient in that it fell below an objective standard of reasonableness and (2) the deficient performance prejudiced the defendant. ***McFarland***, 127 Wn.2d at 334-35; ***Strickland***, supra; U.S. Const. amend. VI.

If there is no reasonable legitimate strategic or tactical reason for counsel's failure to make a timely motion for severance, counsel's performance is deficient. ***Sutherby***, 165 Wn.2d at 884. Failure to move for severance is not reasonable if evidence of one charge would not have been admissible at trial on the other charge. *Id.* The prejudice prong is satisfied if the motion would properly have been granted if made, and the outcome at a separate trial would probably have been different. *Id.* at 887; ***State v. Price,*** 127 Wn. App. at 193, 203, 110 P.3d 1171 (2005).

As argued above, evidence of Counts 2 and 3 would not have been admissible at a separate trial on Count 1 and therefore counsel had no reasonable tactical reason not to renew the motion to sever.

In addition, the outcome of separate trials would probably have been different. Mr. Thibodeaux was therefore prejudiced, and is entitled to relief.

A. In-effective Assistance of trial counsel

B. Unlawful Sentence & Judgment

C. Insufficient Tainted Evidence used to obtain convictions, that does not support crimes charged, fraudulent acts, framing and lies by Street Crimes Detectives

D. *Violations* of Criminal Rights Rules 3.3 & 4.7 & 7.8

1. Appellant was denied effective assistance of Trial Counsel.
2. There is scrivener's error in the judgment and sentence, the sentencing court erred by imposing an unlawful sentence of an offender as having 9 points.
3. The evidence was insufficient to sustain convictions for delivery of methamphetamine as alleged in **Counts II & III.**

Issues Pertaining to Additional Grounds Errors

1. Was appellant deprived of his right to effective assistance of counsel under the ***Sixth Amendment and Wash. Const. Article I, § 22,*** when his trial counsel failed to move to exclude the judge reading for the jury to predicate stipulation of fact required to convict appellant of the charges of delivery of methamphetamine, no objections was done prior to the entering of those false stipulation, the motion would have been granted if made when admission of those stipulations, it's suppose only read the state does not wish to call their remaining witnesses, not what I read first before I signed those stipulations, it does not say the state wishes not to call and rest. The judge told the jury to accept the stipulations as true, made it look as if I was guilty, the outcome would have been different made appellant guilty of Count 1 as well, that count does not sustain a conviction of delivery, no money nor drugs

was in my presence, had counsel hired and investigator the outcome would have proved my prints was not on those baggies?

2. Does a trial court violate a defendant's right to due process under the Washington Constitution, Article I, § 3, and the United States Constitution, Fourteenth Amendment, if it enters judgment against him for a crime unsupported by substantial evidence?
3. Following the Revised Codes of Washington, and after the enactment of ***RCW 9.94A.525(5)(a)(i),*** this court should reverse the unlawful sentences for the present charges unlawful 9 points range used to sentence him unlawfully.
4. Each statement presented fraudulent activities done to obtain convictions, by SCU

ARGUMENTS/

1. **Trial court erred in imposing the unlawful sentences and unlawful points range**

a. A trial court may sentence an offender with such range only if the points system under ***Washington's RCW 9.94A.525(5)(a)(i).*** See Ex 6-7

Based on an offender score of 9 points defense counsel should have objected to the unlawful range, the record will reflect differently see the amended criminal history. Those 4 Cowlitz County charges are Gross Misdemeanors should not have been used for points. Those 5 pending charges should not have been used as 5 points either. See Prosecutor's Second Amended Criminal History, Line 6 & 7, 9 & 10, Attempted Drug Crime & Failure to Transfer Title, those 4 dropped down in a plea to a gross misdemeanor, should wash and not be used as 4 points. I was found guilty on a Vusca 17-1-01383, that point is correct, but the sentence was incorrect, does not sustain conviction of and offender having 9 points, its county time. Those 5 pending charges should not have been used for 5 points to sentence appellant, those was dismissed by the prosecution because he could not prove guilty verdicts.

All 5 charges were planted by the Longview Streets Crimes Unit by confidential informants working for them. ***See Cause # 18-1-00686-08 x1 / 18-1-01149-08 x3***, an investigation by the federal government should investigate that unit thoroughly.

The due process clause of the federal and state constitutions require the prosecution prove every element of a crime beyond a reasonable doubt. ***Apprendi v. New Jersey, 530 U.S. 466, 476-77, 120 S. Ct 2348, 147 L.Ed.2d 435(2000); In re Winship, 397 U. S. 358, 364, 90 S.C t 1068, 25 L.Ed.2d 368(1970); U.S. Const. amends 6, 14; Wash. Const. art. I, § 3, 21, 22.*** The critical inquiry on appellant review is whether, after viewing Mr. Tiller's brief, the additional grounds are subjective to be dismissed in the light most favorable to the prosecution, a rational trier of fact could have found the elements of the crime beyond a reasonable doubt. ***Jackson v. Virginia, 433 U.S. 307, 334, 99 S. Ct 2781, 61 L.Ed.2d 560(1979); State v. Green, 94 Wn.2d 216, 220-22, 616 P.2d 628(1980).*** Further, when the sufficiency of the evidence is challenged in a criminal case, all reasonable inferences from the evidence must be drawn in favor of the prosecution and interpreted against the defendant. ***State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1086(1992,***

Evidence such as compared to the brief filed by my appellant attorney opens the door for my additional grounds that is equally consistent with innocence as it is with Counts II & III, guilt is not sufficient to support conviction, it is not substantial evidence. ***State v. Aten, 130 Wn.2d 640, 927 P.2d 210(1996).***

A challenge to the sufficiency of the evidence may be raised for the first time on appeal as a due process clause violation. ***State v. Hickman, 135 Wn.2d 97, 954 P.2d 900(1998); State v. Moore, 7 Wn. App 1, 499 P.2d 16(1972).***

Thibodeaux's trial counsel rightly conceded deficient performance by failing to prevent the jury from hearing the stipulation of facts, the way the Honorable Evans read it to the jury was not what was

agreed upon by appellant, what was supposed to be told to the jury the state intended to not call the last witnesses. That wasn't explained to me correctly, it sounded really good, the prosecutor Mr. Brittain falsely used tactics to produce evidence of guilt to the tainted evidence presented at trial, that bolstered the prosecution's case and prejudiced Thibodeaux's defense, this Court should reverse and remand for a new trial.

A claim of in-effective assistance of counsel is an issue of constitutional magnitude that mat be considered for the first time on appeal. State v. Kyllo, 166 Wn.2d 856, 862, 215 P.3d 177(2004) every criminal defendant is guaranteed the right to effective assistance of counsel under *the **Sixth Amendment and Article I, Section 22. Strickland v. Washington, 466 U.S. 668, 665-86, 104 S. Ct. 2052, 80 L.Ed.2d. 674(1984); State v. Thomas, 109 Wn.2d 222, 229 743 P.2d 816(1987)***

Counsel performance is deficient when it falls below an objective standard of reasonableness and is not undertaken for legitimate reason of trial strategy or tactics. ***State v. Saunders, 91 Wn. App. 575, 958 P.2d 364(1998); State v. McFarland, 127 Wn.2d 322, 336, 899 p2d 1252(1995).*** The deficient performance is prejudicial where there is a reasonable probability that, but for counsel's unprofessional error, the result of the proceeding would have been different. ***Strickland, 466 U.S. at 687-88; Saunders, 91 Wn. App. at578***. It is well settled that failure to object to inadmissible tainted testimony and evidence constitutes deficient performance. ***See e.g., State v. Leavitt, 49 Wn .App 348, 359, 743 P.2d 270(1987) aff'd, 111 Wn.2d 66, 72, 758 P.2d 982(1988)(lack of timely objection to admission of child here-say statements constitutes deficient performance); State v. Hendrickson, 129 Wn.2d 61, 79, 917 P.2d 562(1995); overruled on other grounds by Casey v. Musladin, 549 U.S. 70, 127 S.Ct. 649, 166 L.Ed.2d 482(2006).***

Because Thibodeaux bases his in-effective assistance claim on counsel's failure to challenge the admission of tainted evidence, altered video, altered audio, not calling witnessed given to him a year before trial, the alleged money never taken off me, planted drugs by Street Crimes Unit, never giving me

discovery, nor hire an investigator, never interviewing the Confidential Informant, he must show that had counsel done those required things mentioned, likely would have been sustained. ***Saunders, 91 Wn. App at 578(citing McFarland, 127 Wn at 337, n. 4).*** Here, defense counsel's failure to prevent the court from revealing those added miscarriages of justice constitutes deficient performance that prejudiced Thibodeaux.

Evidence must be excluded if its probative value is substantially outweighed by risk of unfair prejudice. ***ER 403*** Evidence is unfairly prejudicial if it is "likely to provoke an emotional response rather than a rational decision." ***Johnson, 90 Wn. App at 62., Evidentiary rulings are received for abuse of discretion. State v. Johnson, 90 Wn. App 54, 62, 950 P.2d 981(1988).***

While the courts in Old Chief and Johnson recognized the general rule that the prosecution may choose how to present its evidence in an attempt to prove guilt, they also noted that this rule has "virtually no application when the point at issue is a defendant on some judgment rendered wholly independently of the concrete events of later criminal behavior charged against him." ***Johnson, 90 Wn. App 62-62(quoting Old Chief, 519 U.S. at 190).***

The Old Chief court further explained that: proving statues without telling exactly why that statue was imposed leaves no gap in the story of a defendant's subsequently criminality, and its demonstration by stipulation or admission neither displaces a chapter from a continuous sequence of conventional evidence nor comes across as an officious substitution, to confuse or offend or provoke approach. ***Old Chief, 510 U.S. at 190, 117 S. Ct. at 654-55.***

A court abuses its discretion when its decision is based on untenable grounds. ***City of Seattle v. Pearson, 192 Wn.App 802, 817, 369 P.3d 194(2016)***

Old Chief analysis of the **federal ER 403,** but its reasoning and holding were explicitly adopted and applied to **Washington State's ER 403** in ***Johnson.***

Benjamin Mortensen – Street Crimes Unit

Says "it's called hot pop" p. 414 – Line 2-8 - CI order a large amount of narcotics, p. 414 – Line 18-20 - states the process the CI goes out & buy drugs from a suspect, they bring it right back to us. On May 3rd, *2016*, Ms. Stanfield stopped before she went into 361 ½ Oregon Way and handed the guy outside a cigarette and a lighter. All SCU detectives seen the account of their transactions before she went into the resident, because they all works for the SCU as confidential informants, they gave those drugs to Dennis Johnson to hand to her on her way in there, knowing that affected their alleged drug deal, but still framed and planted it on appellant with the same transaction on three alleged deliveries. Page 419 – Line 3-7, Mortensen stated that the CI's can't take a cigarette from anybody. It is in plain sight in the video surveillance that Ms. Stanfield did not follow those orders, she got something from that gentlemen outside on her way in, and handed him a cigarette on the way out. Line 11-14 p. 419 Mortensen states females are a little different, they can't do a thorough search, and later on lied and on p. 424 Line 20-21 states he did a thorough search on a female CI. No money was ever taken off me, nor was I arrested. See p. 427 Line 1-8 Mortensen states that buy money ensures that this is the money they used, the money they provided the person with whenever they arrest the suspect, that was not done, but I was never arrested does not prove substantial evidence to constitute delivery nor any purchase of the alleged drug deals. In Counts II & III, May 5, 2016 & July 5th, 2016, the videos don't record drug transactions, they allegedly lose visual, Mortensen states after they drop off CI, they communicate with other detectives, everyone in position, if they lose sight, they immediately say hey she's almost getting to where I can't see her anymore, and another detective will say I'm in position, I've got the eye, here they did not do those things, that way they make sure there's communication with anybody else and no contact with anybody else. The video's clearly show she did communicate with the gentlemen outside not once but twice, proves theories of fraudulent framing and wrongful conviction. See all video as well page 428 Line 10 – 20 of Mortensen direct under DA Brittain. He led all detectives in the alleged drug transactions, all three of them done the same way. See p.428 Lines 9 – 25. See p. 433 Lines 8 – 24, what

happened to the cigarette pack and the lighter she had in the video, she stopped and took out a cigarette and a lighter, and handed one to the gentlemen outside and put it into her pocket, it's in plain sight. See video evidence of 361 ½ Oregon Way, and again he tells a lie about him searching her, he says he done the same thorough search. The evidence was tainted, see p. 435 Lines 7 – 24, he states he thought she gave him a zip-lock bag, but its apiece of plastic that was brought to me, also the evidence was not the same tape he had put on it. See p. 435 Line 7 – 12

Calvin Ripp

We do controlled buys, set up through CI's how much money going out to the location, if in open public, they have constant surveillance on the CI, by various different detectives. Ripp stated during trial they never lose visual of the suspect & CI, because if one lost visual the other is in position to pick up the visual. To keep a buy controlled you have to have constant surveillances. Page 304 Line 19-25, they can tell if anybody else has had contact with the CI, it double verify everything. That constant surveillance verifies the transaction is done. See both videos, they lost surveillance as sell alleged drug transactions, there's no proof on video that anything was done to constitute delivery was done. See p. 305, Line 3-12 Calvin Ripp testimony. Page 309, 7-12, they have three top six detectives doing surveillance. Ripp, Mortensen and Libbey used cameras.

Page 310, Line 19, the video has the visual of the CI, stop and get something from the gentlemen outside, and stopped and hand something to the gentlemen. Page 322, Line 5-21, did not see her talk to the gentlemen outside, but he viewed the video, all lies. On page 319, his view was obstructed at Winn CO. Count III.

Langlois

He observed the thorough search done on the CI by Mortensen p. 405, Line 1-5, but doesn't recall what it consisted of, nor if she had a purse proves he was not present during this transaction Line

7, p. 405. Again nothing on her persons when she got back inside the car, what happened to the pack of cigarette that she handed to the gentlemen outside. On May 5th, 2016 Langlois stated he lost visual, seen her walking into the buy location. See p. 410, Line 10-15. Every SCU surveillance team states they all saw Detective Mortensen do this thorough search of Ms. Stanfield, the law specifically is against searches of a female CI's they have to by the laws of the United States and Washington have a female officer conduct these searches. Page 411, Line 7-14

Durbin stated he interviewed me on September 2, 2016, and told me there was three buys on me, that's a lie, see p. 337, Line 1-2, but there wasn't no audio of me talking that statement, he stated he did not record it, p. 338, Line 1-2

Libbey

The biggest thing about surveillance keeping an eye on the informant maintaining their safety . see p. 352, Line 10-17, the integrity of all three counts is in jeopardy, because of the entire elements of this alleged drug deal was compromised to the point where it shows fraudulent activities by both the CI & all SCU. Libbey states he believed the CI name was Autumn. See p. 354, Line 18. He was assigned to video surveillance. See p. 355, line 1-2. He was working with Detective Mortensen, but alleged he doesn't recall other people was there. Page 355, line 5-7. So this proves they lied about being there at that place. Libbey observes Ms. Stanfield pull out a pack of Marlboro cigarettes. Page 362, line 8-10. Libbey states he was surveillance man and didn't see a specific hand to hand, see p. 372, line 4-7, but earlier in his statement before the jury, he states he seen us do a drug transaction. See p. 371, line 23-25 & p. 372, line 1.

As such, the prosecution does not suffer any prejudice when some extant legal status of the accused is proved by stipulation rather than by the admission of court documents. Id. Indeed, the functional difference between the value of a stipulation to their evidence of a court record is

"distinguishable only by the risk [of unfair prejudice] inherent in one and wholly absent from the other." Id. This court should therefore reverse and remand for a new trial.

Sander's says he took consecutive video's, but it's all part of the same case. See p. 383, line 17-24, my attorney failed to challenge the video evidence used as being altered and/or that no presence presented drug transaction as well blotted out images in the video, and/or failed to pursue a defense that a true copy unaltered would have proven that I actually delivered drugs.

To this day my ***CrR 4.7*** was violated, to this day I have not been given a discovery, which I have a constitutional right to have to help in my defense for trial purposes. My attorney was in-effective.

There was no evidence of buy money for all three transactions presented at trial, they only had copies of 1 transaction, that should have been challenged by my defense, and the hiring of an investigator for the defense would have produced my innocence.

The prosecutor's misconduct amending the charges on the day of trial prejudiced the defendant's constitutional rights in order to prepare a defense, constituted mismanagement as well prejudice sufficient to satisfy **CrR 8.3(b)** under ***State v. Michielli, 132 Was.2d 229, 937 P.2d 587(1997).***

REMAND IS NECESSARY TO CORRECT A SCAVENER'S ERROR, OR DISMISSAL WITH PREJUDICE IS NECESSARY OF THE UNLAWFUL OBTAINED CONVICTIONS

a. A defendant may challenge an erroneous sentence for the first time on appeal. ***State v. Bahl, 164 Wn.2d 739, 744, 193 P.3d 678(2008). CrR 7.8(a)*** provides that clerical errors in judgments, orders, or other parts of the record may be corrected by the court at any time on its initiative or on the motion for any party. Scrivener's errors are clerical errors that result from mistakes or inadvertence, especially in writing or copying something on the record. In *re Personal restraint of* ***Mayer, 128 Wn.App 694, 701, 117 P.3d 353(2005)***

a. There is a scrivener's error in Thibodeaux's judgment and sentence because it states, criminal history of an offender's score of having 9 points,

SPEEDY TRIAL VIOLATION CrR 3.3

Petitioner respectfully request review of CrR 3.3 violation, under Speedy Trial rule. After many continuances of well over 23 months, the trial court continued Thibodeaux's trial past at least 4- 90 day out of custody violations, and 1- 60 day in custody rule violation. See Ex 3, 12-15

The purpose underlying CrR 3.3, is to protect a defendant's constitutional rights to a speedy trial. State v. Mack, 89 Wash.2d 788, 791-92, 576 P.2d 44(1978); State v. Cummings, 87 Wash.2d 612, 615, 555 P.2d 835(1976).

Past experiences has shown, that unless a strict rule is applied, the right to a speedy trial, as well the integrity of the judicial process cannot be effectively preserved. State v. Strickler, 87 Wash.2d 870, 877, 557 P.2d 847(1976).

The trial court is responsible for ensuring compliance with the speedy trial rules. CrR 3.3(a)(1). For a defendant who is detained in jail, the trial court must set a trial date within 60 days of defendant's arraignment. CrR 3.3(b)(1)(i). When a defendant is not brought to trial within the limits of CrR 3.3, then the court must dismiss the charges with prejudice. CrR 3.3(d)(3)(h), this failure to do so violates

Thibodeaux's right to a speedy trial See Ex's attached hereto requesting assistance of his attorney. Thibodeaux was incustody from August 22, 2018 til December 21, 2018.

My Constitutional rights to a speedy trial was violated, and those criminal charges should have been disinissed, the State could not locate their confidential informant.

CrR 3.3 (e)(8) states: Unavoidable or unforeseen circumstances affecting the time for trial beyond the control of the court, or of the parties, are excluded in computing the time for trial. CrR 3.3 (e)(8)

Speedy Trial Protections under Article 1, Section 22 of the Washington Constitution, provides that in criminal prosecutions the accused shall have the right to a "speedy public trial." A speedy public trial requires under our Constitution, it is useful to review the speedy trial protections guaranteed by the Sixth Amendment to the United States Constitution as a backdrop to the analysis of our own constitution. See State v. Fortune, 128 Wash.2d 464, 474-75, 909 P.2d 930(1996). (noting that while federal cases, are not binding for purposes of interpreting our state's constitution they can be 'important guides in the analysis (quoting State v. Gunwall, 106 Wash.2d 54, 61, 720 P.2d 808 (1986)).

It is recognized that some pretrial delays is often inevitable, and wholly justifiable. Doggett, 505 U.S. at 656, 112 S.Ct. 2686. However, the nature of the speedy trial rights which has been described as "amorphous, slippery, and necessarily relative," makes it difficult to articulate at what point too much delay has occurred. Vermont v. Brillon — U.S. —, 129 S.Ct. 1283, 1290, 173 L.Ed.2d 231 (2009) (quoting Barker, 407 U.S. at 522, 92 S.Ct. 2182).

"WERE THIBODEAUX'S SPEEDY TRIAL ~~RIGHTS~~ VIOLATED?"

Having established the method of analysis under article 1, section 22, and the Sixth Amendment, turn to the facts of the case at hand that Thibodeaux's pretrial delays was presumptively prejudicial - Iniguez, 143 Wash.App at 859, 180 P.3d 855. The courts surveyed cases from other jurisdictions, and concluded that the consensus is to presume prejudice for delays of between 8 months and one year. Id. at 858-59 180 P.3d 855.

Because the delay in this case was more than eight months, it definitely qualifies as presumptively prejudicial. Id. at 859 180 P.3d 855. Finally, the early versions of the time for trial rules did not necessarily indicate an intent to create a rule more stringent than the Sixth Amendment. Laws of 1909, chapter 249, Section 60, codified as former RCW 10.46.010. In contrast, a constitutional speedy trial violation results in a dismissal with prejudice.

Thibodeaux argues that his attorneys were ineffective in trial preparation, witness examination, and failing to raise the issues now raised in this appeal, including improper joinder, failure to sever, and admissibility of evidence. Perhaps most significantly, he argues that his miranda rights were violated because the police continued to question him after he requested his attorney priviledges. Counsel's performance was deficient, counsel's representation fell below an objective standard of reasonableness. Counsel's deficient performance prejudiced the defense, there is a reasonable probability that, for Counsel's unprofessional errors, the results of the proceeding would have been different.

When ineffective assistance claims is brought on direct appeal, appellate counsel and the court must proceed on a trial record not developed precisely for the object of litigating or preserving the claim and thus often incomplete or inadequate for this purpose. Massaro v. United States, 538 U.S. 500, 504-05, 123 S. Ct 1690, 155 L.Ed.2d 714(2003); See also United States v. Rashaq, 331 F.3d. 908, 909, 356 U.S. App. D.C. 323 (D.C. Cir. 2003)(noting it is likely, "when a defendant asserts his sixth amendment claim for the first time on direct appeal, that the relevant

facts will not be part of the trial record.") Thus this Court's general practice is to remand the claim for an evidentiary hearing unless the trial record alone conclusively shows that the defendant either is or is not entitled to relief. Rashag, 331 F.3d at 909-10 (Quoting United States v. Fennell 53 F.3d 1296 1303-04 311 U.S. App. D.C. 332 (D.C. Cir. 1995)). The critical inquiry at this stage is whether the record conclusively demonstrates that Thibodeaux could not establish an ineffective assistance of counsel claim if given the opportunity to do so on remand.

Thibodeaux argues the police continued to question him after he requested his attorney, thereby violating his Miranda rights. See Edwards v. Arizona, 451 U.S. 477 484-85, 101 S.Ct. 1880, 68 L.Ed.2d 378(1981). He alleges the charges were improperly joined, failed to request severance, adequately prepare for trial, conduct sufficient witness examination, seek evidentiary exclusions, advocate for proper jury instructions, and conduct a sufficient investigation into witness backgrounds, as well charges. Thibodeaux has raised a colorable claim of ineffective assistance of counsel requiring relief.

Thus, this factor demonstrates That Mr. Thibodeaux was prejudiced by counsel's failure to move to sever the offenses. The states evidance on Count I was remarkedly weaker than Count II and III. To the extent defense counsel failed to move to sever the counts, Mr. Thibodeaux received ineffective assistance of counsel. As noted hereto, Counsel's representation was deficient, in that it fell below an objective standard of reasonableness, and the deficient performance prejudiced Thibodeaux. McFarland, 127 Wn.2d at 334-35; Strickland, supra; U.S. Const. amend VI. In addition, the outcome of separate trials would have been different. I would have gotten acquitted on Count I, II, & III, Mr. Thibodeaux was therefore prejudiced, and is entitled to relief.

CONCLUSION

For the reasons stated herein, Mr. Thibodeaux respectfully request this court review these violations to reverse these unlawful convictions, as well unlawful Sentence, and remand to the trial court.

Dated: November 16th 2020.

Louis Thibodeaux

ADDENDEX A

Filed
Washington State
Court of Appeals
Division Two

October 6, 2020

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. LOUIS JAMES THIBODEAUX, Appellant.	No. 53091-1-II (consolidated with) No. 53095-3-II UNPUBLISHED OPINION

SUTTON, A.C.J.—Louis James Thibodeaux appeals his jury trial convictions under two separate cause numbers.[1] In one case, a jury convicted Thibodeaux of three counts of unlawful delivery of a controlled substance, methamphetamine. He argues that (1) the evidence is insufficient to support the conviction on count I because it did not prove that he delivered the drugs to the police operative (PO) who purchased the drugs, and (2) the trial court erred when it imposed community custody supervision fees without first conducting an individualized inquiry into whether he could pay and because he is indigent. In the other case, a jury convicted Thibodeaux of unlawful possession of a controlled substance, methamphetamine. He again argues that the trial court erred when it imposed community custody supervision fees.

In a statement of additional grounds for review[2] (SAG) that raises claims related to both cases, Thibodeaux further contends that (1) the evidence was insufficient to support the convictions on two of the delivery charges, counts II and III, (2) he received ineffective assistance

[1] We sua sponte consolidated these appeals for purposes of issuing a single opinion.
[2] RAP 10.10.

of counsel in both trials on numerous grounds, and (3) his offender scores in both cases were incorrect.

Because the PO's and officers' testimonies provide sufficient evidence to prove each of the unlawful delivery charges, Thibodeaux failed to object to the community custody supervision fees, and Thibodeaux's remaining SAG claims either fail or we cannot address them, we affirm Thibodeaux's convictions, sentences, and the imposition of the community custody supervision fees.

FACTS

I. BACKGROUND AND CHARGES

In a series of drug transactions in May and July 2016, a PO working with the Longview Police Department Street Crimes Unit purchased drugs from Thibodeaux. The State charged Thibodeaux with three counts of unlawful delivery of methamphetamine. The State alleged that count I occurred on May 3, 2016, count II occurred on May 5, 2016, and count III occurred on July 5, 2016.

On September 7, 2017, before this case went to trial, law enforcement officers arrested Thibodeaux on outstanding warrants and discovered methamphetamine in one of his pockets. The State charged Thibodeaux with unlawful possession of a controlled substance, methamphetamine.

Thibodeaux pleaded not guilty to all charges and the cases proceeded to separate jury trials.

II. POSSESSION OF CONTROLLED SUBSTANCE

On the day of trial on the possession charge, Thibodeaux requested new counsel. During the colloquy on this issue, Thibodeaux asserted that he had received ineffective assistance of counsel in part because his "speedy trial" rights had been violated. Verbatim Report of

Proceedings (VRP) (Oct. 30, 2018) at 61. Thibodeaux claimed that he had been in jail 70 days and that he had not waived "speedy trial." VRP (Oct. 30, 2018) at 61. The trial court denied Thibodeaux's motion for new counsel and did not discuss the alleged time for trial violation beyond advising Thibodeaux that there were a lot of reasons he could have been held for more than 60 days.

A jury found Thibodeaux guilty of unlawful possession of a controlled substance, methamphetamine. The sentencing hearing was deferred until after the trial on the delivery charges.

III. DELIVERIES OF CONTROLLED SUBSTANCE

A. TESTIMONY

At the trial on the delivery charges, the PO testified that on three separate occasions, she gave Thibodeaux cash in exchange for methamphetamine. The officers involved in the investigation also testified about their observations of each of the transactions.

1. MAY 3, 2016 TRANSACTION

The officers conducting the investigations testified that the first of the three transactions was on May 3. Before the May 3 transaction, the PO contacted Thibodeaux by text and asked him if she could purchase $40 of methamphetamine from him. Thibodeaux texted back and agreed to sell the PO drugs. The officers photographed the text messages on the PO's phone.

Because the May 3 transaction took place inside a house and the PO was not wearing a listening device, the officers did not personally observe or hear the transaction take place. But the officers thoroughly searched the PO before and after her contact with Thibodeaux and found no money or drugs other than the drugs she brought back from her contact with Thibodeaux. The

officers also watched and videotaped the PO as she walked to and from the house where she met with Thibodeaux. Although the PO stopped to talk to people outside the house, the officers did not observe her engage in any unusual or suspicious behavior. When she returned to the officers, the PO turned over a small baggie containing methamphetamine.

2. MAY 5, 2016 TRANSACTION

The second transaction occurred on May 5, on the sidewalk outside of a motel. Before the transaction occurred, the PO again contacted Thibodeaux and arranged to purchase $40 of drugs from him.

This time, the PO wore a recording device during her contact with Thibodeaux. The contact was also videotaped.

Before the PO contacted Thibodeaux in person, the officers searched her and found no drugs or money. They then gave her money to purchase the drugs, dropped her off near the location she was to meet Thibodeaux, and watched her as she walked directly to the designated location. The officers did not observe the PO make any unusual movements or contact anyone but Thibodeaux. The PO and Thibodeaux talked for a few minutes. The PO testified that she "gave him a hug while handing him the money and he gave [her] the drugs." VRP (Nov.7, 2018) at 286. The officers testified that they observed the PO and Thibodeaux engage in "a hand-to-hand motion." VRP (Nov. 7, 2018) at 316.

The officers watched as the PO returned to a vehicle where one of the officers was waiting for her. The officers then searched the PO and took the recording device, and the PO gave the officers the drugs she had purchased.

3. JULY 5, 2016 TRANSACTION

The third transaction between the PO and Thibodeaux occurred on July 5, outside of a grocery store. This interaction was also videotaped by the officers.

Before meeting with Thibodeaux, the PO once again contacted Thibodeaux and asked if she could purchase $40 of methamphetamine from him. The PO agreed to meet him outside of the store.

After the officers searched the PO for drugs and money and found none, they gave her money and watched her as she walked to the designated location. The officers did not observe the PO make any unusual movements or talk to anyone but Thibodeaux.

The PO and the officers testified that Thibodeaux came out of the store, the PO talked to him for a few minutes, he gave her the drugs, and she gave him the money. The PO then returned directly to the officers without any unusual activity and without contacting anyone else. The officers searched the PO again, and she gave them the drugs.

4. THIBODEAUX'S STATEMENT

In addition to testifying about the three transactions, Officer Brian Durbin testified about his interview with Thibodeaux following Thibodeaux's arrest.

After Durbin told Thibodeaux that they had conducted three drug transactions with him using a PO, Thibodeaux responded that "he doesn't deal drugs, he hustles." VRP (Nov. 7, 2018) at 337. Thibodeaux explained to Durbin "that hustling was that he was the middle man, and as the middle man he would take the drugs and deliver them to the customer; but, prior to delivering to the customer he would pinch a little bit of drugs for himself and then collect the money for it." VRP (Nov. 7, 2018) at 337.

5. THIBODEAUX'S TESTIMONY

Thibodeaux testified at trial. He denied selling any methamphetamine to the PO. He also denied admitting to Detective Durbin that he delivered drugs.

B. STIPULATION

In lieu of presenting additional witnesses, the parties agreed to stipulate that (1) the substances the PO delivered to the officers after each of the three transactions were tested by the Washington State Patrol Crime Laboratory and found to contain methamphetamine and (2) the locations of the May 3 and July 5 transactions were within 1,000 feet of school bus stops. Before accepting these stipulations, the trial court explained them to Thibodeaux and explained that by agreeing to the stipulations he was agreeing to allow the stipulations to be read to the jury and for the jury to consider the stipulations as evidence in lieu of the State presenting the witnesses.

The trial court also verified that Thibodeaux had the opportunity to discuss the use of the stipulations with his counsel. When the trial court asked Thibodeaux if he wanted the court to accept the stipulations, Thibodeaux responded, "Yes, please." VRP (Nov. 8, 2018) at 395.

After accepting the stipulations, the trial court and the parties discussed how the trial court would introduce the stipulations to the jury. The trial court gave the parties two choices, but because of a recording malfunction, the record does not show which introductory language Thibodeaux requested.

After the State presented its witnesses, the trial court introduced the stipulations, stating, "So, the parties in this case . . . have agreed that certain facts are true, so you must accept as true the following facts." VRP (Nov. 8, 2018) at 457. Defense counsel did not object to this introduction. The trial court then read the stipulations to the jury.

(6) A 2015 Cowlitz County conviction for attempted possession of methamphetamine committed in 2015.

The list of prior offenses did not include any offenses charged in 2018.

On the possession case, the trial court again calculated Thibodeaux's offender score for his single conviction as 9 points. Based on this offender score, the trial court sentenced him to 12 months and a day in custody and to 12 months of community custody. The trial court ran this sentence concurrent to the sentences imposed in the delivery case. The appendices in both cases showed the same criminal history.

During the sentencing hearing, the trial court did not discuss any legal financial obligations (LFOs), costs, or fees or inquire into Thibodeaux's ability to pay LFOs. In the judgment and sentences for both cause numbers, the trial court ordered that "[w]hile on community custody, the defendant shall: . . . . pay supervision fees as determined by [the Department of Corrections]." Clerk's Papers (CP) (no. 53091-1-II) at 171 (sec. 4.2(B)(7)); CP (no. 53095-3-II) at 100 (sec. 4.2(B)(7)). Thibodeaux did not object to the requirement that he pay the community custody supervision fees.

Thibodeaux appeals his convictions, his sentences, and the imposition of the community custody supervision fees.

ANALYSIS

I. SUFFICIENCY OF THE EVIDENCE – MAY 3, 2016 TRANSACTION

Thibodeaux first argues that the evidence was insufficient to support the conviction based on the May 3 transaction. He argues that there is insufficient evidence that he "delivered anything to the [PO] on May 3, 2016." Br. of Appellant (no. 53091-1-II) at 11. We disagree.

The PO testified that Thibodeaux gave her the drugs in exchange for cash during the first transaction and the officers identified the date of the first transaction as May 3. The fact that there were no other witnesses or recordings of the event go to issues of credibility, weight, and the persuasiveness of the evidence, which we do not review. *Killingsworth*, 166 Wn. App. at 287. Because the PO's and officers' testimonies provide sufficient evidence that Thibodeaux delivered the drugs to the PO on May 3, this sufficiency argument fails.

II. COMMUNITY CUSTODY SUPERVISION FEES

Thibodeaux next argues that the trial court erred in imposing community custody supervision fees in both cases without conducting an adequate inquiry into his ability to pay and that, under the current law, he should not be required to pay the supervision fees because he is indigent.

In September 2018, three months before Thibodeaux's joint sentencing hearing, our Supreme Court issued *State v. Ramirez*, 191 Wn.2d 732, 426 P.3d 714 (2018). In *Ramirez*, the court emphasized that the trial court was required to conduct an adequate inquiry into a defendant's current and future ability to pay discretionary LFOs under *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015). The court further discussed what factors a trial court should consider for an adequate inquiry. *Ramirez*, 191 Wn.2d at 742-46. Thus, it was well established by the time of Thibodeaux's sentencing in December 2018 what inquiry the trial court was required to make, and Thibodeaux should have objected when the trial court failed to comply with these requirements at the sentencing hearing.

Because Thibodeaux did not object to the imposition of the community custody supervision fees when the trial court imposed these fees, we decline to address this issue under RAP 2.5(a).

Blazina, 182 Wn.2d at 834 (appellate court has the discretion to accept or reject review of issues related to LFOs raised for the first time on appeal).

III. SAG ARGUMENTS

In his SAG, Thibodeaux contends that (1) the evidence was insufficient to support his convictions for the deliveries in counts II and III, (2) he received ineffective assistance of counsel on numerous grounds, and (3) his offender scores were incorrect. Thibodeaux is not entitled to relief on any of these grounds.

A. ADDITIONAL SUFFICIENCY ARGUMENTS

Thibodeaux asserts that the evidence was insufficient to support the deliveries charged in counts II and III.[5] We disagree.

To prove unlawful delivery of a controlled substance, methamphetamine, as charged in counts II and III, the State had to prove that (1) on or about May 5 and July 5, Thibodeaux delivered methamphetamine, (2) he knew the substances delivered were controlled substances, and (3) these acts occurred in the state of Washington. As noted above, "'delivery'" is defined as "the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship." RCW 69.50.101(i).

Taken in the light most favorable to the State, the PO and the officers' testimonies establish that on May 5 and July 5, Thibodeaux met with the PO and exchanged controlled substances with her for money in Cowlitz County, Washington. The parties stipulated that testing showed that the substances were methamphetamine. And before either of these transactions occurred, the PO had

[5] Thibodeaux also appears to contend that the evidence was insufficient to support the conviction on count I. This sufficiency issue was raised by counsel, so we decline to address it separately.

contacted Thibodeaux and asked if she could purchase methamphetamine from him. Therefore, there is evidence that he understood that he was transferring methamphetamine, a controlled substance, to the PO. The officers also testified to the location of the transactions. Sufficient evidence supports the convictions on counts II and III.

B. INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS

Thibodeaux raises several ineffective assistance of counsel claims related to both the delivery and possession charges. He is not entitled to relief on any of these grounds.

1. LEGAL PRINCIPLES

To prevail in an ineffective assistance of counsel claim, Thibodeaux must show that (1) his counsel's performance was deficient and (2) this deficient performance was prejudicial to the defense. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); *State v. Grier*, 171 Wn.2d 17, 32, 246 P.3d 1260 (2011). Counsel's performance is deficient if it falls below an objective standard of reasonableness. *Grier*, 171 Wn.2d at 33.

When evaluating an ineffective assistance of counsel claim, we engage in a strong presumption that counsel's performance was reasonable. *Grier*, 171 Wn.2d 32. Thibodeaux may overcome this presumption by showing that "'there is no conceivable legitimate tactic explaining counsel's performance.'" *Grier*, 171 Wn.2d at 33 (quoting *State v. Reichenbach*, 153 Wn.2d 126, 130, 101 P.3d. 80 (2004)).

2. FAILURE TO MOVE TO DISMISS BASED ON TIME FOR TRIAL VIOLATIONS

Thibodeaux claims that he received ineffective assistance of counsel because his counsel failed to move to dismiss all of the charges for time for trial violations under CrR 3.3. But because Thibodeaux does not challenge any specific delay, we decline to address this claim. RAP 10.10(c)

(appellant must inform the court of the nature of an occurrence of alleged errors and court is not obligated to search the record in support of appellant's claims).

3. FAILURE TO MOVE TO SEVER

Thibodeaux claims that counsel was ineffective because he did not move to sever the delivery charges. We hold that his SAG claim fails.

To prove ineffective assistance of counsel, Thibodaux must show that in light of the entire record, no legitimate strategic or tactical reasons support the challenged conduct. *State v. McFarland*, 127 Wn.2d 322, 335-36, 899 P.2d 1251 (1995). Because there is nothing in the record about counsel's strategic or tactical decisions regarding severance, we cannot determine, based on this record, whether counsel had legitimate, tactical reasons for not moving to sever. *State v. Linville*, 191 Wn.2d 513, 524, 423 P.3d 842 (2018) (citing *McFarland*, 127 Wn.2d at 335). Accordingly, we decline to address this issue further.

4. FAILURE TO CHALLENGE STIPULATIONS

Thibodeaux further contends that his trial counsel was ineffective by failing to challenge the stipulations in the delivery case, the trial court's introduction of the stipulations to the jury, and the trial court's reading of the stipulations to the jury. We disagree.

Because the stipulations were in lieu of testimony, the trial court was required to present the stipulations to the jury. The parties agreed to the stipulations. In fact, Thibodeaux himself affirmatively agreed to the stipulations after the trial court fully explained their purpose, including that the stipulations would be presented to the jury in lieu of the State presenting evidence. Thus, any objection to the trial court reading the stipulations to the jury would have been overruled, and Thibodeaux cannot establish ineffective assistance of counsel on this ground.

Thibodeaux may also be asserting that his trial counsel was ineffective for agreeing to the stipulations. Because Thibodeaux does not show that this same information would not have been presented by live testimony had he and his counsel not agreed to the stipulations, Thibodeaux does not establish prejudice and, therefore, cannot establish ineffective assistance of counsel on this ground.

Thibodeaux also appears to assert that the stipulations the trial court read to the jury were not the same as the stipulations to which the parties agreed. But the record shows that the trial court read the stipulations from the written stipulations that the parties agreed to. To the extent Thibodeaux is arguing that the written stipulations differed from what he agreed to with his counsel, there is nothing in the record to support that assertion. Accordingly, Thibodeaux is not entitled to relief on this ground. *McFarland*, 127 Wn.2d at 335 (when reviewing an ineffective assistance of counsel claim on appeal, the appellate court may consider only facts within the record).

Thibodeaux also appears to assert that the trial court should not have instructed the jury to accept the stipulations as true and that the stipulations were "false." SAG at 1. Thibodeaux may be arguing that the trial court's introduction of the stipulations to the jury was not appropriate. The record shows that the parties discussed how the trial court would introduce the stipulations, but the resolution of this issue is missing from the record. Thus, we cannot review whether the defense counsel agreed to this introductory language. Accordingly, we cannot review this claim on this record. *McFarland*, 127 Wn.2d at 335.

5. FAILURE TO INVESTIGATE AND FAILURE TO COMMUNICATE

Thibodeaux next contends that he received ineffective assistance of counsel because his trial counsel did not investigate the May 3 transaction related to the delivery charges, hire an investigator, or interview the PO. But the nature of Thibodeaux's counsel's investigation, whether counsel hired an investigator, or whether counsel interviewed the PO are outside the record, so we cannot review this claim. *McFarland*, 127 Wn.2d at 335.

Thibodeaux also appears to assert that he received ineffective assistance of counsel because his counsel never gave him access to the discovery related to the delivery charges. But any information about what access Thibodeaux had to the discovery is outside the record, so we cannot review this claim. *McFarland*, 127 Wn.2d at 335.

6. FAILURES TO OBJECT

Thibodeaux further contends that he received ineffective assistance of counsel because trial counsel failed to "challenge the admission of tainted evidence, altered video, [and] altered audio" related to the delivery charges. SAG at 4. There is nothing in the record suggesting that this evidence was altered, so Thibodeaux does not show that any objection to this evidence would have been successful. Thus, Thibodeaux does not establish ineffective assistance of counsel on this ground. *McFarland*, 127 Wn.2d at 335.

7. FAILURE TO CALL WITNESSES

Thibodeaux also contends that he received ineffective assistance of counsel because his trial counsel failed to "call[ ] witnesse[s] given to him a year before trial" on the delivery charges. SAG at 4. Any evidence related to the witness information Thibodeaux gave his counsel or

counsel's investigation into these witnesses is outside the record. Accordingly, we do not address this claim. *McFarland*, 127 Wn.2d at 335.

C. OFFENDER SCORES

Citing RCW 9.94A.525(5)(a)(i), on both appeals, Thibodeaux next contends that the offender scores for each offense should have been 4 points rather than 9 points because his other offenses were based on the same criminal conduct. Thibodeaux does not, however, demonstrate that any of his prior or current offenses qualify as same criminal conduct.

Thibodeaux also contends that his offender scores should not have included points for four prior Cowlitz County convictions because those offenses were pled down to gross misdemeanor convictions. This argument fails because nothing in either record establishes that these four prior offenses, assuming Thibodeaux is referring to the Cowlitz County prior convictions that were in included in his criminal history, were pled down to gross misdemeanors. Thibodeaux also appears to argue that the offender scores should not have included "5 pending charges, 1 found guilty and 4 dismissed." SAG at 6. But the record does not show that the other 5 pending charges were included in his offender scores.

Thibodeaux also asserts there was a scrivener's error in his judgment and sentences. But Thibodeaux identifies no scrivener's error; he merely reiterates his offender score arguments, which we conclude above have no merit or cannot be addressed on this record.

CONCLUSION

Because the PO's and officers' testimonies provide sufficient evidence to prove each of the delivery charges, Thibodeaux failed to object to the community custody supervision fees, and Thibodeaux's remaining SAG claims either fail or we cannot address them, we affirm

Thibodeaux's convictions, sentences, and the imposition of the community custody supervision fees.

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

Sutton, A.C.J.
SUTTON, A.C.J.

We concur:

Worswick J
WORSWICK, J.

Melnick J.
MELNICK, J.

Ex 1

Filed
Washington State
Court of Appeals
Division Two

November 5, 2020

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. LOUIS JAMES THIBODEAUX, Appellant,	No. 53091-1-II (consolidated with) No. 53095-3-II ORDER DENYING MOTION FOR RECONSIDERATION

Thibodeaux moves for reconsideration of the court's October 6, 2020, unpublished opinion. Upon consideration, the court denies the motion. Accordingly, it is

SO ORDERED.

PANEL: Jj. SUTTON, WORSWICK, MELNCIK

FOR THE COURT:

Sutton, A.C.J.

SUTTON, A.C.J.

Ex 2
p. 1 of 2

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, Plaintiff, vs. LOUIS JAMES THIBODEAUX, Defendant.	)	No. 17-1-00825-08 ORDER MODIFYING JUDGMENT AND SENTENCE AS TO COMMUNITY CUSTODY SUPERVISION FEE

THIS MATTER having come before the above-entitled court upon the request of the Deputy Prosecuting Attorney, Sean Brittain, and it appearing from the records and files herein and the court being advised that the above-named defendant was imposed with community custody supervision fees in the above-referenced cause number, good cause has been shown;

NOW, THEREFORE, IT IS HEREBY ORDERED

Therefore, the Judgment and Sentence entered on December 18, 2018, shall be modify as to strike the community custody supervision fees imposed and any interest accrued.

The remainder of the Judgment and Sentence shall remain in full force and effect.

DATED this 21 day of Oct, 2020.

JUDGE

Presented by:

SEAN BRITTAIN/ WSBA#36804
Deputy Prosecuting Attorney

Approved By:

TED DEBRAY/ WSBA# 26055
Attorney for Defendant

Ex 3
p. 1 of 2

DATE	HEARING	JUDGE	REPORTER
08/09/17	Preliminary Appearance	Michael Evans	Melissa Firth
08/21/17	Arraignment	Marilyn Haan	Melissa Firth
09/25/17	Pretrial Hearing/ Omnibus	Gary Bashor	Melissa Firth
10/09/17	Pretrial Hearing/ Omnibus	Anne Cruser	Melissa Firth
10/23/17	Status Conference Hearing	Gary Bashor	Melissa Firth
10/30/17	Status Conference Hearing	Gary Bashor	Melissa Firth
11/13/17	Status Conference Hearing	Gary Bashor	Melissa Firth
05/18/18	Motion Hearing	Anne Cruser	Melissa Firth
05/21/18	Motion Hearing	Michael Evans	Melissa Firth
06/04/18	Motion Hearing	Anne Cruser	Melissa Firth
06/25/18	Motion Hearing	Anne Cruser	Melissa Firth
07/02/18	Pretrial / Omnibus Hearing	Michael Evans	Melissa Firth
07/19/18	Readiness Hearing	Stephen Warning	Melissa Firth
07/26/18	Readiness Hearing	Stephen Warning	Melissa Firth
08/01/18	Review Hearing	Gary Bashor	Melissa Firth
08/02/18	Motion Hearing	Stephen Warning	Melissa Firth
08/07/18	Review Hearing	Stephen Warning	Melissa Firth
09/11/18	Motion Hearing	James Stoner	Melissa Firth
10/25/18	Motion Hearing	Stephen Warning	Melissa Firth
11/01/18	Readiness Hearing	Stephen Warning	Melissa Firth
11/07/18	Day 1 Jury Trial – *voir dire, opening Statements* - 3.5 Hearing	Stephen Warning Judge Evans	Melissa Firth
11/08/18	Day 2 Jury Trial	Stephen Warning Judge Evans	Melissa Firth

THE TILLER LAW FIRM
ATTORNEYS AT LAW
ROCK & PINE – P.O. BOX 58
CENTRALIA, WASHINGTON 98531
TELEPHONE (360) 736-9301
FACSIMILE (360) 736-5828

Ex 3
p. 2062

11/20/18	Motion Hearing	Stephen Warning	Melissa Firth
11/29/18	Motion Hearing	Stephen Warning	Melissa Firth
12/18/18	Sentencing Hearing	Stephen Warning	Melissa Firth

No additional hearings or portions of hearing will be transcribed by the Appellant as the above transcripts, when supplemented by the other clerk's papers, are sufficient for review of the Appellant's claim of error.

Arrangements to pay the cost of transcription are as follows: at public expense pursuant to an Order of Indigency filed on January 3, 2019.

DATED: February 20, 2019.

THE TILLER LAW FIRM

PETER B. TILLER, WSBA NO. 20835
ptiller@tillerlaw.com
Of Attorneys for Appellant

THE TILLER LAW FIRM
ATTORNEYS AT LAW
ROCK & PINE – P.O. BOX 58
CENTRALIA, WASHINGTON 98531
TELEPHONE (360) 736-9301
FACSIMILE (360) 736-5828

The jury found Thibodeaux guilty of three counts of unlawful possession of a controlled substance, methamphetamine.[3]

IV. JOINT SENTENCING

The trial court sentenced Thibodeaux on both the delivery and the possession charges on December 18, 2018.

On the delivery case, the trial court determined that the offender score for each of the three offenses was 9 points. Based on this offender score, the trial court sentenced Thibodeaux to 84 months of confinement on counts I and III, which included 24-month school bus stop route sentencing enhancements, and to 60 months of confinement on count II. The court ran all three sentences concurrently.

An appendix to the judgment and sentence for the delivery charges shows that Thibodeaux's criminal history included the following offenses:

(1) A 1989 Oregon conviction for second degree robbery committed in 1987;

(2) A 2000 Oregon conviction for first degree robbery committed in 2000;

(3) A 2014 Cowlitz County conviction for attempted possession of methamphetamine committed on December 5, 2013;

(4) A 2014 Cowlitz County conviction for forged application for transfer of a vehicle title committed on December 5, 2013, and charged under the same cause number as the 2014 conviction for attempted possession of methamphetamine;

(5) A second 2014 Cowlitz County conviction for forged application for transfer of a vehicle title committed in 2014 and charged under a different cause number than the first similar conviction; and

[3] The jury also found by special verdict that Thibodeaux had committed counts I and III within 1,000 feet of a school bus route stop. Thibodeaux does not challenge these special verdicts.

(6) A 2015 Cowlitz County conviction for attempted possession of methamphetamine committed in 2015.

The list of prior offenses did not include any offenses charged in 2018.

On the possession case, the trial court again calculated Thibodeaux's offender score for his single conviction as 9 points. Based on this offender score, the trial court sentenced him to 12 months and a day in custody and to 12 months of community custody. The trial court ran this sentence concurrent to the sentences imposed in the delivery case. The appendices in both cases showed the same criminal history.

During the sentencing hearing, the trial court did not discuss any legal financial obligations (LFOs), costs, or fees or inquire into Thibodeaux's ability to pay LFOs. In the judgment and sentences for both cause numbers, the trial court ordered that "[w]hile on community custody, the defendant shall: . . . . pay supervision fees as determined by [the Department of Corrections]." Clerk's Papers (CP) (no. 53091-1-II) at 171 (sec. 4.2(B)(7)); CP (no. 53095-3-II) at 100 (sec. 4.2(B)(7)). Thibodeaux did not object to the requirement that he pay the community custody supervision fees.

Thibodeaux appeals his convictions, his sentences, and the imposition of the community custody supervision fees.

ANALYSIS

I. SUFFICIENCY OF THE EVIDENCE – MAY 3, 2016 TRANSACTION

Thibodeaux first argues that the evidence was insufficient to support the conviction based on the May 3 transaction. He argues that there is insufficient evidence that he "delivered anything to the [PO] on May 3, 2016." Br. of Appellant (no. 53091-1-II) at 11. We disagree.

 EX 4 p. 1 of 3

RCW 9.94A.517

Table 3—Drug offense sentencing grid. (*Effective until July 1, 2018.*)

(1)

TABLE 3
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score 0 to 2	Offender Score 3 to 5	Offender Score 6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months
II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 12 months	12 + to 24 months

References to months represent the standard sentence ranges. 12+ equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW **9.94A.660** or drug court under chapter **2.30** RCW.

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

[2015 c 291 § 8; 2013 2nd sp.s. c 14 § 1; 2002 c 290 § 8.]

NOTES:

Expiration date—2015 c 291 § 8: "Section 8 of this act expires July 1, 2018." **[2015 c 291 § 15.]**

Conflict with federal requirements—2015 c 291: See note following RCW **2.30.010**.

Application—Recalculation of earned release date—2013 2nd sp.s. c 14: "Pursuant to RCW **9.94A.729**, the department shall recalculate the earned release date for any offender currently serving a term in a facility or institution either operated by the state or utilized under contract. The earned release date shall be recalculated whether the offender is currently incarcerated or is sentenced after July 1, 2013, and regardless of the offender's date of offense. For offenders whose offense was committed prior to July 1, 2013, the recalculation shall not extend a term of incarceration beyond that to which an offender is currently subject." **[2013 2nd sp.s. c 14 § 4.]**

Declaration—2013 2nd sp.s. c 14 § 4: "The legislature declares that section 4 of this act does not create any liberty interest. The department is authorized to take the time reasonably necessary to complete the recalculations of section 4 of this act after July 1, 2013." **[2013 2nd sp.s. c 14 § 6.]**

Compilation of sentencing information—Report—2013 2nd sp.s. c 14: "(1)(a) The department must, in consultation with the caseload forecast council, compile the following information in summary form for the two years prior to and after July 1, 2013: For offenders sentenced under RCW **9.94A.517** for a seriousness level I offense where the offender score is three to five: (A) The total number of sentences and the average length of sentence imposed, sorted by sentences served in state versus local correctional facilities; (B) the number of current and prior felony convictions for each offender; (C) the estimated cost or cost savings, total and per offender, to the state and local

Ex 4
p 283

RCW 9.94A.518

Table 4—Drug offenses seriousness level.

TABLE 4

DRUG OFFENSES
INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

III	Any felony offense under chapter **69.50** RCW with a deadly weapon special verdict under *RCW **9.94A.602**
	Controlled Substance Homicide (RCW **69.50.415**)
	Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW **69.52.030**(2))
	Involving a minor in drug dealing (RCW **69.50.4015**)
	Manufacture of methamphetamine (RCW **69.50.401**(2)(b))
	Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW **69.50.406**)
	Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW **69.50.406**)
	Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (**RCW **69.50.440**)
	Selling for profit (controlled or counterfeit) any controlled substance (RCW **69.50.410**)
II	Create, deliver, or possess a

Ex 4
p. 3 of 3

counterfeit controlled substance (RCW **69.50.4011**)

Deliver or possess with intent to deliver methamphetamine (RCW **69.50.401**(2)(b))

Delivery of a material in lieu of a controlled substance (RCW **69.50.4012**)

Maintaining a Dwelling or Place for Controlled Substances (RCW **69.50.402**(1)(f))

Manufacture, deliver, or possess with intent to deliver amphetamine (RCW **69.50.401**(2)(b))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW **69.50.401**(2)(a))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW **69.50.401**(2) (c) through (e))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW **69.52.030**(1))

I Forged Prescription (RCW **69.41.020**)

Forged Prescription for a Controlled Substance (RCW **69.50.403**)

Manufacture, deliver, or possess with intent to deliver marijuana (RCW **69.50.401**(2)(c))

Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or

EX 5
P. 1 of 2

ENDORSED FILED
SUPERIOR COURT
SEP 04 2018
COWLITZ COUNTY
STACI MYKLEBUST, Clerk

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON

Plaintiff,

vs.

LOUIS JAMES THIBODEAUX,

Defendant.

No. 17-1-00825-08

SECOND AMENDED

PROSECUTOR'S STATEMENT OF DEFENDANT'S CRIMINAL HISTORY

Crime	Sentencing Date	Adult / Juv.	Date of Crime	Jurisdiction	Cause Number
ROBBERY 2 = ROBBERY 2 Class B (10 YEARS) (PAROLED 08/17/90)	09-28-1989	A	08-22-1987	MULT CO., OR	870834535
VUCSA - POSS (WASHES) (PV ON ROB 2) (PAROLED 12/10/93)	01-05-1992	A	02-10-1991	LANE CO., OR	109102733
FORGERY (WASHES)	05-09-1994	A	04-06-1994	LANE CO., OR	109403156
FORGERY (WASHES) (PAROLED 05/19/95)	03-07-1995	A	04-06-1994	LANE CO., OR	109412632A
ELUDE (NOT COMP)	10-10-2000	A	09-18-2000	MULT CO., OR	000937139

Cowlitz County Prosecuting Attorney
312 SW 1St Ave
Kelso, WA 98626
Telephone (360) 577-3080

EX 5
p. 2 of 2

ROBBERY 1	12-21-2000	A	02-08-2000	LANE CO., OR	200015935
SUPPLY CONTRABAND (120 MO PRISON) (CNT (PAROLED 04/23/10) (CMP)	12-21-2000	A		LANE CO., OR	200100881
FORGERY (CNT (13 MO PRISON) CMP) (PAROLED 03/04/13)	06-22-2012	A	05-12-2011	LANE CO., OR	201104030
ATTEMPTED DRUG CRIMES - POSS METH	02-06-2014	A	12-05-2013	COWLITZ CO., WA	13-1-01574-6
FORGED APPLICATION FOR TRANSFER OF VEH TITLE	02-06-2014	A	12-05-2013	COWLITZ CO., WA	13-1-01574-6
FORGED APPLICATION FOR TRANSFER OF VEH TITLE	08-21-2014	A	09-03-2015	COWLITZ CO., WA	14-1-0128-9
ATTEMPTED DRUG CRIMES - POSS METH	04-27-2015	A	09-03-2015	COWLITZ CO., WA	15-1-00459-7
PENDING:					

→ inside

*Prior convictions counted as one offense in determining the offender score. RCW 9.94A.525(5)(a)(i).

DATE: 08/31/2018

SIGNED:

Sean Brittain/ WSBA #36804
Deputy Prosecuting Attorney

Cowlitz County Prosecuting Attorney
312 SW 1St Ave
Kelso, WA 98626
Telephone (360) 577-3080

EX 6
p. 1086

FILED
SUPERIOR COURT

2014 FEB -6 A 10:56

COWLITZ COUNTY
BEVERLY R. LITTLE, CLERK
BY

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

LOUIS JAMES THIBODEAUX,

Defendant.

SID: WA14365595
If no SID, use DOB: 09/03/1961

No. 13-1-01574-6

Felony Judgment and Sentence (FJS)
[ ] Prison [ ] RCW 9.94A.507 Prison Confinement
[X] Jail One Year or Less [ ] RCW 9.94A.507 Prison Confinement
[ ] First-Time Offender
[ ] Special Sexual Offender Sentencing Alternative
[ ] Special Drug Offender Sentencing Alternative
[ ] **Clerk's Action Required, para 4.5 (DOSA), 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8**

14 9 00315 0

I. Hearing

1.1 The court conducted a sentencing hearing this date FEB 6, 2014; the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. Findings

There being no reason why judgment should not be pronounced, in accordance with the proceedings in this case, the court **Finds:**

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon [X] guilty plea on February 6, 2014 [ ] jury-verdict [ ] bench trial:

Count	Crime	RCW	Date of Crime
I	ATTEMPTED DRUG CRIMES – VIOLATION UNIFORM CONTROLLED SUBSTANCES ACT – POSSESSION – METHAMPHETAMINE	69.50.407 69.50.4013(1)	12/5/2013
II	FORGED APPLICATION OR TRANSFER OF VEHICLE TITLE	46.12.750(1)(a)	3/30/2013 – 4/1/2013

(If the crime is a drug offense, include the type of drug in the second column.)

[ ] Additional current offenses are attached in Appendix 2.1.

[ ] The **burglary** in Count _____ involved a theft or intended theft.

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

[ ] The defendant is a sex offender subject to indeterminate sentencing under **RCW 9.94A.507.**

[ ] The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count _____. RCW 9.94A.533(9).

[ ] The offense was predatory as to Count _____. RCW 9.94A.836.

[ ] The victim was under 15 years of age at the time of the offense in Count _____ RCW 9.94A.837.

[ ] The following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

[ ] The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 Sentencing Data:

Count No.	Offender Score	Serious-ness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
I		Unranked	0-12 Months		0-12 Months	5 Years
II		Unranked	0-12 Months		0-12 Months	10 Years

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9).

[ ] Additional current offense sentencing data is attached 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:

[ ] within [ ] 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.

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 **Ability to Pay Legal Financial Obligations.** The court has considered the total amount owing, the defendant's past, 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. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

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

_____.

Ex 6
p. 3 of 6

Total 3,225.00
15-1-00459-7
14-1-01028-9
13-1-01574-6

FILED
SUPERIOR COURT

2015 SEP 14 P 4:28

COWLITZ COUNTY
STACI L. MYKLEBUST, CLERK
BY

SUPERIOR COURT OF WASHINGTON COUNTY OF COWLITZ

STATE OF WASHINGTON, Plaintiff, vs. LOUIS JAMES THIBODEAUX, Defendant. DOB: 9/3/1961 PCN: SID: WA14365595	No. 14-1-01028-9 **Felony Judgment and Sentence --** **Jail One Year or Less** **(FJS)** ☐ **Clerk's Action Required, 2.1, 4.1, 4.3, 4.8, 5.2, 5.3, 5.5, 5.7** ☐ **Defendant Used Motor Vehicle** 15 9 01446 0

I. Hearing

1.1 The court conducted a sentencing hearing this date 9/8/2015; 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) 09/03/2015 ☐ jury-verdict (date) _____ ☐ bench trial (date) _____: MHE

Count	*Crime*	*RCW (w/subsection)*	*Class*	*Date of Crime*
I	FORGED APPLICATION OR TRANSFER OF VEHICLE TITLE	46.12.750(1)(a)	FB	08/21/14

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)
(If the crime is a drug offense, include the type of drug in the second column.)
☐ 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 **burglary** in Count _____ involved theft or intended theft.

GV ☐ For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.

☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.825, RCW 9.94A.533.

☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____ _____. RCW 9.94A.825, 9.94A.533.

DOL

30

2.3 Sentencing Data:

Count No.	*Offender Score*	*Serious-ness Level*	*Standard Range (not including enhancements)*	*Plus Enhancements**	*Total Standard Range (including enhancements)*	*Maximum Term*
I		UNRANKED	0-12M		0-12M	10 YEARS

* (F) Firearm, (D) Other deadly weapons, (RPh) Robbery of a pharmacy, (CSG) criminal street gang involving minor, (P16) Passenger(s) under age 16.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

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.

☐ (Name of agency) _____ 's costs for its emergency response are reasonble. RCW 38.52.430 (effective August 1, 2012).

2.6 ☐ **Felony Firearm Offender Registration.** The defendant committed a felony firearm offense as defined in RCW 9.41.010.

☐ The court considered the following factors:

☐ the defendant's criminal history.

☐ whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

☐ evidence of the defendant's propensity for violence that would likely endanger persons.

☐ other: _____.

☐ The court decided the defendant ☐ should ☐ should not register as a felony firearm offender.

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 court ***dismisses*** Counts _____ in the charging document.

Ex. 6
p. 5 of 6

FILED
SUPERIOR COURT
2015 SEP 14 P 4:28
COWLITZ COUNTY
STACI L. HYKLEBUST, CLERK
BY

SUPERIOR COURT OF WASHINGTON COUNTY OF COWLITZ

STATE OF WASHINGTON, Plaintiff, vs. LOUIS JAMES THIBODEAUX, Defendant. DOB: 9/3/1961 PCN: SID: WA14365595	**No.** 15-1-00459-7 **Felony Judgment and Sentence --** **Jail One Year or Less** **(FJS)** ☐ **Clerk's Action Required, 2.1, 4.1, 4.3, 4.8, 5.2, 5.3, 5.5, 5.7** ☐ **Defendant Used Motor Vehicle**

15 9 01449 4

I. Hearing

1.1 The court conducted a sentencing hearing this date 9/3/2015; 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) 09/03/2015 ☐ jury-verdict (date) _____ ☐ bench trial (date) _____: MHE

Count	*Crime*	*RCW (w/subsection)*	*Class*	*Date of Crime*
I	ATTEMPTED VUCSA POSSESSION – METHAMPHETAMINE	69.50.407, 69.50.4013(1)	FC	04/27/15

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)
(If the crime is a drug offense, include the type of drug in the second column.)
☐ 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 **burglary** in Count _____ involved theft or intended theft.

GV ☐ For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.

☐ The defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.825, RCW 9.94A.533.

☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____ _____. RCW 9.94A.825, 9.94A.533.

19

2.3 Sentencing Data:

Count No.	*Offender Score*	*Serious-ness Level*	*Standard Range (not including enhancements)*	*Plus Enhancements**	*Total Standard Range (including enhancements)*	*Maximum Term*
I		UNRANKED	0-12M		0-12M	5 YEARS

* (F) Firearm, (D) Other deadly weapons, (RPh) Robbery of a pharmacy, (CSG) criminal street gang involving minor, (P16) Passenger(s) under age 16.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

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.

☐ (Name of agency) _____ 's costs for its emergency response are reasonble. RCW 38.52.430 (effective August 1, 2012).

2.6 ☐ Felony Firearm Offender Registration. The defendant committed a felony firearm offense as defined in RCW 9.41.010.

☐ The court considered the following factors:

☐ the defendant's criminal history.

☐ whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

☐ evidence of the defendant's propensity for violence that would likely endanger persons.

☐ other:_____.

☐ The court decided the defendant ☐ should ☐ should not register as a felony firearm offender.

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 court ***dismisses*** Counts _____ in the charging document.

Ex 7

ANY CONDITIONS IMPOSED BY DOC AND/OR INCLUDED IN THIS JUDGMENT AND SENTENCE AND NOT SPECIFICALLY STAYED BY THE COURT.

5.9 FAILURE TO COMPLY WITH THE CONDITIONS OF THIS JUDGMENT & SENTENCE, INCLUDING ANY REPORTING CONDITIONS OR CONDITIONS OF COMMUNITY CUSTODY, MAY RESULT IN A FORFEITURE OF YOUR RIGHT TO APPEAL AND DISMISSAL OF ANY PENDING APPEAL OR COLLATERAL ATTACK.

5.10 Other: _____.

Done in Open Court and in the presence of the defendant this date: 14 Sept 13.

Judge Print Name: Bashor

Deputy Prosecuting Attorney	Attorney for Defendant	Defendant
WSBA No.: 36871	WSBA No.: 35484	
Print Name: JASON LAURINE	Print Name: DAN MORGAN	Print Name: LOUIS JAMES THIBODEAUX

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 (city) _____, (state) _____, on (date) _____.

Interpreter	Print Name

Ex 8
p. 188

RCW 9.94A.525

Offender score.

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW **9.94A.589**.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW **46.61.502**(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW **46.61.504**(6)), all predicate crimes for the offense as defined by RCW **46.61.5055**(14) shall be included in the offender score, and prior convictions for felony driving while under the influence of intoxicating liquor or any drug (RCW **46.61.502**(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW **46.61.504**(6)) shall always be included in the offender score. All other convictions of the defendant shall be scored according to this section.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW **9.94A.030**, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(g) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal

DETERMINING THE OFFENDER SCORE

Offender score is one factor which affects a felony sentence. Offender score is measured on the horizontal axis of the sentencing guidelines grid. An offender may receive from 0 to 9+ points on that axis. In general, the number of points an offender receives depends on five factors: (1) the number of prior felony criminal convictions; (2) the relationship between any prior offense(s) and the current offense of conviction; (3) the presence of multiple prior or current convictions; (4) whether the crime was committed while the offender was on community placement; and (5) the period of crime-free behavior between offenses.

The following discussion deals with the calculation of the offender score. Relevant factors include collecting criminal history, scoring history, scoring multiple current convictions and scoring the offender's status.

CRIMINAL HISTORY COLLECTION

RCW 9.94A.030(13) defines criminal history as including the defendant's prior adult convictions in this state, in federal court and elsewhere, as well as dispositions in juvenile court. Some rules on criminal history refer to the felony class of the crime (Class A, Class B or Class C). Appendix B contains a list of felony offenses by class and an explanation of how to determine the class of a felony.

Adult Criminal History

The Criminal Justice Information Act (RCW 10.98) established the Washington State Patrol Identification and Criminal History Section as the primary source of information on state felony conviction histories. After filing charges, prosecutors contact the Section for an offender's Washington criminal history. The Act directs judges to ensure that the felony defendant has been fingerprinted and an arrest and fingerprint form has been transmitted to the Washington State Patrol (RCW 10.98.050(2)). For out-of-state or federal criminal history information, prosecutors need to contact the Federal Bureau of Investigation for referral to the appropriate sources.

An offender's criminal history consists almost exclusively of *felony* convictions. With one exception, misdemeanors are not calculated into the offender score. The exception is current convictions of felony traffic offenses[1], where serious traffic offenses[2] are included in the offender score. Offenders who have participated in a program of deferred prosecution for a felony offense do not meet the definition of a First-time Offender under RCW 9.94A.030(25). Information about deferred prosecution, if it is available, is likely to be available only through county records.

[1] Vehicular Homicide, Vehicular Assault, Hit-and-Run Injury Accident and Attempting to Elude a Pursuing Police Vehicle.

[2] RCW 9.94A.030(36) provides: "Serious traffic offense" means: (a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or (b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

A conviction is defined as a verdict of guilty, a finding of guilty or an acceptance of a plea of guilty. A prior conviction is defined as one existing before the date of the sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed are deemed "other current offenses" within the meaning of RCW 9.94A.589.

Convictions with a finding of sexual motivation should also be noted. A finding of sexual motivation changes the underlying offense to a sex offense as defined in RCW 9.94A.030(38), changing the scoring rules and influencing the sentence options. This finding is possible only for crimes committed on or after July 1, 1990. *See RCW 9.94A.525 (16).*

Prior convictions for felony anticipatory offenses (criminal attempt, solicitation or conspiracy) are scored as if they were convictions for completed offenses. If the present conviction is an anticipatory offense, each prior conviction counts the same as if the present conviction were a completed offense. *See RCW 9.94A.525(4)-(6).*

RCW 9.94A.030 stipulates that when it is known, criminal history for a defendant shall include the length and terms of any probation as well as whether the defendant was incarcerated and the length of incarceration. This information is often collected as part of the Pre-sentence Investigation Report.

Juvenile Criminal History

All felony dispositions in juvenile court must be counted as criminal history for purposes of adult sentencing, except under the general "wash-out" provisions that apply to adult offenses. Juvenile offenses sentenced on the same day must be counted separately unless they constitute the "same criminal conduct" as defined in RCW 9.94A.589(1)(a) or unless the date of the offenses were prior to July 1, 1986.

RCW 13.50.050(10) provides that after a charge has been filed, juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to the prosecution and defense counsel, subject to the rules of discovery. RCW 13.50.050(16) provides that any charging of an adult felony nullifies the sealing of a juvenile record.

"Wash Out" of Certain Prior Felonies

The rules governing which prior convictions are included in the offender score can be found in RCW 9.94A.525(2) and are summarized as follows:

- Prior Class A and sex felony convictions are always included in the offender score.
- Prior Class B (juvenile or adult) felony convictions other than sex offenses are not included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or since the entry of judgment and sentence, the offender had spent ten consecutive years in the community without having been convicted of any crime.

- Prior Class C (juvenile or adult) felony convictions other than sex offenses are not included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or since the entry of judgment and sentence, the offender had spent five consecutive years in the community without having been convicted of any crime.
- Prior (juvenile or adult) serious traffic convictions are not included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or since the entry of judgment and sentence, the offender had spent five years in the community without having been convicted of any crime.

The Sentencing Reform Act allows the record of conviction to be vacated under certain conditions. RCW 9.94A.640 provides that vacated convictions "shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction." Vacation of conviction record does not affect or prevent the use of an offender's prior conviction in a later criminal prosecution.

The eligibility rules for vacation of conviction record are similar to the "wash-out" rules. Because the wash-out rules are automatic and do not require court action, an offense will "wash out" before formal record vacation occurs. (The main distinction between vacation of record of conviction and "wash-out" is that, after vacation, an offender may indicate on employment forms that he or she was not convicted of that crime.)

Federal, Out-of-state or Foreign Convictions

For a prior federal, out-of-state or foreign conviction, the elements of the offense in other jurisdictions must be compared with Washington State laws to determine how to score the offense (RCW 9.94A.525(3)). If there is no clearly comparable offense under Washington State law, or if the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense is scored as a Class C felony equivalent if it was a felony under the relevant federal statute. Judicial decisions on the comparability of non-Washington convictions occur at the sentencing hearing.

SCORING CRIMINAL HISTORY

Once the relevant prior convictions have been identified, the criminal history portion of the offender score may be calculated. The rules for scoring prior convictions are contained in RCW 9.94A.525. To make application of these rules easier, the offense reference sheets and scoring forms found in Section III of this Manual indicate the correct number of points for each prior conviction depending on the current offense. To use these forms correctly, an understanding of the criminal history rules is necessary. For example, the forms do not repeat the "wash-out" rules. The scoring rules for some offenses are calculated differently, depending upon the category of the offense. *(See RCW 9.94A.525).*

SCORING MULTIPLE CURRENT CONVICTIONS

Multiple convictions may also influence the offender score. For multiple current offenses, separate sentence calculations are necessary for *each* offense because the law requires that each receive a

separate sentence (RCW 9.94A.589), unless the offenses are ruled the same criminal conduct (RCW 9.94A.589(1)(a)).

Multiple Offense Scoring Steps:

(A) If the current offenses do *not* include two or more serious violent offenses[3] arising from separate and distinct criminal conduct, apply RCW 9.94A.589(1)(a):

- Calculate the score for *each* offense.
- For each offense, score the prior adult and juvenile convictions. Also, score the other current offenses on the scoring form line entitled "Other Current Offenses."
- The court may find that some or all of the current offenses encompass the same criminal conduct[4] and are to be counted as one crime.
- In cases of Vehicular Homicide or Vehicular Assault with multiple victims, offenses against each victim may be charged as separate offenses, even if the victims occupied the same vehicle. The resulting multiple convictions need not be scored as constituting the same criminal conduct.
- Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed are scored as "other current offenses" *(See RCW 9.94A.589(1)(a)).*

(B) If the current offenses include two or more serious violent offenses arising from separate and distinct conduct, apply RCW 9.94A.589(1)(b):

- Calculate the score for *each* offense.
- Identify the serious violent offense with the *highest* seriousness level. Calculate the sentence for that crime using the offender's prior adult and juvenile convictions. Do <u>not</u> include any other current serious violent offenses as part of the offender score, but do include other current offenses that are not serious violent offenses.
- Score all remaining serious violent current offenses, calculating the sentence for the crime using an offender score of *zero*.
- For any current offenses that are not serious violent offenses, score according to the rules in (A) above.

(C) If the current offenses include Unlawful Possession of a Firearm in the First or Second Degree <u>and</u> one, or both, of the felony crimes of Theft of a Firearm or Possession of a Stolen Firearm, score according to the rules in RCW 9.94A.589(1)(c).

---

[3] RCW 9.94A.030(37) provides: "'Serious violent offense' is a subcategory of violent offense and means: (a) Murder 1°, Homicide by Abuse, Murder 2°, Assault 1°, Kidnapping 1°, Rape 1°, Manslaughter 1°, Assault of a Child 1°, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or (b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection."

[4] RCW 9.94A.589(1)(a) provides: "...'Same criminal conduct'... means...two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim." Cases involving vehicular homicide or vehicular assault need not be considered same criminal conduct.

ATTEMPTS, CONSPIRACIES AND SOLICITATIONS TO VIOLATE THE UNIFORMED CONTROLLED SUBSTANCES ACT ("VUCSA" OFFENSES)

The sentencing of anticipatory VUCSA drug offenses (RCW 69.50) is more complicated than sentencing of anticipatory offenses under RCW 9A.28.

An attempt or conspiracy to commit a drug offense is specifically addressed in RCW 69.50.407, which states that such offenses are punishable by "...imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense..." The appellate courts have consistently held that for VUCSA offenses, RCW 69.50.407 takes precedence over RCW 9A.28. Although current statute and case law should be reviewed for definitive guidance in this area, the following reflects current sentencing practices:

An attempt or conspiracy to commit a drug offense is typically sentenced as an "unranked" offense (0-12 months) following state case law. In State v. Mendoza, the Court of Appeals held that "inasmuch as a conspiracy conviction under RCW 69.50.407 has no sentencing directions from the Legislature, it is punished under the unspecified crimes provisions of RCW 9.94A.505(2)(b)." 63 Wn. App. 373 (1991).

A *solicitation* to commit a drug offense is not specifically addressed in RCW 69.50. It is usually charged under RCW 9A.28 and sentenced under RCW 9.94A.510(2) at 75 percent of the standard range. Solicitations to commit VUCSA offenses are not considered "drug offenses", but do score as such and are subject to the multiple "scoring" requirement. See RCW 9.94A.525(4),(6) and *State v. Howell*, 102 Wn. App. 288, 6 P.3d 1201 (2000).

A solicitation to commit a Class C felony is a gross misdemeanor under RCW 9A.28.

FELONY TRAFFIC ENHANCEMENT

The 1998 Legislature added a two-year enhancement to the presumptive sentence for Vehicular Homicide while Under the Influence of Intoxicating Liquor or any Drug, under RCW 46.61.502. A two-year enhancement is added for *each prior offense* as defined in RCW 46.61.5055 [5]. The enhancement portion is subject to earned release time.

---

[5] RCW 46.61.5055(11): A "prior offense" means any of the following:
(i) A conviction of a violation of RCW 46.61.502 or equivalent local ordinance;
(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;
(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;
(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;
(v) A conviction for a violation of RCW 46.61.5249 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or RCW 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or RCW 46.61.522;
(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;
(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, RCW 46.61.504, or an equivalent local ordinance; or
(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522; and
(b) "Within seven years" means that the arrest for a prior offense occurred within seven years of the arrest for the current offense

Ex 8
8 of 8

TABLE 3
ANTICIPATORY OFFENSE GRID
(75% of the standard sentence range for completed offenses in months)
(Does not apply to attempts or conspiracies to violate the Uniform Controlled Substance Act)

LOW END OF RANGE (in months)

Seriousness Level	Offender Score									
	0	1	2	3	4	5	6	7	8	9/more
XV	180.00	187.50	195.75	203.25	210.75	218.25	234.00	253.50	227.50	308.25
XIV	92.25	100.50	108.00	115.50	123.75	131.25	146.25	162.00	192.75	223.50
XIII	92.25	100.50	108.00	115.50	123.75	131.25	146.25	162.00	192.75	223.50
XII	69.75	76.50	83.25	90.00	96.75	103.50	121.50	133.50	156.75	180.00
XI	58.50	64.50	71.25	76.50	83.25	90.00	109.50	119.25	138.75	157.50
X	38.25	42.75	46.50	50.25	54.00	57.75	73.50	81.00	96.75	111.75
IX	23.25	27.00	30.75	34.50	38.25	42.75	57.75	65.25	81.00	96.75
VIII	15.75	19.50	23.25	27.00	30.75	34.50	50.25	57.75	65.25	81.00
VII	11.25	15.75	19.50	23.25	27.00	30.75	42.75	50.25	57.75	65.25
VI	9.00	11.25	15.75	19.50	23.25	27.00	34.50	42.75	50.25	57.75
V	4.50	9.00	9.75	11.25	16.50	24.75	30.75	38.25	46.50	54.00
IV	2.25	4.50	9.00	9.75	11.25	16.50	24.75	32.25	39.75	47.25
III	0.75	2.25	3.00	6.75	9.00	12.75	16.50	24.75	32.25	38.25
II	0.00	1.50	2.25	3.00	9.00	10.50	12.75	16.50	24.75	32.25
I	0.00	0.00	1.50	1.50	2.25	3.00	9.00	10.50	12.75	16.50

HIGH END OF RANGE (in months)

Seriousness Level	Offender Score									
	0	1	2	3	4	5	6	7	8	9/more
XV	240.00	249.75	260.25	270.75	280.50	291.00	312.00	337.50	369.75	411.00
XIV	165.00	175.50	183.00	190.50	198.75	206.25	221.25	237.00	267.75	297.75
XIII	123.00	133.50	144.00	153.75	164.25	174.75	195.00	216.00	256.50	297.75
XII	92.25	102.00	110.25	120.00	128.25	138.00	162.00	177.00	207.75	238.50
XI	76.50	85.50	93.75	102.00	110.25	118.50	145.50	158.25	183.75	210.00
X	51.00	56.25	61.50	66.75	72.00	76.50	97.50	108.00	128.25	148.50
IX	30.75	36.00	40.50	45.75	51.00	56.25	76.50	87.00	108.00	128.25
VIII	20.25	25.50	30.75	36.00	40.50	45.75	66.75	76.50	87.00	108.00
VII	15.00	20.25	25.50	30.75	36.00	40.50	56.25	66.75	76.50	87.00
VI	10.50	15.00	20.25	25.50	30.75	36.00	45.75	56.25	66.75	76.50
V	9.00	10.50	12.75	15.00	21.75	32.25	40.50	51.00	61.50	72.00
IV	6.75	9.00	10.50	12.75	15.00	21.75	32.25	42.75	52.50	63.00
III	2.25	6.00	9.00	9.00	12.00	16.50	21.75	32.25	42.75	51.00
II	2.25	4.50	6.75	9.00	10.50	13.50	16.50	21.75	32.25	42.75
I	1.50	2.25	3.75	4.50	6.00	9.00	10.50	13.50	16.50	21.75

Note: The "low end" indicates the bottom end of the standard range, and the "high end" category indicates the top of the range. Determine the Seriousness Level and Offender Score; then find the low end of the range from the first grid and the high end from the second.

MR. DeBRAY

1. PLEASE file a MOTION TO DISMISS DUE TO THE FACTS OF MY CONSTITUTIONAL RIGHTS HAVE BEEN VIOLATED TWICE UNDER SPEEDY TRIAL VIOLATIONS FIRST MR SCHUDDER DIDN'T FILE AFTER MY 90 SPEEDY TRIAL AND police harassment every case that was DISMISSED same officers involved

2. I'VE BEEN SITTING IN CAMERON COUNTY SINCE AUGUST 22nd 2018 til NOV 6th 2018 ⇒ 77 DAYS + 14 DAYS AFTER ARRAIGNMENT WILL STILL be OVER ITS 63 DAYS

3. THEY SENT THE SUMMONS BY THE SHERIFF AT A ADDRESS I DID NOT LIVE 361½ OREGON WAY - POSTAL SERVICES WILL SHOW I LIVED AT 321 - 21st AVE since 2012 also 17th & CYPRESS - 307 - 21st AVE - ~~330~~ 336 - 21st AVE 25th AVE - FINCH DRIVE BUT MY MOM LIVES ON 321 - 21st AVE. THEY Told me ABOUT THIS SUMMONS WHEN I WAS in LOUISIANA - MY ADDRESS in LOUISIANA @ 1003 HARRY STREET - 1301 Pilot St Lot #3 Opelousas Louisiana when the SUMMONS WAS BROUGHT TO 361½ Oregon Way the Sheriff WAS told this by the residents of 361½ Oregon Way. MY ID Has 1301 Pilot St Lot 8 Opelousas Louisiana 70570 Contact Rose Thibodeaux 337-292-0508 I Lived with her!!!

4. Also please cross examine that a Police Officer cannot use the theory that they searched the DL before she left with the supposedly ~~[illegible]~~ buy money a male officer CANNOT touch a female they have to CALL or have a female officer to do the search of a female due to sexual conduct or harassment lawsuits there is no WOMAN there so it's credibility issues there

5. Find out what day the Sheriff delivered the Summons they gave me 60 days to Appear to Answer. Accept or Deny charges. I faithfully flew back to Washington to Answer those charges.

6. Also argue the fact that the case is 2½ years old if that makes any difference

7. I've been constantly harassed by Benjamin Mortensen, Calvin Ripp & other Street crime officers every time they see me they make a comment Hey Thibodeaux you got any drugs on you today at least 10 occasions even while I'm sitting outside with my 78 year old mother they could of given her A heart Attack

8. Sept 2016 - Officer Scott McDaniels stopped in front of 3481/2 E 21st Ave At my sister's house he told me I was not under arrest but street crimes wanted to talk to me he took me over to Hudson St. There I was approached by 2 different people Accusing me of being a drug dealer I stated I'm a hustler more of a middle man I know quite a few dealers I introduce folks I don't directly touch nothing, well we got you selling to our CI and a video with you handing the CI drugs and taking money in the transaction, I said bullshit, Hey they said if you help us we'll help you, go fuck your self!, They then show me these photos of numerous dealers in fact Mark Spurle was in the photo I said No to all photos, I then ask Am I under arrest they said no but don't leave town. I was on the next thing smoking to Louisiana

Ex 11

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON
Plaintiff

-vs-

LOUIS JAMES THIBODEAUX
Defendant.

No. 17-1-01383-08
17-1-00825-08
Violation of Constitutional Rights to severance and Jury Trial on each charge separately RCW 192-190-045 & 85.015.120

Defendant, Louis J. Thibodeaux, by and thrugh his Attorney Ted Debray was denied his Constitutional Rights to have his charges in Case No. 17-1-00825-08 Severanced and awarded his constitutional rights pursuant to Washington laws RCW 192-190-045 and RCW 85.015.120

Had defendant been allowed severance as he asked his attorney on the outset the State would not have found defendant guilty on two charges on May 3, 2016 & May 5 2016 as well acquittal on all 3 charges.

Defendant Moves this Court for a vacate all 3 for a retrial seperately.

Defendant never signed waiver's to commence to trial and not be allowed his constitutional rights to a fair and partially trial by Jury seperately

Dated this 22nd day of November 2018.

Louis James Thibodeaux
LOUIS JAMES THIBODEAUX

Ex 1a

DA's Copy

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON
Plaintiff

- VS -

LOUIS JAMES THIBODEAUX
Defendant.

NO. 17-1-01383-08
17-1-00825-08

VIOLATION OF CONSTITUTIONAL RIGHTS UNDER CRR 3.3 & RCW 9.100.010 60 & 90 DAY RULES

Defendant, Louis James Thibodeaux, by and through both attorney's, Mr. Tad Scudder & Mr. Ted Debray constitutional rights to a speedy trial has been violated pursuant to CRR 3.3 under the 60-90 day rule in Case No. 17-1-00825-08 & Case No. 17-1-01383-08, Witness to Judge WARNING words CONNOR.

Defendant has not signed form RCW 9.100.010 to waive his constitutional rights. Attached are exhibits to confirm violation of his constitutional rights, Ex. 1-4 these trials is commenced over 2½ years & over 1 year. Requires appealable rights to issue re-trials to vacate both cases, under the state of Washington's constitutional laws, RCW 4.92.020, CONNOR CLIFTON - GIST DETAIL.

Dated this 22nd day of November 2018

Louis James Thibodeaux
LOUIS JAMES THIBODEAUX

EX 13

Judge Copy

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON
Plaintiff

-VS-

LOUIS JAMES ~~THIBODEAUX~~
Defendant.

NO. 17-1-00825-08

Constitutional Criminal Rights
Rule Violation CRR 3.3
under 60 & 90 Day Rule

Defendant, Louis J. Thibodeaux, by & through Ted Debray, brings a Constitutional Criminal Rights Rule Violation pursuant to CCR 3.3 denied a fast and speedy trial Constitutional Rights been violated, no waiver was signed pursuant to RCW 9.100.010, waiving his Constitutional speedy trial 60 & 90 Day Rule, both times, out of custody as well in custody. From May 3rd 2016 to ~~Dec~~ Nov. 6, 2018

December 18th 2018

Louis J. Thibodeaux

Ted Debray

EX 14

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON Plaintiff -VS- LOUIS JAMES THIBODEAUX Defendants.	No. 17-1-00825-08 MOTION TO VACATE Miscarriage of Justice RCW 4.100.020

Pursuant to State of Washington's points system and RCW 9A.16.070 & RCW 4.100.020, defendant constitutional rights to a fair trial of each charge that was not severed, caused defendants rights to be violated in this case No above.

Three trials should have been commenced on May 3rd, May 5th & July 7th 2018. each Separately

Had this been allowed the plaintiff would not have found defendant guilty on any of the charges.

Defendant ask this court to vacate all three guilty pleas and issue re-trial orders under Case #s hereto effectively immediately, pursuant to the State of Washington's, policies, procedures and criminal rights rules, and RCW's & Ineffective of both Counsel & Assistance.

Dated this 22nd day 2018, of November.

LOUIS JAMES THIBODEAUX

EX 15

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, Plaintiff, -VS- LOUIS JAMES THIBODEAUX Defendant.	No. 17-1-01383-08 17-1-00825-08 ORDER TO VACATE Criminal Rights Rule Violation 3.3 60-90 Day Rule - RCW 9.100.010

Defendant, Louis James Thibodeaux, by and through both attorney's ~~Todd Saunders~~ & Ted DeBray issues motion for violations of his CRR 3.3 & RCW 9.100.010 & here by prays this court issue vacate orders of both & all guilty pleas pursuant to RCW 4.72.020 for violations of defendant's U.S. Constitutional Rights hereto. Defendant did not waive his constitutional rights to a speedy trial nor signed Waiver form RCW 9.100.010.

Dated this 29th day of November 2018.

Judge:

It's ordered this ___ day of _____ 20___, defendant's motion is hereby _____ granted / denied

_____ Judge

EX 16

CERTIFICATE OF SERVICE

I, Louis James THIBODEAUX, hereby certify that on the 29th day of November 2018. I served true copies of SPEEDY Trial Violations ? EXhibits 1-4 upon the Plaintiffs DA BRITTAN Honorable Evans ? MARINERS ATTORNEY'S TAD SCUDDER ? ATTORNEY TED DERRAY AT REQUIRED ADDRESSES HAND DELIVERED IN COURTROOM in Cowlitz County LONGVIEW WA 98632 upon above date hereto & severance.

Dated this 29 day of November 2018.

Louis James Thibodeaux

Defendant: Louis James Thibodeaux

RE: NOTION TO VACATE / Miscarriage of Justice

RCW 4.100.020

RCW 9A.16.090

RCW 192-190-045

RCW 85.05-120

CRR 3.3

RCW 9.100.010

RCW 4.72.020

Witness: CONNOR CLIFTON - G12 Lowlitz County Jail

ORDER for Violations

Mr. Debray

I'm also needing you to make sure that you get on record these Constitutional violations

1. My Constitutional Right Rule 3.3 violations of my Constitutional rights to a fast & Speedy trial under both the 60 & 90 Day rules. I never signed the speedy trial waiver form RCW 9.100.010 on all 4 guilty trials that ares on violations of my constitutional rights!"

2. Also have a Motion & Order to vacate pursuant to RCW 4.72.020

3. One court date judge warning stated to both the DA & Defense Attorney that this is well over the speedy trial limits, a witness to hearing that statement is Conor Clifton, he's in the jail serving 6 months. Both trials was well over 1 year & Almost 3 years for all three deliveries cases.

4. I had on the out set asked to be brought to trial on each charge Separately those charges on May 3, 5, & July 7 2016 should not have been held on the same trial, my Constitutional Rights were violated pursuant to RCW 192-190-045 and RCW 85.05.120 I need a motion & order to vacate those as well.

Under the Washington Laws pertaining to the points System, my Oregon Crimes cannot be used unless its a weapon charge or Vehicle homicide. The only Oregon charge is Robbery I w a firearm only I point over 20 years ago. The Robbery II was without a weapon over 31 years age should wash so both cases should not be considered as points. Should wash all other felony cases should wash but once you file a motion to vacate and Speedy trial violations I should get Retrials Separately.

4. I was not officially and legally booked on said charges all three ~~(3)~~ deliveries I appeared on a illegal Summons that wasn't properly Served upon me to a address that was not my address Ron Garney is the owner of that property and can tell the courts he never Rented that property to me I was in Louisiana living at 1304 Frilot Street Lot #8 - Opelousas with Rose Thibodeaux my sister per #337-692-0508 plus my I.D had that addiegs and the date it was given to me Check Louisiana Motor Vehicle it will prove I was not in Washington when the Sheriff Served that Summons.

5. Record will reflect that at least 3 others had received Summons with drug charges the same day I showed up to answer they was directed to be booked & released on their charges I was

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
PRISONS DIVISION
STAFFORD CREEK CORRECTIONS CENTER
191 Constantine Way, MS WA-39 - Aberdeen, Washington 98520
(360) 537-1800
FAX: (360) 537-1804

January 5, 2021

Incarcerated Individual
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

RE: Court of Appeals Division II Filings

Greetings,

It has come to my attention that an unforeseen technical problem has interfered with e-filings submitted to Division II of the Washington State Court of Appeals.

Between October 26, 2020 and December 21, 2020 none of the e-filings sent to Division II from Stafford Creek Corrections Center were received by the court.

The court has been made aware of this circumstance. If you are receiving this letter, our records indicate you made a filing to Division II during this time frame. Enclosed with this letter is a copy of the scan request form we have on file for you. If you have already resubmitted your documents to the court, no action is needed. If you wish to resubmit you filing to the court, please send a kiosk message to the Legal Liaison or ask your counselor to contact Lucy Burke.

I apologize for any inconvenience.

Sincerely,

Lucy Burke
Secretary Senior
Public Information Office
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

cc: PDR Correspondence File, assigned counselor

INMATE

January 12, 2021 - 4:30 PM

Transmittal Information

Filed with Court:	Court of Appeals Division II
Appellate Court Case Number:	53091-1
Appellate Court Case Title:	State of Washington, Respondent v. Louis James Thibodeaux, Appellant
Superior Court Case Number:	17-1-00825-4

DOC filing of THIBODEAUX Inmate DOC Number 941031

The following documents have been uploaded:

- 530911_20210112043001D2726401_5458_InmateFiling.pdf {ts '2021-01-12 16:25:02'}

  The Original File Name was THIBODEAUX.pdf

The DOC Facility Name is Stafford Creek Corrections Center.
The Inmate The Inmate/Filer's Last Name is THIBODEAUX.
The Inmate DOC Number is 941031.
The CaseNumber is 530911.
The Comment is 1OF1.
The entire orginal email subject is 12,THIBODEAUX,941031,530911,1OF1.
The email contained the following message:

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, DO NOT DO SO! Instead, report the incident. Reply to: doc1pabr1108 <doc1pABR1108@doc1.wa.gov> Device Name: doc1pabr1108 Device Model: MX-4071 Location: Supt's Office File Format: PDF MMR(G4) Resolution: 200dpi x 200dpi Attached file is scanned image in PDF format. Use Acrobat(R)Reader(R) or Adobe(R)Reader(R) of Adobe Systems Incorporated to view the document. Adobe(R)Reader(R) can be downloaded from the following URL: Adobe, the Adobe logo, Acrobat, the Adobe PDF logo, and Reader are registered trademarks or trademarks of Adobe Systems Incorporated in the United States and other countries. https://smex-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=http%3a%2f%2fwww.adobe.com&umid=4dc84b9e-d208-4085-b921-df4f94f04f29&auth=d15df2c165e24fb53bc026dba1ee9b619a161a5a-1499662f26f0c8014fce45d279547285d32f6acf

The following email addresses also received a copy of this email:

A copy of the uploaded files will be sent to:
- ptiller@tillerlaw.com
- brittains@co.cowlitz.wa.us
- appeals@co.cowlitz.wa.us
- Kelder@tillerlaw.com

Note: The Filing Id is 20210112043001D2726401