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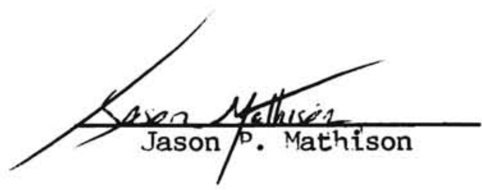
IN THE COURT OF APPEALS
STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON, Respondent, vs. JASON P. MATHISON, Appellant.	No. 68849-9 STATEMENT OF ADDITIONAL GROUNDS FOR REVIEW

I, Jason P. Mathison, have received and reviewed the opening brief prepared by my attorney. Summarized below are the additional grounds for review that are not addressed, or fully addressed in the opening brief. I understand the court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

For Additional Grounds "I through IV"
See Attached Memorandum.

DATE: 3/24/2013



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A D D I T I O N A L G R O U N D S O N E

DID THE TRIAL COURT ABUSE ITS DISCRETION BY REVOKING APPELLANTS SSOSA SENTENCE WITHOUT STATUTORY AUTHORITY?

In accordance with Former RCW 9.94A.670(4)(b) (2004) Fn1/ which Appellant was sentenced under, the Judgment and Sentence ("J & S") included a condition of treatment participation for a 3-year duration, (CP at 40). Though the trial court worded the condition as "successfully complete" the treatment program, the trial court had no legal authority, and abused its discretion, by doing so under afore mentioned state statute.

The trial court also included a condition of no contact with minors "without supervision of a responsible adult who has knowledge of this condition; and with permission of [the] treatment provider and community corrections officer ("CCO"), (CP at 40). **As worded,** this condition of no contact could only have been in effect for the 3 years that the court had authority to impose treatment participation under Former RCW 9.94A.670(4)(b) (2004). "Courts should not construe statutes to render any language superfluous", State v. Riles, 135 Wn.2d 326, 340, 957 P.2d 655 (1998). At sentencing, the Honorable Judge Fox stated that his most satisfying days were "when a defendant appears before [him] at the conclusion of the treatment period", and that it was "a genuine pleasure at that point to sign documents indicating their compliance and their success", (09/30/2005, RP at 16).

At that same hearing, Judge Fox assured the victims father that the

Fn1/ Former RCW 9.94A.670(4)(b) (2004) states: "The court **shall order** treatment for any period **up to three years** in duration".

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1 sentence would require "strict compliance with all the requirements of SSOSA
2 over a 3-year period", (09/30/2005, RP at 6).

3 However, contrary to Former RCW 9.94A.670(6) (2004), the trial court
4 erred by never scheduling the "treatment termination hearing" that would
5 mark successful completion of treatment at the end of the 3-years. Pursuant
6 to state statute it's the trial courts responsibility to schedule that
7 hearing, and not the petitioners. Fn2/

8 Along with this error of the trial court; Northwest Treatment Asociates
9 ("NWTA"), the treatment provider required by the Appellants J&S, also failed
10 to follow well established state statute. Despite the mandate set out in
11 Former RCW 9.94A.670(7),(8) (2004) Fn3/, NWTA initially submitted only one
12 progress report of treatment participation, and then failed to ever submit
13 any others for the entire time Appellant attended their program, (CP at
14 50). These **errors**, of both the trial court and NWTA combined, created a
15 situation where "successful completion" of treatment was unattainable.

16 More than six (6) years after sentencing, and despite continuous
17 participation in treatment, the trial court held a revocation hearing where
18 it was determined that the Appellant's SSOSA should be revoked due to No
19 successful completion of treatment, and breach of no-contact order, (CP
20 at 139). However, since Former RCW 9.94A.670(4),(6) (2004) did not require
21

22 Fn2/ Former RCW 9.94A.670(6) (2004) states: "At the time of sentencing,
23 the court **shall set** a treatment **termination hearing** three months prior to the anticipated date for completion of treatment".

24 Fn3/ Former RCW 9.94A.670(7) (2004) states: "The sex offender treatment
25 provider **shall submit** quarterly reports on the offender's program in treatment to the court and the parties"."

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1 "successful completion" of a treatment program, and a hearing had never
2 been held to extend the condition of treatment participation beyond the
3 3-year duration mandated by state statute; the trial court abused its
4 discretion by finding that those conditions had not been met. "A decision
5 based on an error of law is based on an untenable reason and my constitute
6 an abuse of discretion", Noble v. Safe Harbor Family Pres. Trust, 167 Wn.2d
7 11, 17, 215 P.3d 1007 (2009).

8 Furthermore, the errors of both the trial court at sentencing, and
9 NWTA during treatment, caused the conditions on the Appellants J&S to become
10 ambiguous; was the Appellant supposed to attend treatment for 3-years, or
11 until "successful completion"? (CP at 40).

12 In the case at hand, the "rule of lenity" should apply. "The rule of
13 lenity provides that where an ambiguous statute has two possible
14 interpretations, the statute is to be strictly construed in favor of the
15 defendant", State v. Lively, 130 Wn.2d 1, 14, 921 P.2d 1035 (1995).

16 C O N C L U S I O N

17 Appellant seeks an evidentiary hearing to determine if the trial court
18 abused its discretion if so, the trial court's decision to revoke SSOSA
19 should be reversed and remanded for a new hearing untainted by the errors.
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A D D I D I T O N A L   G R O U N D S   T W O

DID APPELLANT RECEIVE INEFFECTIVE ASSISTANCE OF COUNSEL AT HIS REVOCATION HEARING?

At the Appellant's SSOSA revocation hearing, ineffective assistance of counsel was shown in the following **three** ways:

(1) Defense counsel Wilson failed to obtain copies of treatment rules, progress reports, and polygraph results that could have countered claims of violation. Because the state claimed that the alleged violations included manipulation of polygraph results, failure to follow treatment rules, and lack of progress in the treatment program; a complete and effective defense attorney would have investigated documentation that could have **proven** otherwise. By not appropriately investigating these documents, defense counsel could offer no legitimate defense to the States allegations, which caused undue and substantial prejudice against Appellant at the revocation hearing. Attorney Wilson's failure to obtain this kind of exculpatory documentation is most noted on the record during the cross examination of State's witness Andrei Dandescu from Northwest Treatment associates ("NWTA"). Defense counsel questioned the treatment provider about the context of Appellant's treatment contract and polygraph results, but Mr. Dandescu failed to produce them. (05/18/2012, RP at 57-59, 121).

As pointed out in the Appellant's opening brief, at the bottom of page 4, NWTA had failed to provide the court with quarterly progress reports of the Appellants treatment participation for almost six years. This was in direct violation of state statute, Former RCW 9.94A.670(7). An effective defense counsel would have investigated the Court's paperwork and discovered

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1 this error of the treatment provider's and brought it to the attention of
2 the trial court during the revocation hearing.

3 (2) Defense counsel also failed to investigate both Former RCW 9.94A.670
4 (2004) and the State's failure to hold a "Treatment Termination Hearing"
5 at the end of the 3-year treatment period as required by Former RCW
6 9.94A.670(6) and Judgment and Sentence ("J&S"). This treatment termination
7 hearing was required by Former RCW 9.94A.670(6) (2004).

8 Because the SSOSA sentence being revoked was issued under the previously
9 mentioned state statute, defense counsels failure to investigate it was
10 entirely inappropriate. "A defendant can overcome the presumption of
11 effective representation by demonstrating that counsel failed to conduct
12 appropriate investigations. The defendant may also meet this burden by
13 demonstrating the absence of legitimate strategic or tactical reasons
14 supporting the challenged conduct by counsel." State v. Crawford, 159 Wn.2d
15 86, 99, 147 P.3d 1288 (2006) (citations omitted).

16 During the revocation hearing, the court appears to have considered
17 only the "Appendix H" portion of the Appellants SSOSA sentence instead of
18 the J&S in its entirety. (05/18/2012, RP at 119. This caused an incomplete
19 view of the conditions that the Appellant was under. Had defense counsel
20 Wilson produced the portions of the J&S **preceding** "Appendix H", a better
21 understanding of the condition of treatment participation would have been
22 offered. This more complete view of Appellants sentencing conditions would
23 also have uncovered the state's failure to follow state statute by not ever
24 scheduling the mandated treatment termination hearing at the end of the
25 3-year treatment participation ordered by Appellants J&S. Although counsel

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1 Wilson did mention the state's error regarding the treatment termination
2 hearing in her arguments, she failed to pursue the reason for this error
3 and its consequences in the Appellants case. This is noted on the record
4 when she stated to the trial court that: "Mr. Mathison mentioned to me
5 that after his sentencing, there was something in his J&S that he was
6 supposed to have a review hearing or something, and that never happened".
7 (05/18/2012, RP at 125). Not only does this statement fail to pursue the
8 relevant issue, but it also implies that defense counsel lacked first-hand
9 knowledge of, and had not actually investigated, the J&S in question. An
10 effective attorney would not have made this critical error.

11 Had counsel Wilson been effective, and had conducted appropriate
12 investigations into the alleged violations, the trial courts decision to
13 revoke the SSOSA sentence would have been unlikely. For reasons already
14 discussed in "Additional Ground One", Appellants SSOSA conditions of
15 participation in treatment and no-minor contact may have been found to have
16 been met, or ambiguous enough for the "Rule of Lenity" to apply. All other
17 violations alleged by the state were not revocable offenses. "To demonstrate
18 ineffective assistance of counsel, a defendant <u>must</u> make <u>two</u> showings: (1)
19 Defense counsel's representation was deficient, i.e., it fell below an
20 objective standard of reasonableness based on consideration of all the
21 circumstances; and (2) defense counsel's deficient representation prejudiced
22 the defendant, i.e., there is a reasonable probability that, except for
23 counsel's unprofessional errors, the results of the proceedings would have
24 been different." <u>State v. McFarland</u>, 127 Wn.2d 322, <u>334-35</u>, 899 P.2d 1251
25 (1995). (emphasis added).

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1 (3) Defense counsel failed to specifically notify the trial court that
2 Appellant was requesting the right to allocution. "Due process requires
3 that a defendant be given an opportunity to be heard in person at a
4 revocation hearing. Given our common law and statutory history of affording
5 allocation and the legitimate interest of a defendant to personally address
6 the court, we conclude that where a defendant asserts his right to
7 allocution, the court should allow him to make a statement in allocution."
8 State v. Canfield, 154 Wn.2d 698, 707, 116 P.3 391, 395 (2005). (emphasis
9 added). Although counsel Wilson was aware that the Appellant had prepared
10 a written statement to read to the court, she failed to properly inform
11 the trial court of this fact before a decision was rendered. "The offender
12 must be specifically invited to speak **before** the court renders a decision."
13 State v. Canfield, 120 Wn.App. 729, 733, 86 P.3d 806 (2004) (emphasis added).
14 According to the record, the closest that defense counsel came to
15 indicating that the Appellant would need the right to address the trial
16 court directly was when, while discussing the alleged violations, counsel
17 Wilson informed the court that: "He would have to explain that for himself";
18 to which the Honorable Judge Oishi replied **"SURE"**. (03-29-2012, RP at
19 31-32). However, defense counsel failed to pursue and preserve that right
20 and ensure that it was granted before the trial court rendered its decision.
21 Although a chance for allocution was eventually offered by the trial court,
22 it was only after the decision to revoke the Appellant's SSOSA sentence
23 had been rendered; causing any offer for allocution at that point to be
24 an empty gesture. "An opportunity to speak extended for the first time after
25 sentence has been imposed is **'a totally empty gesture'**" State v. Crider,

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78 Wn.App. 849, 861, 899 P.2d 24 (1995). (emphasis added).

In summary, defense counsel Wilson was ineffective by failing to investigate documentation and state statutes that could have aided defense of the Appellants case, and failing to properly assert the right of allocution. These failures led to counsel committing critical errors in defense of Appellants case, including seeking testimony from a potential new treatment provider. Not only did this imply that defense was not objecting to the State's claims that the SSOSA condition of 3-years participation in treatment had not been met, but the live testimony that was given by the potential new treatment provider caused actual prejudice against the Appellant. As shown on the record, some of the comments made by Ms. Macy, the potential new treatment provider, were repeated by Honorable Judge Oishi as his reasoning for revoking the Appellant's SSOSA. (05/18/2012, RP at 130-131).

CONCLUSION

Appellant seeks an evidentiary hearing to determine if defense counsel offered ineffective assistance of counsel. If so, the trial court's decision to revoke SSOSA should be reversed and remanded for a new hearing untainted by the errors.

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ADDITIONAL GROUND THREE

WAS APPELLANT DENIED HIS RIGHT TO ALLOCUTION AT THE SSOSA REVOCATION HEARING?

In Canfield, the Washington State Supreme Court considered three consolidated cases implicating allocution. In its analysis, the court drew a distinction between a revocation hearing and a sentencing. Nevertheless, it concluded that a limited due process right to allocution applies to revocation hearings. One of the stipulations of their holdings was that, although they were not imposing any specific formal requirements for preserving the right to allocution; "The defendant must give the court **some indication** of his wish to plead for mercy or offer a statement in mitigation of his sentence", State v. Canfield, 154 Wn.2d 698, 707, 116 P.3d 391 (2005) (Emphasis added).

As already pointed out in "Additional Grounds 2", defense counsel Wilson did inform the trial court that the Appellant would need to explain his alleged conduct for himself, and that Honorable Judge Oishi acknowledged this need, (03/29/2012, RP at 31-32). Nevertheless, regardless of this acknowledgment, the trial court later rendered the decision to revoke the Appellants SSOSA before allowing the opportunity for allocution. "The offender **must** be specifically invited to speak before the court renders a decision", Canfield, 120 Wn.App. at 733.

Although the record shows that the trial court did offer the chance for allocution immediately after the decision to revoke SSOSA had been rendered, the gesture at that point was an empty one, (05/18/2012, RP at 134). "An opportunity to speak extended for the first time after sentence

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1 has been imposed is 'a totally empty gesture'", State v. Crider, 78 Wn.App.
2 849, 861, 899 P.2d 24 (1995).

3 As pointed out in Canfield, because the greatest penalty the trial
4 court is empowered to give at a revocation hearing is imposition of the
5 suspended sentence; denial of the right to allocution is an error that
6 "Cannot be Harmless", Canfield, 120 Wn.App. at 734.

7 In summary, although defense counsel Wilson failed to **specifically**
8 request the right to allocution; counsel did inform the trial court that
9 the Appellant would need to speak for himself, and the court agreed. However,
10 the trial court erred by not honoring that right before rendering a decision.
11 This constituted manifest error on the part of the trial court that requires
12 a new hearing in order to be remedied.

13 ## CONCLUSION

14 Appellant seeks an evidentiary hearing to determine if the trial court
15 abused its discretion by denying Appellants right to allocution. if so,
16 the trial court's decision to revoke SSOSA should be reversed and remanded
17 for a new hearing untainted by the errors.

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ADDITIONAL GROUND FOUR

SHOULD APPELLANT HAVE BEEN GRANTED CREDIT AGAINST IMPOSED SENTENCE FOR TIME SPENT PARTICIPATING IN THE COURT-ORDERED TREATMENT PROGRAM?

In three substantially similar cases: Pannell, Miller, and Gartrell; the court of appeals has reached the conclusion that time spent on community custody under SSOSA is not treated as "partial confinement" when that SSOSA is revoked. Thus an offender is not entitled to credit towards the balance of imposed confinement for time spent in community custody. However, in Pannell, the court **did** find that there could exist conditions where such credit would be permitted: "While it may be that a trial Judge could impose conditions that would be so restrictive as to belie the nature of a suspended sentence or that in certain circumstances, equal protection would demand that the offender be given credit, Pannell makes no argument of such here." State v. Pannell, 173 Wn.2d 222, 233, 267 P.3d 349 (2011).

State statute defines partial confinement as including "work release, Home detention, work crew, and a combination of work and home detention." RCW 9.94A.030(35). Notably, community custody is **not** a part of this definition. The main differences between being on community custody and participation in one of these types of partial confinements, is the level of monitoring an offender is subject to, and the amount of liberty given up each day. In essence, time spent on "community custody" is mainly prohibitive, i.e., an offender abides by restrictions while pursuing daily activities; while "partial confinement" is obligatory, i.e., an offender spends daily activities pursuing the fulfillment of court ordered

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obligations. A particular item of note, is that participants in a work crew program can earn the opportunity to receive credit for time spent at their own, how be it, approved and verified, choice of employment; and that "the hours served as part of a work crew sentence may include substance abuse counseling and/or job skills training." RCW 9.94A.725.

Just as court-ordered work crew or home detention count as partial confinement; so also should time spent participating in a court ordered SSOSA treatment program. Similar to work crew, participation in a sex offender treatment program requires a substantial commitment of time each day. Not only is there required attendance of both group and individual therapy sessions, treatment also includes hours of each day completing rehabilitative homework-style assignments. Along with being required to maintain productive, and approved, employment as part of the treatment program; participants must also account for all "free time", and show compliance to strict rules of conduct in all aspects of life. In comparison, participation in a sex offender treatment program requires much more of a commitment of time and energy than does participation in a daily work crew. Furthermore, this serious level of commitment creates a substantial loss of an offenders liberty, and meets the requirements of partial confinement.

As previously pointed out in Pannell, equal protection could also demand that an offender be granted credit for time spent fulfilling a court ordered obligation, such as a sex offender treatment program. "The equal protection clause of both the State and Federal Constitutions require that 'persons similarly situated with respect to the legitimate purpose of the law receive

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1 like treatment.'" In re Personal Restraint of Runyan, 121 Wn.2d 432, 448,
2 853 P.2d 424 (1993). Similar to SSOSA, Washington Sate often offers the
3 drug offender sentencing alternative ("DOSA") to offenders who meet a
4 specific criteria. Both SSOSA and DOSA are similar in nature, in that they
5 offer alternative sentences for offenders who have limited criminal history
6 and show amenability to treatment. RCW 9.94A.670(2)(b), (3) and RCW
7 9.94A.660(1)(g), (4). Both of these alternatives utilize treatment programs
8 and limited times in confinement as an incentive for compliance. RCW
9 9.94A.670(5) and RCW 9.94A.660(3), (5). Likewise, both of these programs
10 can be revoked for violation behavior. RCW 9.94A.670(11) and RCW
11 9.94A.660(7(b).

12 When a DOSA sentence is revoked, the offender receives credit towards
13 imposed confinement for all time that had been spent in compliance with
14 the program. "While serving the community portion of the DOSA sentence,
15 the defendant must comply with a number of mandatory conditions, including
16 successfully participating in substance abuse treatment, following the rules
17 and regulations of DOC, and obeying all laws. If an offender fails to
18 complete, or DOC administratively terminates the offender from the DOSA
19 program, the offender is re-incarcerated to serve the balance of the
20 **un-expired** sentence subject to the rules of early release." In re Albritton,
21 143 Wn.App. 584, 592, 180 P.3d 790 (2008) (emphasis added). Because SSOSA
22 and DOSA are similar in nature in regards to treatment participation and
23 compliance, equal protection would require that SSOSA offenders also receive
24 credit for time spent participating in a court ordered treatment program.

25 As stated in the Appellants opening brief and "Additional Grounds One";

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before facing SSOSA revocation the Appellant had participated in a court ordered treatment program for just over six years. This was three years **more** than the period of treatment ordered by J&S due to the State's error of not scheduling the "treatment termination hearing" required by state statute. CP 40. Within a week of completing the one year of incarceration ordered by the SSOSA sentence agreement, the Appellant entered a treatment program with Northwest Treatment Associates ("NWTA"). The Appellant then continued to participate in their program, at significant financial cost and substantial loss of liberty, from January 2006, until January 2012; at which time the Appellant was terminated due to the State claims of violation. CP 48, 50 & 63.

At this time, the Appellant seeks to have his 72 months of participation in treatment with NWTA to be credited as partial confinement against the 131 months of total confinement imposed by the trial court at sentencing. "When the court revokes a SSOSA and must credit all confinement time served during the period of community custody, the confinement time to be credited is the total **or partial** confinement imposed." State v. Gartrell, 138 Wn.App. 787, 791, 158 P.3d 636 (2007) (emphasis added).

In summary, the time an offender spends abiding by the prohibitive conditions of community custody is very different from the time spent fulfilling the obligations and commitments of a court ordered treatment program. Due to equal protection, and the significant loss of liberty that participation in a SSOSA program entails; an offender should receive credit for all time spent fulfilling those obligations. This would be similar to an offender receiving credit for work crew, or for participation in DOSA.

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1 Because the State failed to hold a treatment termination hearing at
2 the end of the court ordered 3-year treatment period, the Appellant seeks
3 credit for all six years of his treatment participation.

4 ## CONCLUSION

5 Whether the SSOSA revocation is reversed and remanded or not, the
6 Appellant seeks an evidentiary hearing to determine if he should be granted
7 credit for 72 months of partial confinement during treatment participation
8 against the 131 months of total confinement imposed by the trial court.

9

10 RESPECTFULLY submitted this 21st day of March, 2013.

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13 I declare under penalty of perjury under the laws of the State of
14 Washington that the foregoing is true and correct to the best of my knowledge
and belief.

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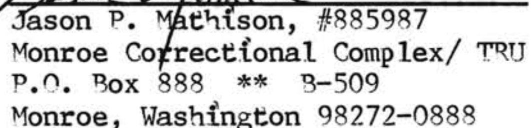

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RCW 9.94A.660 (3) 14

RCW 9.94A.660 (4) 14

RCW 9.94A.660 (5) 14

RCW 9.94A.660 (7)(b) 14

THE STATE OF WASHINGTON)
) ss. AFFIDAVIT OF JASON P. MATHISON
COUNTY OF SNOHOMISH)

After being duly sworn on oath, I depose and say that:

1. My name is Jason P. Mathison.

2. I am the Appellant in this matter and this Affidavit is in support of my accompanied Additional Grounds. I am competent to be a witness in this matter.

3. I was released from jail after serving the non-suspended 12 months of incarceration ordered by my J&S on December 24th, 2005.

4. I entered a treatment program with NWTA within a few days of being released from jail, and participated in their program until I was terminated in January of 2012.

5. Attendance at the court-ordered program run by NWTA required over an hour drive, each way, to their meetings.

6. I attended sessions with the individual therapist, Andrei Dandescu, once each week at a cost of $90 a session.

7. I also attended group sessions, run by Steven Silver, once each week at a cost of $30 a session.

8. I was given homework assignments to accomplish at home each week that required several hours a day in order to complete. These homework

assignments included written reports and essays, along with audio recordings that would be brought to sessions for proof of compliance and performance.

9. As part of the rules of the treatment program, I was required to be gainfully employed. All employment also had to be verified and approved by NWTA and my CCO.

10. Due to the cost of treatment and community custody, full-time employment was required.

11. Along with treatment attendance, I was required to report for quarterly polygraph tests of compliance, at a cost of $150 for each one.

12. Several times over the course of treatment, I was required to submit to plethysmograph tests of treatment progress, at a cost of $150 each time.

13. NWTA charged me an extra $75 quarterly for the writing of progress reports that were to be sent to my CCO and the court, per state statute.

14. After 3 years of attendance at NWTA I had completed all mandatory homework assignments, though I still continued to attend both individual and group sessions.

15. NWTA informed me that a letter of "graduation" would only be issued if the court asked for one in preparation for a review hearing to determine my compliance with the conditions ordered by my J&S.

16. Even after completing the court-ordered 3 years of treatment, I felt it would be beneficial for me to keep attending.

17. Over the next three years I continued my participation in treatment, but asked my CCO and NWTA several times if I needed a recommendation to the state for any kind of review hearing. I did not receive a definitive answer.

18. During the entire 6 years of treatment participation, I paid in excess of $37,000 to NWTA for the cost of my participation.

19. As required by both NWTA and DOC, and to be able to afford the cost of both community custody and treatment participation, I maintained full-time employment during the entire 6 years.

20. During the last 4 years of treatment participation, I also attended college in an attempt to gain more beneficial employment. This college attendance required approval from both DOC and NWTA.

21. Maintaining full-time employment while also participating in court-ordered treatment, being on community custody, **and** attending courses at Green River Community College left me with extremely limited "free-time" over the past 6 years. The college courses were paid for under the State's "worker retraining" program.

22. Many other men would attend treatment at NWTA voluntarily, thus were not required to follow as strict of rules as those who attend due to court

orders. I believed that because I had finished the mandatory homework assignments, and the 3 years ordered by my J&S, I would fall into this category.

23. After being arrested for DOC violations, I informed the public defender assigned to my case that my J&S had ordered only 3-years of treatment, and that I believed I had met this requirement. She assured me that she would look into that issue.

24. While incarcerated awaiting my hearing, defense counsel Wilson advised me to seek an evaluation from a new treatment provider; saying that it would make me look better to the court to be shown as still amenable to treatment.

25. Before the revocation hearing, defense counsel advised me to prepare a written statement and to be ready to speak on my own behalf.

26. At the revocation hearing, not only did defense counsel not address the issue of 3-year duration of treatment that I had requested, but she also failed to ensure that I was able to read my prepared statement in allocution **before** the court rendered a decision.

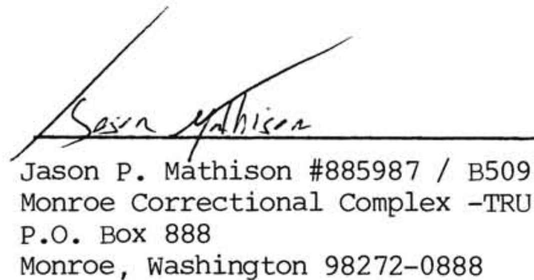
27. Being granted a chance for allocution only after the court had rendered a decision, much of what I had prepared to say was then obsolete. My emotional state was also severely compromised while trying to allocute.

28. During the duration of my community custody I knew that DOC was

receiving the progress reports prepared by NWTA, because I had seen them in my CCO's office. However, it was only after reading the Appellate's opening brief prepared by my attorney that I had any idea that NWTA had not been submitting these same progress reports to the **court** during the 6 year duration that I had attended their program.

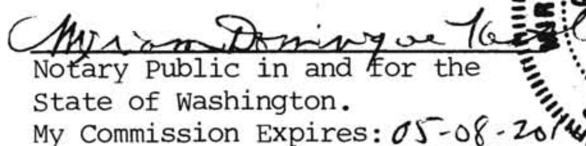
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

DATED this 21 day of March, 2013. At Monroe, Washington.



Jason P. Mathison #885987 / B509
Monroe Correctional Complex -TRU
P.O. Box 888
Monroe, Washington 98272-0888

SUBSCRIBED AND SWORN TO before me, the undersigned notary public, on this 21st day of March, 2013.



Notary Public in and for the
State of Washington.
My Commission Expires: 05-08-2016

IN THE COURT OF APPEALS, DIVISION ONE
FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON, Plaintiff, vs. JASON P. MATHISON, Appellant.	No. 68849-9-1 DECLARATION OF MAILING

I Jason P. Mathison, do declare that I am an inmate at the Monroe Correctional Complex, in Monroe, WA, and on 03/24/2013, I delivered to prison authorities, a pre-franked envelope (or disbursement voucher to affect same) to be processed by the institutiona's legal mail system and containing the following documents:

ADDITIONAL GROUNDS, AFFIDAVIT, AND DECLARATION OF MAILING.

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2013 MAR 26 PM 1:41

ADDRESSED TO:

Richard D. Johnson, Clerk
COURT OF APPEALS, DIVISION ONE
One Union Square * 600 University Street
Seattle, WA 98101-4170

Pursuant to GR 3.1, I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct to the best of my knowledge and belief.

DATE: March 24, 2013.

Jason P. Mathison, #885987
Monroe Correctional Complex/ TRU
P.O. Box 888 ** B-509
Monroe, Washington 98272-0888