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COURT OF APPEALS DIV. #1
STATE OF WASHINGTON
2009 SEP 28 AM 11:55

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

In re the Personal Restraint of

WAYNE ALLEN NEWLUN,

Petitioner

No. 63810-6

RESPONSE TO PERSONAL RESTRAINT PETITION

I. AUTHORITY FOR RESTRAINT

The petitioner is restrained pursuant to judgment and sentences entered in Snohomish County Cause numbers 06-1-00223-1, 06-1-00241-0, and 06-1-00648-2. Ex. 4, 8, and 12.

II. ISSUES PRESENTED

1. Has the petitioner shown that he was actually prejudiced when the trial court treated multiple counts of Identity Theft as separate convictions when each count involved a different piece of the victim's identity?

2. Was the petitioner's guilty plea to multiple offenses knowing and voluntary?

3. Did the prosecutor undercut the plea agreement when she asked the court to follow the agreed recommendation set out in the plea paperwork, the trial court disregarded that recommendation and sentenced the petitioner to a high end sentence, and the prosecutor later asked the trial court to clarify its basis for imposing the exceptional sentence?

III. STATEMENT OF DISPUTED FACTS

The State disputes the following facts asserted by the petitioner:

1. That the State charged the petitioner with additional counts after his initial arraignment in order to increase his bail amount.

2. That the State really intended that the Court impose an exceptional sentence despite its agreed recommendation for a high end sentence.

3. That the maximum penalty for two counts in one case was increased without the petitioner's knowledge before he pled guilty.

4. That the petitioner was promised by anyone that he would be sentenced to no more than the high end of the standard range.

5. That the State encouraged the sentencing judge to impose an exceptional sentence at the clarification hearing.

6. That the State prepared the appendix to the petitioner's plea agreement in cause number 06-1-0241-0.

IV. STATEMENT OF THE CASE

The petitioner, Wayne Allen Newlun, was charged in three different Informations with a total of 11 different crimes between January 24 and March 21, 2006 in Snohomish County Superior Court. Each Information was filed based on an

investigation from three different police agencies. Ex. 1, 5, and 9. The petitioner was charged with identity theft in each of the three cause numbers. In Cause number 06-1-00223-1 the alleged victim was Alexander Wazir. In Cause numbers 06-1-00648-2 and 06-1-00241-0 the alleged victim was Guy Randall¹. The date of violation in the first cause number was December 14, 2005. The date of violation in the second cause number was November 16, 2005. The piece of identification alleged to have been possessed in cause number 06-1-00648-2 was a driver's license. Ex. 10. In cause number 06-1-00241-0 the item alleged to have been unlawfully possessed was an unspecified piece of Guy Randall's identification. Ex. 6.

The petitioner pled guilty to all counts in all three cause numbers. In each cause number the petitioner signed a statement acknowledging that he understood that the trial judge was not bound by the recommendations of the parties. The petitioner also acknowledged that the trial court could impose a sentence above the standard range if the court found there were substantial and compelling reasons to do so, and that the petitioner could appeal an exceptional sentence. Ex. 3, 7, and 11, ¶ 6(g).

The petitioner also signed a statement of defendant on plea of guilty setting out the facts which he admitted constituted the crime. The language of his statement tracked the language in the charging document. In cause number 06-1-00241-0 each count included an allegation that the offense constituted a major economic offense. Ex. 5. The petitioner admitted that each count was a major economic offense in his statement of petitioner on plea of guilty. Ex. 7.

¹ The victim's name in the two cause numbers is spelled slightly different. In 06-1-00648-2 the victim's name is spelled Randal, in 06-1-00241-0 it is spelled Randall. The State does not have any reason to believe the two persons are not the same, and difference resulted from a scrivener's error. At sentencing the victim addressed the court and spelled his name Randal. Ex. 13, p. 6

The petitioner's offender score was recorded as 26 which included 20 prior adult felony convictions.² Ex. 3, 4, 7, 8, 11, 12. At sentencing the prosecutor made the recommendations set out in the plea agreement. Ex. 13, p. 4. The trial judge imposed a standard range sentence on two of the three cause numbers. On cause number 06-1-00241-0 the court imposed an exceptional sentence of 84 months on count I, and a standard range sentence on all other counts. All counts were ordered to run concurrent with each other but consecutive to the sentences in the other two cause numbers. The court found the defendant had admitted the offenses constituted a major economic offense and that due to his high offender score he would not serve any additional time without an exceptional sentence. Ex. 13, p. 15-17.

At a later hearing to clarify the basis for the exceptional sentence the deputy prosecutor took the position that the court could not impose a sentence above the standard range unless the jury found the offense was a major economic offense. The court then clarified that it relied on the second factor; that the defendant had multiple current offenses and due to the defendant's high offender score some of his offenses would go unpunished. Ex. 14.

The defendant appealed his sentence to this Court challenging his exceptional sentence. This Court upheld the trial court's sentence. State v. Newlun, 142 Wn. App. 730, 176 P.3d 529 (2008), review denied, 165 Wn.2d 1007, 198 P.3d 513 (2008). The mandate issued on February 18, 2009. See State v. Newlun, case no. 58762-5-I.

² The score should have been 30. The petitioner had 20 prior felony convictions, plus there were 10 current offenses for each count which should have been counted as one point each.

V. ARGUMENT

A. THE PETITIONER HAS NOT SHOWN THAT HE WAS ACTUALLY PREJUDICED WHEN HE WAS CONVICTED AND SENTENCED FOR OF MULTIPLE COUNTS OF IDENTITY THEFT.

The petitioner first claims his right to be protected from double jeopardy was violated when he was convicted of multiple counts of identity theft involving the same victim, Guy Randal. When a petitioner seeks relief from unlawful restraint based on a claimed constitutional error he bears the burden to show that he was actually prejudiced by that error. In re Rice, 118 Wn.2d 876, 884, 828 P.2d 1086, cert. denied, 506 U.S. 958, 113 S.Ct. 421, 121 L.Ed.2d 344 (1992).

The unit of prosecution for identity theft is each act of knowingly obtaining possessing, using, or transferring a single piece of another's identification or financial information with the requisite unlawful intent. State v. Leyda, 157 Wn.2d 335, 345, 138 P.3d 610 (2006). The Court specifically stated that a person may be charged with multiple counts of identity theft where the charges involve different victims, or different pieces of identification for a single victim. Id. at 346, n. 9.

The petitioner alleges that each identity theft charge in the three Snohomish County cause numbers, and in a fourth King County cause number involved Mr. Randal's identity, and therefore convictions on all four counts violated his double jeopardy rights. The record does not support his claim.

Mr. Randal was not the named victim in cause number 06-1-00223-1. A conviction on that count could therefore not be the same unit of prosecution as those counts involving Mr. Randal.

The Information and probable cause affidavit in cause number 06-1-00648-2 states the defendant presented a check and a driver's license bearing the name Guy Randal. Ex. 9, 10. The Information and probable cause affidavit in cause number 06-1-00241-0 states the petitioner presented Guy Randal's identification, but does not state what kind of identification was presented. Ex. 5, 6. The identification could be something other than a driver's license, such as a Costco card, or other credit card. When a petitioner seeks to establish that he is entitled to relief based on matters outside the record he bears the burden to produce that evidence to support his allegations. Rice, 118 Wn.2d at 886. The petitioner has failed to show that the piece of identification used in each of those cases was the same.

The petitioner fails to show he was actually prejudiced for another reason as well. If the multiple counts of identity theft were a single unit of prosecution all of those counts would result in a single point when calculating his offender score. Here, where the petitioner starts with an offender score of 20 before any of the current offenses are calculated into his score, whether the court added points to his score that it should not have included would be harmless error. State v. Argo, 81 Wn. App. 552, 569, 915 P.2d 1103 (1996).

B. THE PLEA WAS KNOWING, VOLUNTARY, AND INTELLIGENT.

Due process requires that a defendant's guilty plea be knowing, voluntary, and intelligent. State v. Weyrich, 163 Wn.2d 554, 556, 182 P.3d 965 (2008). The petitioner asserts that his plea in case number 06-1-00241-0 was not knowing, voluntary, and intelligent on two bases. First he claims the court changed the maximum penalty for counts VI and VII after he signed the plea agreement. Second, he claims he was

tricked into admitting that each of the counts was a major economic offense which the trial court used to impose the exceptional sentence.

The petitioner makes no more than unsubstantiated assertions that he was tricked into pleading guilty and his plea was not voluntary. Unsupported assertions are insufficient to sustain a petitioner's burden of proof. Rice, 118 Wn.2d at 886. In addition, the record of the petitioner's plea hearing refutes his allegations.

A guilty plea is knowing, voluntary, and intelligent if the defendant understands all the direct sentencing consequences of the plea. State v. Kisse, 88 Wn. App. 817, 821, 947 P.2d 262 (1997). Whether a guilty plea meets this standard is based on a totality of the circumstances. State v. Branch, 129 Wn.2d 635, 642 919 P.2d 1228 (1996).

When a defendant fills out a written statement on plea of guilty in compliance with CrR 4.2(g) and acknowledges that he or she has read it and understands it and that its contents are true, the written statement provides prima facie verification of the plea's voluntariness. When the judge goes on to inquire orally of the defendant and satisfies himself on the record of the existence of the various criteria of voluntariness, the presumption of voluntariness is well nigh irrefutable.

Id. at 642 n. 2 quoting State v. Perez, 33 Wn. App. 258, 261-62, 654 P.2d 708 (1982).

The petitioner signed the statement of defendant on plea of guilty indicating that his plea was freely and voluntarily made. Ex. 7, paragraph 8-10. In his plea colloquy with the court the petitioner stated that he understood what he had been charged with, what the penalties were for the crimes, including counts VI and VII, and that the court did not have to follow the recommendations of the prosecutor or defense counsel. The petitioner affirmatively told the court his plea was voluntary. Counsel for the petitioner

affirmed that his office had prepared the statement of defendant on plea of guilty, and the petitioner understood it. Ex. 15.

Finally, the petitioner has not shown he was prejudiced by his admission that the counts charged in case 06-1-00241-0 constituted major economic offenses. Even though the counts were charged so that the State may have been able to recommend an exceptional sentence had jury found those aggravating factors, or the defendant had pled guilty to them, the State ultimately struck a plea deal in which it would only recommend a standard range sentence. The State honored that agreement when it made the recommendation it promised to make. Ex. 13, page 4; Ex. 14, page 5. The defendant acknowledged that the court was not bound by the agreement when he entered his plea. Ex.7, ¶ 6(g).

The trial court ultimately did not rely on that factor when setting the petitioner's exceptional sentence. At the clarification hearing the court amended its findings to rely solely on the second ground that it originally relied upon; that the defendant committed multiple current offenses, and his high offender score resulted in some of those current offenses going unpunished. Ex. 14, page 5.

C. THE STATE DID NOT UNDERCUT THE PLEA AGREEMENT

A breach of the plea agreement violates the defendant's due process rights. State v. Williams, 103 Wn. App. 231, 235, 11 P.3d 878 (2000), review denied, 143 Wn.2d 1011, 21 P.3d 292 (2001). The petitioner contends he was promised that he would serve no more than 84 months confinement. He further contends that the State breached its agreement because he was not informed that the State would seek an exceptional sentence.

The petitioner's claim that he was promised to serve no more than 84 months confinement is not supported by the record. The petitioner provides no affidavits from his trial counsel, the deputy prosecutor, or any other witness with personal knowledge about what he was promised. The statement of defendant on plea of guilty clearly states that the recommendations were just that, and that the court was not bound by those recommendations. Ex. 7, ¶6(g).

The petitioner admits that the prosecutor repeatedly told the judge that she was making her recommendation consistent with the plea agreement, both at sentencing and at the clarification hearing. He argues that her words were mere "double talk," suggesting that the prosecutor was actually encouraging the court to impose an exceptional sentence. The record undermines this argument. The prosecutor repeatedly told the court she made her recommendation consistent with the plea agreement.

The purpose of the clarification hearing was to inform the court that the prosecutor read the statute to preclude finding substantial and compelling reasons to impose an exceptional sentence on the basis that the offense constituted a major economic offense because that had not been found by a jury. The petitioner was given an opportunity that many defendants are not afforded by this hearing. The court was asked to reconsider whether there were substantial and compelling reasons to impose an exceptional sentence based solely on the second ground relied upon by the trial court at the original sentencing hearing. The petitioner fails to show that he was actually prejudiced by the prosecutor asking the court to clarify its sentence.

V. CONCLUSION

For the forgoing reasons the State requests that the Court dismiss the petition.

Respectfully submitted on September 24, 2009.

A handwritten signature in cursive script that reads "Kathleen Webber". The signature is written in black ink and is positioned above a horizontal line.

KATHLEEN WEBBER 16040
Deputy Prosecuting Attorney
Attorney for Respondent

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PAUL DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11350844

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

No. 06-1-00223-1

v.

INFORMATION

NEWLUN, WAYNE ALLEN

Defendant.

Aliases: August 9 1949, JAMES MICHAEL BRISKI, RICHARD FRANCIS DAVIS, WADE SCOTT HILTS, WAYNE A HILTS, WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN, WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe

Comes now JANICE E. ELLIS, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this, her Information, in the name and by the authority of the State of Washington, charges and accuses the above-named defendant(s) with the following crime(s) committed in the State of Washington:

COUNT I: SECOND DEGREE IDENTITY THEFT, committed as follows: That the defendant, on or about the 21st day of January, 2006, did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Alexander Wazir, with the intent to commit, aid and abet a crime, to-wit: Forgery; proscribed by RCW 9.35.020 (1) and (3), a felony.

COUNT II: FORGERY, committed as follows: That the defendant, on or about the 21st day of January, 2006, with intent to injure and defraud, did falsely make, complete, and alter a written instrument, described as follows: check no. 1062 drawn on the Wells Fargo Bank account of Theresa E. Spencer; proscribed by RCW 9A.60.020(1)(a), a felony.

JANICE E. ELLIS
PROSECUTING ATTORNEY

JOHN J. JUHL, #18951
Deputy Prosecuting Attorney

Information Page 1
St. v. NEWLUN, WAYNE ALLEN
PA#06F00315

Snohomish County Prosecuting Attorney
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Address: 8006 15TH ST BALLARD WA 98115
HT: 6'1 DOB: 12/08/1963 SID: WA12176549
WT: 190 SEX: M FBI: 791412PA5
EYES: Blue RACE: White DOC: 283750
HAIR: Brown DOL: NEWLU-WA-375RH, WA
ORIGINATING AGENCY: SNOHOMISH COUNTY SHERIFFS AGENCY CASE#: 0601914
OFFICE
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PAH L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11350843

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00223-1

AFFIDAVIT OF PROBABLE CAUSE

Aliases: August 9 1949, JAMES MICHAEL BRISKI , RICHARD FRANCIS DAVIS , WADE SCOTT HILTS , WAYNE A HILTS , WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN , WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe»

Other co-defendants in this case:

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that I am a Deputy Prosecuting Attorney for Snohomish County, Washington, and make this affidavit in that capacity; that criminal charges have been filed against the above-named defendant(s) in this cause, and that I believe probable cause exists for the arrest of the defendant(s) on the charges because of the following facts and circumstances:

According to reports and witness statements submitted by the Snohomish County Sheriff's Department the following criminal activity took place in Snohomish County, Washington: On or about January 21, 2006, WAYNE ALLEN NEWLUN did possess, utter, offer, dispose of, and put off as true check #1062 drawn on Theresa E. Spencer's account at Wells Fargo Bank, knowing the same to be forged and with intent to injure and defraud; and on or about January 21, 2006, WAYNE ALLEN NEWLUN did knowingly use a forged identification card of Alexander Scott Wazir with intent to commit a crime of forgery. Affiant has no knowledge of these events independent of the reports and statements submitted, except as noted.

According to reports on January 21, 2006, at approximately 10:51 p.m., Deputy Serrao was dispatched to the Safeway Store located at 14826 Highway 99, Lynnwood, WA, on a reported forgery in progress. John Kalina stated that he was working the cash register when a man came through the line wanting to purchase \$140 worth of groceries, including a \$100 gift card. When Kalina informed the man that he could not accept a check for the gift card, the man removed the gift card and wrote a check for

Affidavit of Probable Cause Page 1
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Snohomish County Prosecuting Attorney
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\$38.51 and presented ID bearing the name of Alexander Scott Wazir. The register did not accept the check and the supervisor, Lisa Eagle was called to the checkout. Eagle examined the check and ID, determined that they appeared forged and called 911. Deputy Zelaya questioned the man about his identity and positively identified him as WAYNE ALLEN NEWLUN. Deputy Serrao confirmed the suspect's identity using a previous booking photo.

NEWLUN was taken into custody and searched incident to arrest. NEWLUN was found to be in possession of several credit cards belonging to Pamela A. Taylor-Clark and two checkbooks listing the account holders as Alex Wazir and Theresa Spencer. Deputy Serrao was able to determine that Alexander Wazir was a real person. NEWLUN was advised of his constitutional rights and stated that he understood his rights and agreed to speak with Deputy Serrao. NEWLUN stated that he purchased the fraudulent ID, credit cards and checkbooks for \$400 from an acquaintance named "Scott." NEWLUN said that he bought the ID because he has warrants and did not want to get arrested on the warrants. NEWLUN said that he bought the credit cards and checkbooks to get food and other necessities. NEWLUN stated that "Scott" photographed him and manufactured the ID with the name Alexander Scott Wazir to match one of the checkbooks. NEWLUN admitted that he completed and signed check number 1082 drawn on Theresa Spencer's Wells Fargo account.

The Prosecutor's understanding of the defendant's criminal history shows convictions for:

2 nd Deg. Burglary (B)	10/26/82	felony	King County
2 nd Deg. Theft (C)	10/28/82	felony	King County
2 nd Deg. Burglary (B)	11/1/84	felony	King County
Violation of Work Release (C)	5/27/87	felony	King County
2 nd Deg. Theft (C)	5/27/87	felony	King County
1 st Deg. Theft (B)	5/27/87	felony	King County
UIBC (C)	5/27/87	felony	King County
2 nd Deg. Poss. Stolen Prop. (C)	9/11/89	felony	King County
NSF Check (C)	3/30/92	felony	Ada County, ID
1 st Deg. Theft (B)	6/1/92	felony	Mason County
UIBC (C)	6/1/92	felony	Mason County
VUCSA - Possession (C)	5/17/96	felony	King County
UIBC (C)	5/17/96	felony	King County
Forgery (2 Counts) (C)	5/17/96	felony	King County
Attempted First Degree Theft (C)	5/17/96	felony	King County
Forgery (C)	9/22/00	felony	King County
1 st Deg. Theft (B)	9/22/00	felony	King County
2 nd Deg. Poss. Stolen Property	9/22/00	felony	King County
Residential Burglary (B)	12/7/00	felony	Snohomish County
2 nd Deg. Burglary (B)	9/4/81	juv. Felony	Pacific County

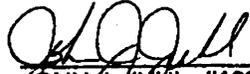
Seven misdemeanor convictions between 1989 and 1998.

Pre-Trial Services has not interviewed the defendant.

At the time of his arrest the defendant stated that he had purchased the forged ID to avoid being arrested on the outstanding warrants for his arrest.

For these reasons, the State respectfully requests that bail be maintained at \$10,000.

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



JOHN J. JUHL, #18951
Deputy Prosecuting Attorney

DATED this 24 day of January, 2006 at the Snohomish County Prosecutor's Office.

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PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11689836

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00223-1

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY

1. My true name is WAYNE ALLEN NEWLUN.

2. My age is 42.

3. I went through the 12 grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is MAX P. HARRISON.

(b) I am charged with the crimes of Count I: Second Degree Identity Theft, Count II: Forgery, RCW 9.35.020(1) and (3), 9A.60.020(1)(a).

The elements of the crimes are:

COUNT I: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 21st day of January, 2008, 3) did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Alexander Wazir, 4) with the intent to commit, aid and abet a crime, to-wit: Forgery.

COUNT II: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 21st day of January, 2008, 3) with intent to injure and defraud, 4) did falsely make, complete, and alter a written instrument, described as follows: check no. 1062 drawn on the Wells Fargo Bank account of Theresa E. Spencer.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.

(b) The right to remain silent before and during trial, and I need not testify against myself.

(c) The right at trial to hear and question witnesses who testify against me.

Statement of Defendant on Plea of Guilty Page 1 of 7
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PA#06F00315 6/26/2008

Snohomish County Prosecuting Attorney
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EXHIBIT 3

- (d) The right at trial to testify on my own behalf and to have other witnesses testify for me. These witnesses can be made to appear at no expense to me.
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
- (f) The right to appeal a determination of guilty after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancement)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancement)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crime committed prior to July 1, 2000, see paragraph 8(m).	MAXIMUM TERM AND FINE
1	43-57 months		43-57 months		5 years/\$10,000
2	22-28 months		22-28 months		5 years/\$10,000

* (F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, See RCW 48.61.520 (JP) Juvenile Present.

(b) The standard sentence range(s) shown above is/are based on the prosecuting attorney's understanding of my criminal history. Criminal history includes prior adult and juvenile convictions, whether in this state, in federal court, or elsewhere. Even so, my plea of guilty to the crime(s) is binding on me. I cannot change my mind if additional history is discovered even though the maximum sentence, the standard sentence range, and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without possibility of parole is required by law.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) I understand that the prosecutor's understanding of my criminal history is tentative in nature, and that it will be the Judge who ultimately determines my correct score. If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, or if it is determined that the prosecutor's scoring is incorrect, both the standard sentence and the prosecuting attorney's recommendations may increase.

(e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, and costs of incarceration. The judge may place me on community supervision, community placement, or community custody, impose restrictions on my activities, and order me to perform community restitution.

(f) The prosecuting attorney will make the recommendation to the judge as stated on the attached plea agreement form.

(g) Persons other than the prosecutor may make sentence recommendations which could differ from the prosecutor's recommendation. The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

NOTIFICATIONS RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

(h) ~~Three Strikes Law. The crime of _____ is a "most serious offense" as defined by RCW 9.94A.030(25). If I am a "persistent offender," as defined by RCW 9.94A.030(20), the court must sentence me to life imprisonment without possibility of parole, or early release, regardless of the maximum penalty stated above. I am a "persistent offender" if (a) before I committed this crime, I had two convictions for "most serious offenses," either in this state, federal court, a court martial or elsewhere and (b) one of my prior convictions for a "most serious offense" occurred before I committed the other "most serious offense."~~

~~(i) Two Strikes Law. If a current offense is (A) rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, with a finding of sexual motivation; (C) an attempt to commit any of the aforementioned crimes and I have at least one prior conviction for one of the aforementioned crimes in this state, in federal court, in a court martial, or elsewhere, the current crime I am charged with carries a mandatory sentence of life imprisonment without possibility of parole or early release, regardless of any other stated maximum penalty. The prior conviction must have occurred before commission of the current offense.~~

~~(j) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without possibility of parole (the "Three Strikes" or "Two Strikes" Law) as described in paragraph 6(h) or 6(i) above. The law does not allow any reduction of this sentence.~~

~~(k) The crime(s) of _____ has a (special firearm allegation) (deadly weapon enhancement) which carries an additional penalty of _____ years of total confinement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements. The law does not allow any reduction of this sentence.~~

~~(l) The crime of _____ carries a mandatory minimum fine of \$ _____.~~

~~(m) Counts _____ and _____ are two or more serious violent offenses arising from separate and distinct criminal conduct, and the sentences for these counts will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~

~~(n) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is less than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. If this crime is a sex offense, the court will order me to serve at least three years of community custody. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h).~~

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is less than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months or up to the period of earned release, whichever is longer
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer
Crimes Against Persons as defined by RCW 9.94A.440(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(8))	9 to 12 months or up to the period of earned release, whichever is longer

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

~~(e) The judge may sentence me as a First-Time Offender instead of imposing a sentence within the standard range if I qualify under RCW 9.94A.030(23). This sentence could include as much as 90 days confinement, and (if the crime was committed prior to July 1, 2000), up to two years community supervision, or (if the crime was committed on or after July 1, 2000) up to two years of community custody, plus all of the conditions described in paragraph 6(e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a described course of study or occupational training.~~

~~(p) If this crime involved a motor vehicle or was a felony in the commission of which a motor vehicle was used, my driver's license of privilege to drive will be revoked. If I have a driver's license, I must now surrender it to the judge.~~

~~(q) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.~~

~~(r) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.~~

~~(s) I will be required to provide a biological sample for purposes of DNA identification analysis. Unless expressly waived by the Court, I will be required to pay a biological testing fee in the amount of \$100.~~

~~(t) Because this crime involves a sex offense as defined by RCW 9A.44.130(9)(a), or a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Sex Offender Registration Requirement" attachment.~~

~~(t-1) — If I qualify under RCW 9.94A.120(8), the judge may suspend execution of the standard range term of the confinement under the Special Sex Offender Sentencing Alternative (SSOSA). The judge may impose up to six months total confinement. If the judge suspends execution of the standard range of confinement, I will be placed on community custody for the length of the suspended sentence or three years, which ever is greater. I will be ordered to participate in sex offender treatment, and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of sentence occurs during community custody, or the judge finds that I fail to make satisfactory progress in treatment, the judge may revoke the suspended sentence.~~

(u)(i) If the crime charged herein is a felony or one of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment in the second degree, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040), or

(ii) If I have previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless my right to possess a firearm has been restored as provided in RCW 9.41.047,

(iii) or if I am under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) If I am free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010, I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard or comparable identification to the department of licensing along with the date of conviction).

(v) Applicable to all felonies: I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record, and I must immediately surrender any concealed pistol license. RCW 9.41.040, 9.41.047. All offenders sentenced to terms involving community custody, community supervision, community placement, or community restitution may not own, use, or possess firearms or ammunition. RCW 9.94A.120(16).

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.

~~(w) — If the court finds that a chemical dependency has contributed to my offense, the court may, as a condition of the sentence and subject to available resources, order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I have been convicted and reasonably necessary or beneficial to me and the community in rehabilitating me. If this crime is a violation of the uniform controlled substances act under chapter 69.50 RCW the court, unless specifically waived, shall order the Department of Corrections to complete a chemical dependency screening report before imposing sentence.~~

~~(w-1) — If I qualify under RCW 9.94A.120(6), the judge may sentence me under the Special Drug Offender Sentencing Alternative (DOSA). This sentence includes total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions of paragraph 6(e). During confinement I would be required to undergo a comprehensive substance abuse assessment and to participate in treatment. Community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status will also be imposed. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars a month to offset the cost of monitoring and require other conditions, including affirmative conditions. If the Department of Corrections finds that I violated a condition of sentence, or I fail to complete the DOSA program, or I am administratively terminated from the program, the Department of Corrections will reclassify me to serve the balance of the original sentence of total confinement within the standard range.~~

~~(w-2) — A conviction for a violation of the state drug laws will affect eligibility for various federal benefits and programs and state programs funded by the federal government including, but not limited to, food stamps, welfare, and education.~~

(x) If this crime is a felony sexual offense or if the court determines that I may be a mentally ill person as defined in RCW 71.24.025, even if I have not established that at the time of the crime I lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the Department of Corrections to complete a presentence report before imposing sentence.

~~(y) If this is a crime of domestic violence and if I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program.~~

~~(z) If this crime involves the manufacture, delivery, or possession with intent to deliver methamphetamine or amphetamine, a mandatory methamphetamine clean-up fine of \$3,000 will be assessed. RCW 69.50.401(a)(ii).~~

~~(z-1) The special allegation that there was a person under age 18 on the premises when the defendant committed (a) manufacture of methamphetamine or (b) possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine, carries a mandatory sentence enhancement of twenty-four months total confinement.~~

~~(aa) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).~~

~~(bb) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9A.10.040 for unlawful possession of a firearm in the first or second degree and one or more convictions of the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will be imposed for each firearm unlawfully possessed.~~

~~(cc) No payment of public assistance will be made to a convict during the period of confinement/incarceration. RCW 74.08.290.~~

7. I plead guilty to the crimes of Count 1 Second Degree Identity Theft, Count 2 Forgery, as charged in the Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

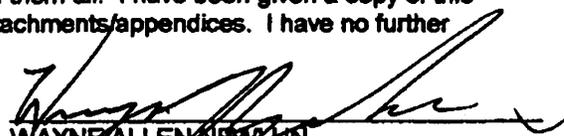
COUNT I ON 1-21-06, I KNOWINGLY POSSESS A MEANS OF IDENTIFICATION AND FINANCIAL INFORMATION OF ALEXANDRA WAZIR WITH THE INTENT TO COMMIT OR AID THE CRIME OF FORGERY.

COUNT II ON 1-21-06, WITH THE INTENT TO HARM AND DEBAUCH I FALSELY MADE OR ALTERED A WRITTEN INSTRUMENT, CHECK NR 1062 DRAWN ON THE WELLS FARGO BANK ACCOUNT OF THARSA E. SPENCER.

THESE ACTS OCCURRED IN SNOHOMISH COUNTY, WASHINGTON.

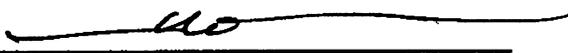
12. I am aware that an Affidavit of Probable Cause has been filed in this case. The court may consider this Affidavit in deciding whether there is a factual basis for my plea

13. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the attachments/appendices to this document. I understand them all. I have been given a copy of this 'Statement of Defendant on Plea of Guilty', including attachments/appendices. I have no further questions to ask the judge.


WAYNE ALLEN NEWLUN
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


COURTNEY A. POPP, #35470
DEPUTY PROSECUTING ATTORNEY

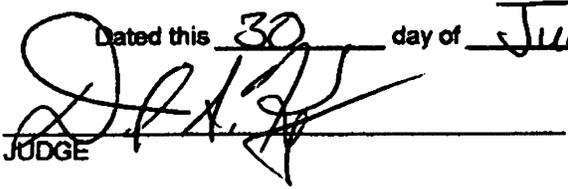

MAX P. HARRISON, #12243
DEFENDANT'S LAWYER

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check appropriate box):

- (a) The defendant had previously read the entire statement above (including attachments/appendices) and that the defendant understood it in full.
[] (b) The defendant's lawyer had previously read to him or her the entire document above (including attachments/appendices) and that the defendant understood it in full; or
[] (c) An interpreter had previously read to the defendant the entire statement above (including attachments/appendices) and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 30 day of June, 2006.


JUDGE

INTERPRETER'S STATEMENT

I am a certified interpreter or I am fluent in the _____ language and have been found qualified by the court to interpret in the aforementioned language which the defendant understands. I have translated this entire document, including attachments/appendices, for the defendant from English into the aforementioned language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document, including attachments/appendices.

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

Dated: _____

Located: _____

Interpreter

PLEA AGREEMENT
(SENTENCING REFORM ACT)

Defendant: WAYNE ALLEN NEWLUN
ON PLEA TO: AS CHARGED -

CAUSE NO.: 06-1-00223-1

Special Finding/Verdict of possession of deadly weapon on Count(s) _____
(RCW 9.94A.125).

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1. DISMISS: Upon disposition of Count(s) _____, the State moves to dismiss Count(s)

2A. REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:

- as set forth in the affidavit(s) of probable cause filed herein
- as set forth in attached Appendix C.

2B. SENTENCING FACTS: Facts to be considered for imposing a standard range sentence are as set forth in the affidavits(s) of probable cause filed herein.

3. RESTITUTION: Pursuant to statute, the defendant agrees to pay restitution as follows:
 in full to victim(s) on charged counts
 as set forth in attached Appendix C.

4. OTHER: _____

The defendant agrees that a chemical dependency contributed to the commission of this offense and further agrees to cooperate in the preparation of a chemical dependency screening report and allow the results of that report to be submitted to the court and the Prosecuting Attorney prior to sentencing.

The defendant agrees to undergo an evaluation by Treatment Alternatives to Street Crime and allow the results of that evaluation to be submitted to the court and the Prosecuting Attorney, prior to sentencing.

5. SENTENCE RECOMMENDATION: *agreed*
 The defendant agrees to the foregoing Plea Agreement and that the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix A), and the attached Sentencing Guidelines scoring form(s) (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). Any challenge by the defendant to the criminal history or scoring will constitute a breach of this agreement. The State makes the sentencing recommendation set forth in State's Sentence Recommendation. The sentencing recommendation may increase in severity if any additional convictions are discovered.

The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regard to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Mandatory Minimum Term (RCW 9.94A.120(4) only): _____

Mandatory license revocation RCW 46.20.285.

Ten years jurisdiction and supervision for monetary payments.
RCW 9.94A.120(9).

6. **AGREEMENT NOT TO CHALLENGE CONVICTION:** The defendant agrees not to challenge the conviction for this crime, whether by moving to withdraw the plea, appealing the conviction, filing a personal restraint petition, or in any other way. If an exceptional sentence is imposed, the defendant may appeal the sentence without violating this agreement.

7. **NON-COMPLIANCE WITH AGREEMENT:** If the defendant fails to appear for sentencing, or if prior to sentencing the defendant commits any new offense or violates any condition of release, the State may recommend a more severe sentence.

If the defendant violates any other provision of this agreement, the State may either recommend a more severe sentence, file additional or greater charges, or re-file charges that were dismissed. The defendant waives any objection to the filing of additional or greater charges based on pre-charging or pre-trial delay, statutes of limitations, mandatory joinder requirements, or double jeopardy.

In any event, the defendant will remain bound by the agreement and will not be allowed to withdraw the plea. If the defendant's violation of the agreement constitutes a crime, the defendant may be charged with that crime.

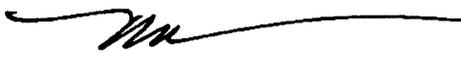
8. **AGREEMENT NOT TO FILE ADDITIONAL CHARGES**

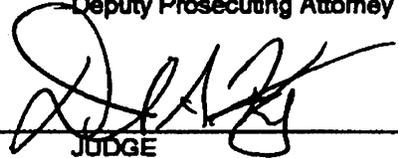
This agreement is limited to cause numbers or crimes specifically referred to in this plea agreement and identified by crime, victim, and police incident number immediately following this paragraph and does not apply to any other matters which may be under investigation, pending, or being handled by any other DPA or agency.

n/a


WAYNE ALLEN NEWLUN
Defendant


COURTNEY A. POPP, #35470
Deputy Prosecuting Attorney


MAX P. HARRISON, #12243
Attorney for Defendant


JUDGE

STATE'S SENTENCE RECOMMENDATION (CONFINEMENT OF OVER ONE YEAR)
(SENTENCING REFORM ACT)

DATE: June 26, 2006

DEFENDANT: WAYNE ALLEN NEWLUN

CAUSE NO.: 06-1-00223-1

State recommends that the sentence of this defendant be as follows:

TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement in the custody of the Department of Corrections as follows:

Count I 57 months/years Count IV _____ months/years
Count II 29 months/years Count V _____ months/years
Count III _____ months/years Count VI _____ months/years
Terms on each count to run concurrently consecutively.

MONETARY PAYMENTS: The defendant shall make the following monetary payments under the supervision of the Secretary of the Department within 10 years: *+ comment to 06-1-00241-0 + 06-1-00048-2*

- Restitution as set forth on attached page entitled "Plea Agreement" and Appendix C.
- Mandatory Victim Penalty Assessment
\$100.00 prior to June 6, 1996; \$500.00 on or after June 6, 1996.
- Pay a fine of \$ _____.
- Pay probationer assessment pursuant to RCW 9.94A.270.
- Pay costs of extradition.
- Pay court costs and costs of appointed counsel.
- Pay mandatory \$100 state crime lab fee.
- Pay \$100 DNA fee.

COMMUNITY PLACEMENT: The defendant shall serve a _____-year term of community placement subject to the conditions set forth in RCW 9.94A.120(8)(b) and the following conditions. The defendant shall:

- Have no direct contact with _____.
- Not consume alcohol.
- Participate in crime-related treatment and counseling.
- Shall remain (within)(outside of) the following geographical area:

COMMUNITY CUSTODY: Defendant shall be on Community Custody for the length of _____ Community custody shall commence immediately but is tolled during any term of confinement. Defendant shall report no later than the next business day after sentencing, or if in custody, the next business day after release from confinement to the State Department of Corrections and shall comply with all rules, regulations and requirements of that department.

- Participate fully and successfully complete community-based sexual deviancy treatment program, including all conditions imposed by the therapist.
- No contact with victim(s) _____.
- No contact with minor children unless supervised by an adult previously approved by the therapist and community corrections officer.
- OTHER (crime related prohibitions, treatment, etc.): _____

Shall comply with the following crime-related prohibitions: _____

CHEMICAL DEPENDENCY SCREENING REPORT: If there is a finding a chemical dependency has contributed to the defendant's offense, the state will recommend a chemical dependency screening report be prepared and reserves the right to recommend any affirmative conduct allowed by law.

PROBATION REVOCATION/MODIFICATION: State recommends revocation/modification of probation or community supervision on Snohomish County Cause Number(s) _____ and recommends that terms be run concurrently/consecutively.

EXCEPTIONAL SENTENCE: This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

OTHER:



COURTNEY A. POPP, #35470
Deputy Prosecuting Attorney

6/26/06 (dhw)
~~1/25/06 (sp)~~
 NEWLUN, Wayne Allen

IDENTITY THEFT, SECOND DEGREE

(RCW 9.35.020(2)(b))

CLASS C FELONY

NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-14)

I. OFFENDER SCORING (RCW 9.94A.525(7))

ADULT HISTORY:

Enter number of felony convictions 20 x 1 = 20

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 0 x 1 = 0

Enter number of nonviolent felony dispositions 1 x 1/2 = 1/2

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 6 x 1 = 6

STATUS: Was the offender on community custody on the date the current offense was committed? (if yes), + 1 = 0

Total the last column to get the **Offender Score**
 (Round down to the nearest whole number)

26

II. SENTENCE RANGE

A. OFFENDER SCORE:	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE (LEVEL II)	0 - 90 days	2 - 6 months	3 - 9 months	4 - 12 months	12+ - 14 months	14 - 18 months	17 - 22 months	22 - 29 months	33 - 43 months	43 - 57 months

- B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-6 or III-7 to calculate the enhanced sentence.
- C. If a sentence is one year or less: community custody may be ordered for up to one year (See RCW 9.94A.545 for applicable situations).

III. SENTENCING OPTIONS

- A. If "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.
- B. If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).
- C. Partial confinement may be served in home detention (RCW 9.94A.030).
- D. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.690).
- E. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-B (RCW 9.94A.660).
 - The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules

6/26/06 (dbw)
~~1/25/06 (gp)~~
 NEWLUN, Wayne Allen

FORGERY
 (RCW 9A.60.020(3))
CLASS C FELONY
NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-14)

I. OFFENDER SCORING (RCW 9.94A.525(7))

ADULT HISTORY:

Enter number of felony convictions..... 20 x 1 = 20

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions..... 0 x 1 = 0

Enter number of nonviolent felony dispositions 1 x 1/2 = 1/2

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 6 x 1 = 6

STATUS: Was the offender on community custody on the date the current offense was committed? (if yes), + 1 = 0

Total the last column to get the **Offender Score**
 (Round down to the nearest whole number):

26

II. SENTENCE RANGE

A. OFFENDER SCORE:

	0	1	2	3	4	5	6	7	8	9 or more
STANDARD RANGE (LEVEL I)	0 - 60 days	0 - 90 days	2 - 5 months	2 - 6 months	3 - 8 months	4 - 12 months	12+ - 14 months	14 - 18 months	17 - 22 months	22 - 29 months

B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-6 or III-7 to calculate the enhanced sentence.

C. If a sentence is one year or less: community custody may be ordered for up to one year (See RCW 9.94A.545 for applicable situations).

III. SENTENCING OPTIONS

A. If "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.

B. If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).

C. Partial confinement may be served in home detention (RCW 9.94A.030).

D. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.690).

E. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-8 (RCW 9.94A.660).

- The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules

**APPENDIX A TO PLEA AGREEMENT
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)**

DATE: June 26, 2006 (gp/dhw)
 DEFENDANT: **NEWLUN, Wayne Allen**
 Aka HILTS, Wade Scott
 DOB: 12/8/63 W/M
 SID: WA12176549 FBI: 791412PA5 DOC: 283750

<u>CRIME</u>	<u>DATE OF CONVICTION</u>	<u>PLACE OF CONVICTION</u>	<u>Incarceration/Probation DISPOSITION</u>
ADULT FELONIES:			
* Second Degree Burglary (B)	10/26/82	King County 82-1-00696-0	10 Yrs. Suspended 7 Mos. Confinement 3 Yrs. Probation
* Second Degree Theft (C)	10/26/82	King County 82-1-02454-2	5 Yrs. Suspended 6 Mos. Confinement 3 Yrs. Probation
*Court ordered sentences to be served consecutively			
Second Degree Burglary (B)	11/1/84	King County 83-1-01970-9	10 Yrs.
Violation of Work Release (C)	5/27/87	King County 86-1-00740-3	3 Mos. Confinement
Second Degree Theft (C)	5/27/87	King County 86-1-01660-7	13 Mos. Confinement
First Degree Theft (B)	5/27/87	King County 86-1-03880-5	22 Mos. Confinement
Unlawful Issuance of Bank Check (C)	5/27/87	King County 86-1-04641-7	13 Mos. Confinement
Second Degree Possession of Stolen Property (C)	9/11/89	King County 89-1-03672-6	4 Mos. Confinement
NSF Check (C)	3/30/92	Ada County, ID	1 Yr. Jail 3 Yrs. Probation Restitution \$2,018 Extradited to Washington
First Degree Theft (B)	6/1/92	Mason County 88-1-00139-1	29 Mos. Confinement
Unlawful Issuance of Bank Check (C)	6/1/92	Mason County 88-1-00139-1	18 Mos. Confinement
VUCSA – Possession (C)	5/17/96	King County 95-1-00197-8	29 Mos. Confinement

Appendix A to Plea Agreement - Page 2

NEWLUN, Wayne Allen

ADULT FELONIES: (continued)

Unlawful Issuance of Bank Check (C)	5/17/96	King County 95-1-07009-1	29 Mos. Confinement
Forgery (C) (2 Counts)	5/17/96	King County 95-1-07641-2	29 Mos. Confinement
Attempted First Degree Theft (C)	5/17/96	King County 95-1-08362-1	36 Mos. Confinement
Forgery (C)	9/22/00	King County 99-1-07978-3	29 Mos. Confinement
First Degree Theft (B)	9/22/00	King County 00-1-00355-9	50 Mos. Confinement
Second Degree Possession of Stolen Property (C)	9/22/00	King County 00-1-00355-9	29 Mos. Confinement
Residential Burglary (B)	12/7/00	Snohomish County 00-1-01721-3	84 Mos. Confinement 6/21/05 Released

ADULT MISDEMEANORS:

1. Third Degree Theft	2/8/89	King County	
2. Bad Check	1/24/94	Utah	
3. Refuse to Give Info/Cooperate	11/30/95	King County	
4. Driving While Suspend/Revoked	11/30/95	King County	
5. Public Indecency	1/10/96	King County	
6. Attempted Forgery	11/26/97	King County	Suspended
7. Deposition of Refuse on Public Prop.	8/1/98	King County	

JUVENILE FELONIES:

Second Degree Burglary (B)	9/4/81	Pacific County	Community Supervision
----------------------------	--------	----------------	-----------------------

JUVENILE MISDEMEANORS

None.

OTHER: (NOT COUNTED AS CRIMINAL HISTORY)

DATE

6/26/2006

CP #35470
Deputy Prosecuting Attorney/WSBA #

APPENDIX C TO PLEA AGREEMENT
SENTENCING MEMORANDUM (REAL FACTS/RESTITUTION)
(SENTENCING REFORM ACT)

Date: 6/26/06
Defendant: WAYNE ALLEN NEWLUN

Cause No.: 06-1-00223-1

A. [] REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:

B. [x] SENTENCING FACTS: Facts to be considered for imposing a standard range sentence are as set forth in the affidavit(s) of probable cause filed herein:

C. [x] RESTITUTION-CHARGED COUNTS (Indicate count, police department, police number and victim's name) is as follows:

CF1 - SCSD, #06-01914, Alex Wazir
CF2 - SCSD, #06-01914, Theresa E. Spence

D. [] RESTITUTION-UNCHARGED CRIMES, RCW 9.94A.140(2) (indicated police department, police number and victim's name) is as follows:

As conditions of any plea agreement, the defendant must agree to allow the court to consider the above-stated REAL FACTS at sentencing and/or agree to make the above-stated RESTITUTION on uncharged crimes.

Courtney A. Poppe
COURTNEY A. POPP, #35470

FILED
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PAH L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

CERTIFIED
COPY



INELIGIBLE TO CARRY FIREARMS

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

06-1-00223-1

Plaintiff,

JUDGMENT AND SENTENCE

v.

- Prison
- Jail One Year or Less
- First Time Offender
- Special Drug Offender Sentencing Alternative
- Clerk's Action Required, restraining order entered para. 4.3
- Clerk's action required firearms rights revoked, para. 4.3 and 5.6
- Clerk's action required, para 5.4, 5.3 Restitution Hearing set, Notice of Withholding

NEWLUN, WAYNE ALLEN

Defendant.

SID: WA12176549
If no SID, use DOB: 12/08/1963

see Jail (sh)
- stmt

I. HEARING

1.1 A sentencing hearing was held and 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, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on June 30, 2006 by plea of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	Second Degree Identity Theft	9.35.020(1) and (3)	SSO, 0601914	01/21/06
II	Forgery	9A.60.020(1)(a)		01/21/06

as charged in the Information.

[] Additional current offenses are attached in Appendix 2.1.

ORIGINAL

AB
34

EXHIBIT 4

- A special verdict/finding for use of a **deadly weapon** which was a **firearm** was returned on Count(s) _____ RCW 9.94A.602, 9.41.010, 9.94A.533
- A special verdict/finding for use of **deadly weapon** which was not a **firearm** was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9.94A.835.
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter.; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030(45)
- This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- The court finds that the offender has a **chemical dependency** which contributed to the offense and imposes as a condition of sentence that defendant shall participate in the rehabilitative program/affirmative conduct:

RCW 9.94A.607.
- The crime charged in Count(s) _____ involve(s) **domestic violence**.
- The offense in Count(s) _____ was committed in a **county jail or state correctional facility**. RCW 9.94A.533(5)
- The court finds that in Count _____ a **motor vehicle** was used in the commission of this **felony**. The Department of Licensing shall revoke the defendant's driver's license. RCW 46.20.285.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 06-1-00241-0 Count I: First Degree Identity Theft, Count II: Forgery, Count III: Forgery, Count IV: Forgery, Count V: Forgery, Count VI: Unlawful Possession of Personal Identification Device, Count VII: Unlawful Possession of Personal Identification Device. 06-1-00648-2 Count I: Second Degree Identity Theft, Count II: Forgery.

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A. 525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1 *Second Degree Burglary	10/26/82	King County, WA		A	B
2 *Second Degree Theft	10/26/82	King County, WA		A	C
3 Second Degree Burglary	11/01/84	King County, WA		A	B
4 Violation of Work Release	05/27/87	King County, WA		A	C
5 Second Degree Theft	05/27/87	King County, WA		A	C
6 First Degree Theft	05/27/87	King County, WA		A	B
7 Unlawful Issuance of Bank Check	05/27/87	King County, WA		A	C
8 Second Degree Possession of Stolen Property	09/11/89	King County, WA		A	C
9 NSF Check	03/30/92	Ada County, ID		A	C
10 First Degree Theft	06/01/92	Mason County, WA		A	B
11 Unlawful Issuance of Bank Check	06/01/92	Mason County, WA		A	C
12 VUCSA—Possession	05/17/96	King County, WA		A	C
13 Unlawful Issuance of Bank Check	05/17/96	King County, WA		A	C
14 Forgery (2 counts)	05/17/96	King County, WA		A	C
15 Attempted First Degree Theft	05/17/96	King County, WA		A	C
16 Forgery	09/22/00	King County, WA		A	C
17 First Degree Theft	09/22/00	King County, WA		A	B
18 Second Degree Possession of Stolen Property	09/22/00	King County, WA		A	C
19 Residential Burglary	12/07/00	Snohomish County, WA		A	B

*Court ordered sentences to be served consecutively

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement or community custody (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525): (Input)
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520 (Input)

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS. LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	26	II	43-57 months		43-57 months	5 years/\$10,000
II	26	I	22-29 months		22-29 months	5 years/\$10,000

*Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile Present

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

2.4 **EXCEPTIONAL SENTENCE [For Determinate Sentence].** Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s)

The defendant and state stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentence 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. The jury's interrogatory is attached. The prosecuting attorney did did not recommend a similar sentence.

EXCEPTIONAL MINIMUM TERM [For Maximum and Minimum Term Sentence] Substantial and compelling reasons exist which justify an exceptional minimum term above within below the standard range for Count(s) _____. RCW 9.94A.712(3), 9.94A.535. Findings of fact and conclusions of law are attached in Appendix 2.4. 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, 10.01.160(3)

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

2.6 The prosecutor's recommendation was 57 months/days on Count 1, 29 months/days on Count 2, ~~—~~ The prosecutor recommended counts 1+2 run concurrently ~~consecutively~~.

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 _____
- 3.3 The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RMA	<u>\$15/\$25/\$50</u>	Restitution Monitoring Fee The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations.	SCC 4.94.010 RCW 9.94A.760
PCV	<u>\$500</u>	Victim assessment	RCW 7.68.035
CRC	<u>\$ waived</u>	Court costs, including Criminal filing fee \$ _____ FRC Witness costs \$ _____ WFR Sheriff service fees \$ _____ SFR/SFS/SFW/SRF Jury demand fee \$ _____ JFR Other \$ _____	RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190
PUB	<u>\$835 waived</u>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A..760
FCM	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/LDV	\$ _____	Drug enforcement fund of _____	RCW 9.94A.760
FCD/NTF/SAD/SDI	\$ _____	Crime lab fee <input type="checkbox"/> deferred due to indigency	RCW 43.43.690
CLF	\$ _____	Extradition costs	RCW 9.94A.505
EXT	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	<u>\$100 waived</u>	Biological Sample Fee (for offenses committed after 7-1-2002)	RCW 43.43.7541
	\$ _____	Domestic Violence Penalty (for offenses committed after 6-4-2004 - maximum \$100)	RCW 10.99.080
	\$ _____	Other costs for: _____	
	\$ _____	TOTAL	RCW 9.94A.760

- The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.
- RESTITUTION. Schedule attached, Appendix 4.1.
- Restitution ordered above shall be paid jointly and severally with:

<u>NAME of other defendant</u>	<u>CAUSE NUMBER</u>	<u>(Victim name)</u>	<u>(Amount-\$)</u>
--------------------------------	---------------------	----------------------	--------------------

RJN _____

- The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, 9.94A.760(9)

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than

\$ 50 per month commencing upon release
RCW 9.94A.760

All payments shall be made within 120 months of release of confinement;
[] entry of judgment; [] Other _____

[] In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$50.00 per day unless another rate is specified here _____ RCW 9.94A.760(2)

[X] The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

[X] The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.2 [] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 206, Everett, WA 98201 within one (1) hour of this order to arrange for the test. RCW 70.24.340

[] DNA TESTING. The defendant shall have a [] blood sample (offenses committed pre 7-1-2002 [] Biological sample (offenses committed 7-1-2002 and after) drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

4.3 The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence). EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.

[] (Check for any domestic violence crime as defined by RCW 10.99.020(3)): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST. ANY ASSAULT, DRIVE-BY SHOOTING, OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.050.

[] (Check for any harassment crime as defined by RCW 9A.46.060): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 9A.46 AND WILL SUBJECT A VIOLATOR TO ARREST. RCW 9A.46.080.

[] (For Domestic Violence orders only:) The clerk of the court shall forward a copy of this order on or before the next judicial day to the _____ County Sheriff's Office or _____ Police Department (where the protected person above-named lives), which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

4.4 OTHER: _____

4.5 CONFINEMENT OVER ONE YEAR.

CONFINEMENT [Determinate Sentences]. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

57 months on Count 1 _____ months on Count _____
29 months on Count 2 _____ months on Count _____

CONFINEMENT [Maximum Term And Minimum Term]. Defendant is sentenced to total confinement as follows. The maximum and minimum terms of confinement shall be served in a facility or institution operated, or utilized under contract, by the State of Washington. RCW 9.94A.712

Count _____: maximum term of _____ years AND minimum term of _____ months

Count _____: maximum term of _____ years AND minimum term of _____ months

FURTHER PROVISIONS APPLICABLE TO ALL SENTENCES:

The minimum term of actual total confinement ordered on all counts cumulatively is fifty-seven months
(Add mandatory firearm and deadly weapon enhancement time to run consecutively to other counts. See Sec. 2.3, Sentence Data above.)

The maximum term of total confinement ordered on all counts cumulatively is (of all 3 cause numbers) one hundred forty-one months

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon, or sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) 06-1-00241-0
but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589

Confinement shall commence immediately unless otherwise set forth here: _____

The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

4.6

COMMUNITY PLACEMENT [For Determinate Sentences] is ordered as follows: Count _____ for _____ months; Count _____ for _____ months; Count _____ for _____ months.

COMMUNITY CUSTODY RANGE [For Determinate Sentences] is ordered as follows: Count _____ for a range from _____ to _____ months; Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses – serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense – RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

COMMUNITY CUSTODY [For Maximum And Minimum Term Sentences]: For each count, the defendant is sentenced to community custody under the supervision of the Department of Corrections (DOC) and the authority of the Indeterminate Sentence Review Board for any period of time that the defendant is released from total confinement before expiration of the maximum sentence. In addition to other conditions, the defendant shall comply with any conditions imposed by the Indeterminate Sentence Review Board under RCW 9.94A.713; 9.95.420, .425, .430, .435.

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with orders of the court as required by DOC (7) notify DOC of any change in the defendant's address or employment. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.
 Defendant shall have no contact with: _____
 Defendant shall remain within outside of a specific geographical boundary, to wit: _____

The defendant shall participate in the following crime-related treatment or counseling services: _____

The defendant shall undergo an evaluation for treatment for domestic violence alcohol abuse controlled substance abuse mental health anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: _____

4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections:

4.9 Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5)
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): J.A.L.
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.750.
 A restitution hearing shall be set for _____
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

5.6 **FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

If this is a crime enumerated in RCW 9.41.040 which makes you ineligible to possess a firearm, you must surrender any concealed pistol license at this time, if you have not already done so.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the department of licensing along with the date of conviction).

Cross off if not applicable:

5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200.** Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 3 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this State's Department of Corrections.

If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 14 days after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report in person to the sheriff of the county where you are registered on a weekly basis if you have been classified as a risk level II or III, or on a monthly basis if you have been classified as a risk level I. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least 5 years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

Cross off if not applicable:

5.8 **RIGHT TO APPEAL.** If you plead not guilty, you have a right to appeal this conviction. If the sentence imposed was outside of the standard sentencing range, you also have a right to appeal the sentence.

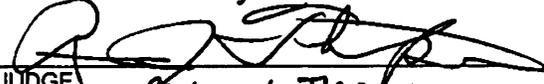
This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

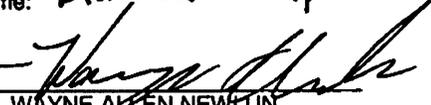
5.9 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: August 8, 2006.


 JUDGE
 Print name: Richard Thorpe


 COURTNEY A. POPP, #35470
 Deputy Prosecuting Attorney


 MAX P. HARRISON, #12243
 Attorney for Defendant


 WAYNE ALLEN NEWLUN
 Defendant

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: 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 92A.84.660

Defendant's signature: _____

Interpreter signature/Print name: _____
 I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

CAUSE NUMBER of this case: _____

I, Pam L. Daniels, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA12176549
(If no SID take fingerprint card for State Patrol)

Date of Birth: 12/08/1963

FBI No. 791412PA5

Local ID No:

PCN No. _____

DOC : 283750

Alias name, SSN, DOB: August 9 1949, JAMES MICHAEL BRISKI, RICHARD FRANCIS DAVIS, WADE SCOTT HILTS, WAYNE A HILTS, WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN, WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 6'1

Weight: 190

Hair: Brown

Eyes: Blue

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: J. McCollay, Deputy Clerk.
Dated: 8-8-06

DEFENDANT'S SIGNATURE: _____

ADDRESS: D.P.C.

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously

ORDER OF COMMITMENT

FILED

06 AUG 11 AM 10:17

P. L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center, State of Washington, GREETINGS:

WHEREAS, WAYNE ALLEN NEWLUN, has been duly convicted of the crime(s) of Count 1 Second Degree Identity Theft, Count 2 Forgery, as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to conduct him to the Washington Corrections Center at Shelton, Washington, in Mason County, and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these presents shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable Richard Thorpe, Judge of the said Superior Court and the seal thereof, this 8th day of August, 2006.

Pam L. Daniels
CLERK OF THE SUPERIOR COURT

By: J. McAlley
Deputy Clerk

**CERTIFIED
COPY**

FILED

2006 JAN 26 PM 3:41

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11351449

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00241-0

INFORMATION

Aliases: August 9 1949, JAMES MICHAEL BRISKI , RICHARD FRANCIS DAVIS , WADE SCOTT HILTS , WAYNE A HILTS , WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN , WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe

Other co-defendants in this case:

Comes now JANICE E. ELLIS, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this, her Information, in the name and by the authority of the State of Washington, charges and accuses the above-named defendant(s) with the following crime(s) committed in the State of Washington:

COUNT I: FIRST DEGREE IDENTITY THEFT, committed as follows: That the defendant, on or about the 16th day of November, 2005, did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Identification belonging to Guy Randall, with the intent to commit, aid and abet a crime, to-wit: First Degree Theft, and the defendant or an accomplice used such person's means of identification and financial information to obtain credit, money, goods, services, and other things having an aggregate value totaling more than \$1,500.00; proscribed by RCW 9.35.020(1) and (2), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

COUNT II: FORGERY, committed as follows: That the defendant, on or about the 2nd day of November, 2005, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Stuart Schriener; proscribed by RCW 9A.60.020(1)(b), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

Information Page 1
St. v. NEWLUN, WAYNE ALLEN
PA#05F08351

Snohomish County Prosecuting Attorney
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COUNT III: FORGERY, committed as follows: That the defendant, on or about the 2nd day of November, 2005, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Stuart Schriener, proscribed by RCW 9A.60.020(1)(b), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

COUNT IV: FORGERY, committed as follows: That the defendant, on or about the 1st day of November, 2005, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Stuart Schriener, proscribed by RCW 9A.60.020(1)(b), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

COUNT V: FORGERY, committed as follows: That the defendant, on or about the 11th day of November, 2005, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Guy Randall; proscribed by RCW 9A.60.020(1)(b), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

COUNT VI: UNLAWFUL POSSESSION OF PERSONAL IDENTIFICATION DEVICE, committed as follows: That the defendant, on or about the 2nd day of November, 2005, possessed a personal identification device, with intent to use such device to commit theft (to wit: to obtain control over the property of another by color or aid of deception, with the intent to deprive such other of such property), forgery (to wit: to falsely make, complete, and alter a written instrument, and to utter, offer, dispose of, and put off such instrument as true, knowing the same to be forged, and with the intent to injure and defraud) and identity theft (to wit: to knowingly use and transfer a means of identification of another person, with the intent to commit a felony and to aid the commission of an unlawful activity intended to harm such person); proscribed by RCW 9A.56.320(3), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

COUNT VI: UNLAWFUL POSSESSION OF PERSONAL IDENTIFICATION DEVICE, committed as follows: That the defendant, on or about the 11th day of November, 2005, possessed a personal identification device, with intent to use such device to commit theft (to wit: to obtain control over the property of another by color or aid of deception, with the intent to deprive such other of such property), forgery (to wit: to falsely make, complete, and alter a written instrument, and to utter, offer, dispose of, and put off such instrument as true, knowing the same to be forged, and with the intent to injure and defraud) and identity theft (to wit: to knowingly use and transfer a means of identification of another person, with the intent to commit a felony and to aid the commission of an unlawful activity intended to harm such person); proscribed by RCW 9A.56.320(3), a felony; and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

JANICE E. ELLIS
PROSECUTING ATTORNEY



ERICA W. TEMPLE, #28458
Deputy Prosecuting Attorney

.....
Address: 8006 15TH ST BALLARD WA 98115
HT: 6'1 DOB: 12/08/1963 SID: WA12176549
WT: 190 SEX: M FBI: 791412PA5
EYES: Blue RACE: White DOC: 283750
HAIR: Brown DOL: NEWLU-WA-375RH, WA
ORIGINATING AGENCY: BOTHELL POLICE DEPARTMENT AGENCY CASE#: 0520189
.....

**CERTIFIED
COPY**

FILED

2006 JAN 26 PM 3:42

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11351450

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00241-0

AFFIDAVIT OF PROBABLE CAUSE

Aliases: August 9 1949, JAMES MICHAEL BRISKI , RICHARD FRANCIS DAVIS , WADE SCOTT HILTS , WAYNE A HILTS , WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN , WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe»

Other co-defendants in this case:

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that I am a Deputy Prosecuting Attorney for Snohomish County, Washington, and make this affidavit in that capacity; that criminal charges have been filed against the above-named defendant(s) in this cause, and that I believe probable cause exists for the arrest of the defendant(s) on the charges because of the following facts and circumstances:

The following information is taken from police reports and witness statements provided by the Everett and Bothell Police Departments. The undersigned has no personal knowledge of these events.

On October 2, 2005, Stuart Schriener, a resident of Shelton, WA, reported to police that his residence had been burglarized. The unidentified thief took a number of guns, electronic equipment, and other items. Schriener reported to police that he had already been contacted by credit card companies regarding fraudulent charges.

Affidavit of Probable Cause Page 1
St. v. NEWLUN, WAYNE ALLEN
PA#05F08351

Snohomish County Prosecuting Attorney
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EXHIBIT 6

On October 12, 2005, police spoke to William Ayers, an investigator for Mervyn's. Ayers told police that someone had attempted to use the Schriener's credit card but was denied. Ayers reported that he had followed the person out of the store, and saw him get into a vehicle with WA license 427NQV. The defendant is the registered owner of this vehicle.

On October 31, 2005, Doreen and Guy Randall had their vehicle broken into. Among the items taken in the theft were bank documents, identification, and checks. The Randalls reside in Everett, WA.

On November 1, 2005, a male, later identified as the defendant, entered Pep Boys, located at 10115 Everett Mall Way, Everett, and attempted to purchase car parts. He presented identification in the name of Stuart Schriener, and gave the clerk a check. The check was denied. He then presented several credit cards, most in the name of Schriener. One had the name of Guy Randall. The clerk knew Randall and knew that this male was not Guy Randall. The clerk returned the card and notified police. The defendant left before police arrived. The clerk reported that the defendant left in a vehicle with WA license 427NQV.

Police later presented the clerk with a montage containing the defendant's picture. The clerk positively identified the defendant.

On November 2, 2005, the defendant entered the Bank of America, located at 1115 228th St. S.E., Bothell, WA. He presented check #4836, written on the account of Bill and Francis Hilliker, in the amount of \$345, payable to Stuart Schriener. The defendant presented a driver's license and Costco card in the name of Stuart Schriener, with the defendant's photograph on both documents.

The bank employee believed the identification was fake because of its poor quality. She requested that the defendant place his inked thumb print on the check, which he did. Police were called, but the defendant had left before they arrived.

Hilliker told police that his checks should have been at home, and no one had permission to take them.

Police learned that another check, in the amount of \$390, also drawn on the Hilliker account, and made payable to Stuart Schriener had also been cashed.

King County AFIS reported that the thumb print on the check matched a known print of the defendant.

On November 16, 2005, a stolen vehicle report was taken from the Bellevue Lowe's. The vehicle was a 2004 Chevrolet Silverado, valued at approximately \$19,000. The defendant had presented Guy Randall's ID with his (the defendant's) picture and signed the rental agreement as Guy Randall. The vehicle had not been returned. Video taken of the transaction matched that of the defendant. Lowe's also reported that the same person, using the name Guy Randall, had made purchases in Mill Creek and Lynnwood. Video taken on November 11 at the Lynnwood store shows the defendant.

The Randall's have reported to police that they closed their BECU bank account, but someone had already obtained a new number, made a \$3400 deposit, and a withdrawal of \$200. Two cellular phones had been purchased in their name at the Sprint store in Lynnwood. Two Verizon cellular phones had been purchased in their name. A storage unit in Renton had been rented in their name.

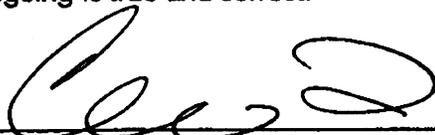
Police attempted to locate the defendant but were unsuccessful.

Reasons for bail-

The State requests bail in the amount of \$100,000.

The defendant is currently in custody on Snohomish County 06-1-00223-1. He has 20 felony convictions, seven misdemeanor convictions, and one juvenile felony conviction. He was released on June 21, 2005, after serving 84 months of confinement for a burglary conviction. Police report that they have received information from a relative of the defendant that the defendant was planning on fleeing to Idaho.

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



ERICA W. TEMPLE, #28458
Deputy Prosecuting Attorney

DATED this 26 day of January, 2006 at the Snohomish County
Prosecutor's Office.

**CERTIFIED
COPY**

06 JUN 30 PM 5:03

PAUL DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11689837

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 08-1-00241-0

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY

1. My true name is WAYNE ALLEN NEWLUN.

2. My age is 42.

3. I went through the 12 grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is MAX P. HARRISON.

(b) I am charged with the crimes of Count I: First Degree Identity Theft, Count II: Forgery, Count III: Forgery, Count IV: Forgery, Count V: Forgery, Count VI: Unlawful Possession of Personal Identification Device, Count VII: Unlawful Possession of Personal Identification Device, RCW 9A.35.020(1) and (2), 9A.60.020(1)(b), 9A.60.020(1)(b), 9A.60.020(1)(b), 9A.60.020(1)(b), 9A.56.320(3), 9A.56.320(3).

The elements of the crimes are:

COUNT I: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 16th day of November, 2005, 3) did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Identification belonging to Guy Randall, 4) with the intent to commit, aid and abet a crime, to-wit: First Degree Theft, 5) and the defendant or an accomplice used such person's means of identification and financial information to obtain credit, money, goods, services, and other things having an aggregate value totaling more than \$1,500.00; proscribed by RCW 9A.35.020(1) and (2), a felony, 6) and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

COUNT II: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 2nd day of November, 2005, 3) with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Stuart Schriener, proscribed by RCW 9A.60.020(1)(b), a felony, 4) and the crime was

Statement of Defendant on Plea of Guilty Page 1 of 7
St. v. NEWLUN, WAYNE ALLEN
PA#05F06351 6/26/2008

Snohomish County Prosecuting Attorney
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aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim..

COUNT III: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 2nd day of November, 2005, 3) with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Stuart Schriener, proscribed by RCW 9A.60.020(1)(b), a felony; 4) and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

COUNT IV: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 1st day of November, 2005, 3) with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Stuart Schriener, proscribed by RCW 9A.60.020(1)(b), a felony; 4) and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim, as provided by RCW 9.94A.535(2)(d).

COUNT V: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 11th day of November, 2005, 3) with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: Identification belonging to Guy Randall; proscribed by RCW 9A.60.020(1)(b), a felony; 4) and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

COUNT VI: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 2nd day of November, 2005, 3) possessed a personal identification device, with intent to use such device to commit theft (to wit: to obtain control over the property of another by color or aid of deception, with the intent to deprive such other of such property), 4) forgery (to wit: to falsely make, complete, and alter a written instrument, and to utter, offer, dispose of, and put off such instrument as true, knowing the same to be forged, and with the intent to injure and defraud) 5) and identity theft (to wit: to knowingly use and transfer a means of identification of another person, with the intent to commit a felony and to aid the commission of an unlawful activity intended to harm such person) 6) and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

COUNT VII: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 11th day of November, 2005, 3) possessed a personal identification device, with intent to use such device to commit theft (to wit: to obtain control over the property of another by color or aid of deception, with the intent to deprive such other of such property), 4) forgery (to wit: to falsely make, complete, and alter a written instrument, and to utter, offer, dispose of, and put off such instrument as true, knowing the same to be forged, and with the intent to injure and defraud) 5) and identity theft (to wit: to knowingly use and transfer a means of identification of another person, with the intent to commit a felony and to aid the commission of an unlawful activity intended to harm such person); 6) and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
- (b) The right to remain silent before and during trial, and I need not testify against myself.
- (c) The right at trial to hear and question witnesses who testify against me.
- (d) The right at trial to testify on my own behalf and to have other witnesses testify for me. These witnesses can be made to appear at no expense to me.
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
- (f) The right to appeal a determination of guilty after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancement)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancement)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crime committed prior to July 1, 2000, see paragraph 6(n))	MAXIMUM TERM AND FINE
1	63-84 months		63-84 months		10 years/\$20,000
2	22-29 months		22-29 months		5 years/\$10,000
3	22-29 months		22-29 months		5 years/\$10,000
4	22-29 months		22-29 months		5 years/\$10,000
5	22-29 months		22-29 months		5 years/\$10,000
6	Not more than 12 months		Not more than 12 months		Unsentenced 5 years / \$10,000
7	Not more than 12 months		Not more than 12 months		Unsentenced 5 years / \$10,000

* (F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Horn, See RCW 48.61.520 (JP) Juvenile Present.

(b) The standard sentence range(s) shown above is/are based on the prosecuting attorney's understanding of my criminal history. Criminal history includes prior adult and juvenile convictions, whether in this state, in federal court, or elsewhere. Even so, my plea of guilty to the crime(s) is binding on me. I cannot change my mind if additional history is discovered even though the maximum sentence, the standard sentence range, and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without possibility of parole is required by law.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) I understand that the prosecutor's understanding of my criminal history is tentative in nature, and that it will be the Judge who ultimately determines my correct score. If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, or if it is determined that the prosecutor's scoring is incorrect, both the standard sentence and the prosecuting attorney's recommendations may increase.

(e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, and costs of incarceration. The judge may place me on community supervision, community placement, or community custody, impose restrictions on my activities, and order me to perform community restitution.

(f) The prosecuting attorney will make the recommendation to the judge as stated on the attached plea agreement form.

(g) Persons other than the prosecutor may make sentence recommendations which could differ from the prosecutor's recommendation. The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless

the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

NOTIFICATIONS RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

(h) ~~Three Strikes Law. The crime of _____ is a "most serious offense" as defined by RCW 9A.030(25). If I am a "persistent offender," as defined by RCW 9A.030(29), the court must sentence me to life imprisonment without possibility of parole, or early release, regardless of the maximum penalty stated above. I am a "persistent offender" if (a) before I committed this crime, I had two convictions for "most serious offenses," either in this state, federal court, a court martial or elsewhere and (b) one of my prior convictions for a "most serious offense" occurred before I committed the other "most serious offense."~~

~~(i) Two Strikes Law. If a current offense is (A) rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation; (C) an attempt to commit any of the aforementioned crimes and I have at least one prior conviction for one of the aforementioned crimes in this state, in federal court, in a court martial, or elsewhere, the current crime I am charged with carries a mandatory sentence of life imprisonment without possibility of parole or early release, regardless of any other stated maximum penalty. The prior conviction must have occurred before commission of the current offense.~~

~~(j) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without possibility of parole (the "Three Strikes" or "Two Strikes" Law) as described in paragraph 8(h) or 8(i) above. The law does not allow any reduction of this sentence.~~

~~(k) The crime(s) of _____ has a (special firearm allegation) (deadly weapon enhancement) which carries an additional penalty of _____ years of total confinement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements. The law does not allow any reduction of this sentence.~~

~~(l) The crime of _____ carries a mandatory minimum fine of \$_____.~~

~~(m) Counts _____ and _____ are two or more serious violent offenses arising from separate and distinct criminal conduct, and the sentences for these counts will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~

~~(n) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is less than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. If this crime is a sex offense, the court will order me to serve at least three years of community custody. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(8)(h).~~

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is less than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months or up to the period of earned release, whichever is longer
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer
Crimes Against Persons as defined by RCW 9.94A.440(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months or up to the period of earned release, whichever is longer

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

~~(e) The judge may sentence me as a First Time Offender instead of imposing a sentence within the standard range if I qualify under RCW 9.94A.030(23). This sentence could include as much as 90 days confinement, and (if the crime was committed prior to July 1, 2000), up to two years community supervision, or (if the crime was committed on or after July 1, 2000) up to two years of community custody, plus all of the conditions described in paragraph 6(e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a described course of study or occupational training.~~

~~(p) If this crime involved a motor vehicle or was a felony in the commission of which a motor vehicle was used, my driver's license of privilege to drive will be revoked. If I have a driver's license, I must now surrender it to the judge.~~

~~(q) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.~~

~~(r) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.~~

~~(s) I will be required to provide a biological sample for purposes of DNA identification analysis. Unless expressly waived by the Court, I will be required to pay a biological testing fee in the amount of \$100.~~

~~(t) Because this crime involves a sex offense as defined by RCW 9A.44.130(9)(a), or a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Sex Offender Registration Requirement" attachment.~~

~~(t-1) If I qualify under RCW 9.94A.120(8), the judge may suspend execution of the standard range term of the confinement under the Special Sex Offender Sentencing Alternative (SSOSA). The judge may impose up to six months total confinement. If the judge suspends execution of the standard range of confinement, I will be placed on community custody for the length of the suspended sentence or three years, which ever is greater. I will be ordered to participate in sex offender treatment, and I will be subject to all of the conditions described in paragraph 6 (e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of sentence occurs during community custody, or the judge finds that I fail to make satisfactory progress in treatment, the judge may revoke the suspended sentence.~~

(u)(i) If the crime charged herein is a felony or one of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment in the second degree, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040), or

(ii) If I have previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless my right to possess a firearm has been restored as provided in RCW 9.41.047,

(iii) or if I am under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) If I am free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010, I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard or comparable identification to the department of licensing along with the date of conviction).

(v) Applicable to all felonies: I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record, and I must immediately surrender any concealed pistol license. RCW 9.41.040, 9.41.047. All offenders sentenced to terms involving community custody, community supervision, community placement, or community restitution may not own, use, or possess firearms or ammunition. RCW 9.94A.120(16).

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.

~~(w) If the court finds that a chemical dependency has contributed to my offense, the court may, as a condition of the sentence and subject to available resources, order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I have been convicted and reasonably necessary or beneficial to me and the community in rehabilitating me. If this crime is a violation of the uniform controlled substances act under chapter 69.50 RCW the court, unless specifically waived, shall order the Department of Corrections to complete a chemical dependency screening report before imposing sentence.~~

~~(w-1) If I qualify under RCW 9.94A.120(8), the judge may sentence me under the Special Drug Offender Sentencing Alternative (DOSA). This sentence includes total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions of paragraph 6(e). During confinement I would be required to undergo a comprehensive substance abuse assessment and to participate in treatment. Community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status will also be imposed. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars a month to offset the cost of monitoring and require other conditions, including affirmative conditions. If the Department of Corrections finds that I violated a condition of sentence, or I fail to complete the DOSA program, or I am administratively terminated from the program, the Department of Corrections will reclassify me to serve the balance of the original sentence of total confinement within the standard range.~~

~~(w-2) A conviction for a violation of the state drug laws will affect eligibility for various federal benefits and programs and state programs funded by the federal government including, but not limited to, food stamps, welfare, and education.~~

(x) If this crime is a felony sexual offense or if the court determines that I may be a mentally ill person as defined in RCW 71.24.025, even if I have not established that at the time of the crime I lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the Department of Corrections to complete a presentence report before imposing sentence.

~~(y) If this is a crime of domestic violence and if I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program.~~

~~(z) If this crime involves the manufacture, delivery, or possession with intent to deliver methamphetamine or amphetamine, a mandatory methamphetamine clean-up fine of \$3,000 will be assessed. RCW 69.50.401(a)(ii).~~

~~(z-1) The special allegation that there was a person under age 18 on the premises when the defendant committed (a) manufacture of methamphetamine or (b) possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine, carries a mandatory sentence enhancement of twenty-four months total confinement.~~

~~(aa) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).~~

~~(bb) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9A.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions of the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will be imposed for each firearm unlawfully possessed.~~

(cc) No payment of public assistance will be made to a convict during the period of confinement/incarceration. RCW 74.08.290.

7. I plead guilty to the crimes of Count 1 First Degree Identity Theft, Count 2 Forgery, Count 3 Forgery, Count 4 Forgery, Count 5 Forgery, Count 6 Unlawful Possession of Personal Identification Device, Count 7 Unlawful Possession of Personal Identification Device, as charged in the Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

SEE APPENDIX A WHICH IS ATTACHED HERETO AND
INCORPORATED HEREIN BY REFERENCE.

Appendix A

06-1-00241-0

Count I: On 11/16/05 I knowingly possessed a means of identification and financial information belonging to Guy Randall with the intent to commit or abet the crime of First Degree Theft and that I or an accomplice used such persons means of identification and financial information to obtain, credit, money, goods, services, and other things having an aggregate value totaling more than \$1,500.00 and the crime was aggravated by the following circumstances: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

Count II: On 11/2/05 with the intent to injure and defraud and knowing the same to be forged I possessed identification belonging to Stuart Schriener and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

Count III: On 11/2/05 with the intent to injure and defraud and knowing the same to be forged I possessed identification belonging to Stuart Schriener and the crime was aggravated by the following circumstance: the crime was a major economic offense due to the following factors: the crime involved multiple victims and multiple incidents per victim.

Count IV: On 11/1/05 with the intent to injure and defraud I possessed identification belonging to Stuart Schriener and the crime was aggravated by the following circumstances: the crime was a major economic offense due to the fact that it involved multiple victims and multiple incidents per victim.

Count V: On 11/11/05 with the intent to injure I possessed identification belonging to Guy Randall and the crime was aggravated by the fact that it was a major economic offense because the crime involved multiple victims and multiple incidents per victim.

Count VI: On 11/2/05 I possessed a personal identification device, with intent to use such device to commit theft (to obtain control of the property of another by color or aid of deception, with the intent to deprive such other of such property), and forgery (to falsely make, complete, and alter a written instrument and to put off such instrument as true, knowing the same to be forged, and with the intent to injure and defraud), and Identity theft (to knowing use and transfer a means of identification of another person,

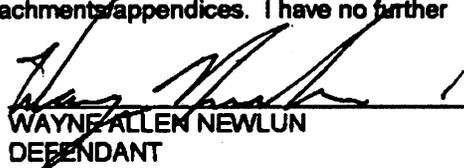
with the intent to commit a felony and to aid the commission of an unlawful activity intended to harm such person); the crime was aggravated by the fact it was a major economic offense because the crime involved multiple victims and multiple incidents per victim.

Count VII: On 11/11/05 I possessed a personal identification device with the intent to use such device to commit a theft (to obtain control of the property of another by color or aid of deception, with the intent to deprive such other of such property), forgery (to wit: to falsely make, complete, and put off as a true written instrument, knowing the same to be forged, and with the intent to injure and defraud), and identity theft (to knowing use and transfer a means of identification of another person, with the intent to commit a felony and to aid the commission of an unlawful activity intended to harm such person); the crime was aggravated by the fact it was a major economic offense because the crime involved multiple victims and multiple incidents per victim.

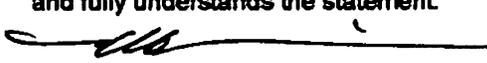
These acts occurred in Snohomish County, Washington.

12. I am aware that an Affidavit of Probable Cause has been filed in this case. The court may consider this Affidavit in deciding whether there is a factual basis for my plea

13. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the attachments/appendices to this document. I understand them all. I have been given a copy of this 'Statement of Defendant on Plea of Guilty', including attachments/appendices. I have no further questions to ask the judge.


WAYNE ALLEN NEWLUN
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


MAX P. HARRISON, #12243
DEFENDANT'S LAWYER

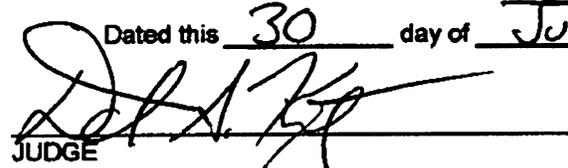

COURTNEY A. POPPE, #35470
DEPUTY PROSECUTING ATTORNEY

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check appropriate box):

- (a) The defendant had previously read the entire statement above (including attachments/appendices) and that the defendant understood it in full.
 (b) The defendant's lawyer had previously read to him or her the entire document above (including attachments/appendices) and that the defendant understood it in full; or
 (c) An interpreter had previously read to the defendant the entire statement above (including attachments/appendices) and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 30 day of June, 2006.


JUDGE

INTERPRETER'S STATEMENT

I am a certified interpreter or I am fluent in the _____ language and have been found qualified by the court to interpret in the aforementioned language which the defendant understands. I have translated this entire document, including attachments/appendices, for the defendant from English into the aforementioned language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document, including attachments/appendices.

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

Dated: _____

Located: _____

Interpreter

PLEA AGREEMENT
(SENTENCING REFORM ACT)

Defendant WAYNE ALLEN NEWLUN
ON PLEA TO: AS CHARGED -

CAUSE NO.: 06-1-00241-0

Special Finding/Verdict of possession of deadly weapon on Count(s) _____
(RCW 9.94A.125).

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1. DISMISS: Upon disposition of Count(s) _____, the State moves to dismiss Count(s)

2A. REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:

as set forth in the affidavit(s) of probable cause filed herein

as set forth in attached Appendix C.

2B. SENTENCING FACTS: Facts to be considered for imposing a standard range sentence are as set forth in the affidavits(s) of probable cause filed herein.

3. RESTITUTION: Pursuant to statute, the defendant agrees to pay restitution as follows:

in full to victim(s) on charged counts

as set forth in attached Appendix C.

4. OTHER: _____

The defendant agrees that a chemical dependency contributed to the commission of this offense and further agrees to cooperate in the preparation of a chemical dependency screening report and allow the results of that report to be submitted to the court and the Prosecuting Attorney prior to sentencing.

The defendant agrees to undergo an evaluation by Treatment Alternatives to Street Crime and allow the results of that evaluation to be submitted to the court and the Prosecuting Attorney, prior to sentencing.

5. SENTENCE RECOMMENDATION: **AGREED**

The defendant agrees to the foregoing Plea Agreement and that the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix A), and the attached Sentencing Guidelines scoring form(s) (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). Any challenge by the defendant to the criminal history or scoring will constitute a breach of this agreement. The State makes the sentencing recommendation set forth in State's Sentence Recommendation. The sentencing recommendation may increase in severity if any additional convictions are discovered.

The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regard to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Mandatory Minimum Term (RCW 9.94A.120(4) only): _____

Mandatory license revocation RCW 46.20.285.

Ten years jurisdiction and supervision for monetary payments.
RCW 9.94A.120(9).

6. **AGREEMENT NOT TO CHALLENGE CONVICTION:** The defendant agrees not to challenge the conviction for this crime, whether by moving to withdraw the plea, appealing the conviction, filing a personal restraint petition, or in any other way. If an exceptional sentence is imposed, the defendant may appeal the sentence without violating this agreement.

7. **NON-COMPLIANCE WITH AGREEMENT:** If the defendant fails to appear for sentencing, or if prior to sentencing the defendant commits any new offense or violates any condition of release, the State may recommend a more severe sentence.

If the defendant violates any other provision of this agreement, the State may either recommend a more severe sentence, file additional or greater charges, or re-file charges that were dismissed. The defendant waives any objection to the filing of additional or greater charges based on pre-charging or pre-trial delay, statutes of limitations, mandatory joinder requirements, or double jeopardy.

In any event, the defendant will remain bound by the agreement and will not be allowed to withdraw the plea. If the defendant's violation of the agreement constitutes a crime, the defendant may be charged with that crime.

8. **AGREEMENT NOT TO FILE ADDITIONAL CHARGES**

This agreement is limited to cause numbers or crimes specifically referred to in this plea agreement and identified by crime, victim, and police incident number immediately following this paragraph and does not apply to any other matters which may be under investigation, pending, or being handled by any other DPA or agency.

Additional counts of Forgery, ID Theft and Theft 2 arising out of SCSO 06-01914



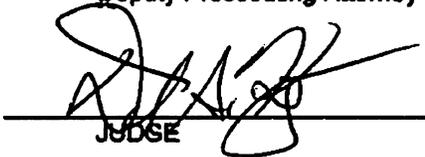
WAYNE ALLEN NEWLUN
Defendant



COURTNEY A. POPP, #35470
Deputy Prosecuting Attorney



MAX P. HARRISON, #12243
Attorney for Defendant



JUDGE

STATE'S SENTENCE RECOMMENDATION (CONFINEMENT OF OVER ONE YEAR)
(SENTENCING REFORM ACT)

DATE: June 28, 2006

DEFENDANT: WAYNE ALLEN NEWLUN

CAUSE NO.: 06-1-00241-0

State recommends that the sentence of this defendant be as follows:

TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement in the custody of the Department of Corrections as follows:

Count I	<u>84</u>	months/years	Count IV	<u>29</u>	months/years
Count II	<u>29</u>	months/years	Count V	<u>29</u>	months/years
Count III	<u>29</u>	months/years	Count VI	<u>12</u>	months/years
			Count VII	<u>12</u>	months/years

Terms on each count to run concurrently/consecutively.

MONETARY PAYMENTS: The defendant shall make the following monetary payments under the supervision of the Secretary of the Department within 10 years: *+ Comment to other SnoCo case numbers*

- Restitution as set forth on attached page entitled "Plea Agreement" and Appendix C.
- Mandatory Victim Penalty Assessment
~~\$100.00 prior to June 6, 1996~~; \$500.00 on or after June 6, 1996.
- Pay a fine of \$ _____.
- Pay probationer assessment pursuant to RCW 9.94A.270.
- Pay costs of extradition.
- Pay court costs and costs of appointed counsel.
- Pay mandatory \$100 state crime lab fee.
- Pay \$100 DNA fee.

COMMUNITY PLACEMENT: The defendant shall serve a _____-year term of community placement subject to the conditions set forth in RCW 9.94A.120(8)(b) and the following conditions. The defendant shall:

- Have no direct contact with _____.
- Not consume alcohol.
- Participate in crime-related treatment and counseling.
- Shall remain (within)(outside of) the following geographical area: _____

COMMUNITY CUSTODY: Defendant shall be on Community Custody for the length of _____ Community custody shall commence immediately but is tolled during any term of confinement. Defendant shall report no later than the next business day after sentencing, or if in custody, the next business day after release from confinement to the State Department of Corrections and shall comply with all rules, regulations and requirements of that department.

- Participate fully and successfully complete community-based sexual deviancy treatment program, including all conditions imposed by the therapist.
- No contact with victim(s) _____.
- No contact with minor children unless supervised by an adult previously approved by the therapist and community corrections officer.
- OTHER (crime related prohibitions, treatment, etc.): _____

Shall comply with the following crime-related prohibitions:

CHEMICAL DEPENDENCY SCREENING REPORT: If there is a finding a chemical dependency has contributed to the defendant's offense, the state will recommend a chemical dependency screening report be prepared and reserves the right to recommend any affirmative conduct allowed by law.

PROBATION REVOCATION/MODIFICATION: State recommends revocation/modification of probation or community supervision on Snohomish County Cause Number(s)
and recommends that terms be run concurrently/consecutively.

EXCEPTIONAL SENTENCE: This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

OTHER:



COURTNEY A. POPP, #35470
Deputy Prosecuting Attorney

6/26/06 (dhw)

6/26/06 (gp)

NEWLUN, Wayne Allen
aka HILTS, Wade Scott

IDENTITY THEFT, FIRST DEGREE

(RCW 9.35.020(2)(a))

CLASS B FELONY

NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-14)

I. OFFENDER SCORING (RCW 9.94A.525(7))

ADULT HISTORY:

Enter number of felony convictions 20 x 1 = 20

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 0 x 1 = 0

Enter number of nonviolent felony dispositions 1 x 1/2 = 1/2

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 6 x 1 = 6

STATUS: Was the offender on community custody on the date the current offense was committed? (if yes), + 1 = 0

Total the last column to get the **Offender Score**
(Round down to the nearest whole number)

26

II. SENTENCE RANGE

A. OFFENDER SCORE:
STANDARD RANGE
(LEVEL IV)

0	1	2	3	4	5	6	7	8	9 or more
3 - 9 months	6 - 12 months	12+ - 14 months	13 - 17 months	15 - 20 months	22 - 29 months	33 - 43 months	43 - 57 months	53 - 70 months	63-84 months

- B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-6 or III-7 to calculate the enhanced sentence.
- C. If a sentence is one year or less: community custody *may* be ordered for up to one year (See RCW 9.94A.545 for applicable situations).

SENTENCING OPTIONS

- A. If "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.
- B. If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).
- C. Partial confinement may be served in home detention (RCW 9.94A.030).
- D. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.690).
- E. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-8 (RCW 9.94A.660).
 - *The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules*

6/26/06 (ghw)
~~1/26/05 (gp)~~
 NEWLUN, Wayne Allen
 aka HILTS, Wade Scott

FORGERY
 (RCW 9A.60.020(3))
CLASS C FELONY
NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-14)

I. OFFENDER SCORING (RCW 9.94A.525(7))

ADULT HISTORY:

Enter number of felony convictions 20 x 1 = 20

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 0 x 1 = 0

Enter number of nonviolent felony dispositions 1 x 1/2 = 1/2

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 6 x 1 = 6

STATUS: Was the offender on community custody on the date the current offense was committed? (if yes), + 1 = 0

Total the last column to get the Offender Score
 (Round down to the nearest whole number)

26

II. SENTENCE RANGE

A. OFFENDER SCORE:
STANDARD RANGE
(LEVEL I)

0	1	2	3	4	5	6	7	8	9 or more
0 - 60 days	0 - 90 days	2 - 5 months	2 - 6 months	3 - 8 months	4 - 12 months	12+ - 14 months	14 - 18 months	17 - 22 months	22 - 29 months

- B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-6 or III-7 to calculate the enhanced sentence.
- C. If a sentence is one year or less: community custody *may* be ordered for up to one year (See RCW 9.94A.545 for applicable situations).

III. SENTENCING OPTIONS

- A. If "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.
- B. If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).
- C. Partial confinement may be served in home detention (RCW 9.94A.030).
- D. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.690).
- E. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-8 (RCW 9.94A.660).
 - *The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules*

6/26/06(dhw)

UNLAWFUL POSSESSION OF PERSONAL IDENTIFICATION DEVICE

1/26/06 (gp)

NEWLUN, Wayne Allen
aka HILTS, Wade Scott

UNRANKED OFFENSE

(If sexual motivation finding/verdict, use form on page III-19)

I. OFFENDER SCORING

ADULT HISTORY:

not scored

JUVENILE HISTORY:

not scored

OTHER CURRENT OFFENSES:

not scored

STATUS:

not scored

II. SENTENCE RANGE

A. OFFENDER SCORE:

NONE

STANDARD RANGE
(unranked)

not more than 12 months (9.94A.505)

B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-6 or III-7 to calculate the enhanced sentence.

III. SENTENCING OPTIONS

- A. If not a sex offense, not a drug offense and not a violent offense (RCW 9.94A.030), and if "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.
- B. Sentence can include community service work and a term of community custody not to exceed one year (RCW 9.94A.545).
- C. If not a sex offense (RCW 9.94A.030), not a drug offense (RCW 9.94A.030), and not a violent offense (RCW 9.94A.030), then partial confinement may be served in home detention (RCW 9.94A.030).
- D. If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).
- E. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.690).
- F. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-8 (RCW 9.94A.660).

**APPENDIX A TO PLEA AGREEMENT
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)**

DATE: June 26, 2006 (gp/dhw)
 DEFENDANT: **NEWLUN, Wayne Allen**
 Aka HILTS, Wade Scott
 DOB: 12/8/63 W/M
 SID: WA12176549 FBI: 791412PA5 DOC: 283750

<u>CRIME</u>	<u>DATE OF CONVICTION</u>	<u>PLACE OF CONVICTION</u>	<u>Incarceration/Probation DISPOSITION</u>
ADULT FELONIES:			
* Second Degree Burglary (B)	10/26/82	King County 82-1-00696-0	10 Yrs. Suspended 7 Mos. Confinement 3 Yrs. Probation
* Second Degree Theft (C)	10/26/82	King County 82-1-02454-2	5 Yrs. Suspended 6 Mos. Confinement 3 Yrs. Probation
*Court ordered sentences to be served consecutively			
Second Degree Burglary (B)	11/1/84	King County 83-1-01970-9	10 Yrs.
Violation of Work Release (C)	5/27/87	King County 86-1-00740-3	3 Mos. Confinement
Second Degree Theft (C)	5/27/87	King County 86-1-01660-7	13 Mos. Confinement
First Degree Theft (B)	5/27/87	King County 86-1-03880-5	22 Mos. Confinement
Unlawful Issuance of Bank Check (C)	5/27/87	King County 86-1-04641-7	13 Mos. Confinement
Second Degree Possession of Stolen Property (C)	9/11/89	King County 89-1-03672-6	4 Mos. Confinement
NSF Check (C)	3/30/92	Ada County, ID	1 Yr. Jail 3 Yrs. Probation Restitution \$2,018 Extradited to Washington
First Degree Theft (B)	6/1/92	Mason County 88-1-00139-1	29 Mos. Confinement
Unlawful Issuance of Bank Check (C)	6/1/92	Mason County 88-1-00139-1	18 Mos. Confinement
VUCSA – Possession (C)	5/17/96	King County 95-1-00197-8	29 Mos. Confinement

Appendix A to Plea Agreement - Page 2

NEWLUN, Wayne Allen

ADULT FELONIES: (continued)

Unlawful Issuance of Bank Check (C)	5/17/96	King County 95-1-07009-1	29 Mos. Confinement
Forgery (C) (2 Counts)	5/17/96	King County 95-1-07641-2	29 Mos. Confinement
Attempted First Degree Theft (C)	5/17/96	King County 95-1-08362-1	36 Mos. Confinement
Forgery (C)	9/22/00	King County 99-1-07978-3	29 Mos. Confinement
First Degree Theft (B)	9/22/00	King County 00-1-00355-9	50 Mos. Confinement
Second Degree Possession of Stolen Property (C)	9/22/00	King County 00-1-00355-9	29 Mos. Confinement
Residential Burglary (B)	12/7/00	Snohomish County 00-1-01721-3	84 Mos. Confinement 6/21/05 Released

ADULT MISDEMEANORS:

1. Third Degree Theft	2/8/89	King County	
2. Bad Check	1/24/94	Utah	
3. Refuse to Give Info/Cooperate	11/30/95	King County	
4. Driving While Suspend/Revoked	11/30/95	King County	
5. Public Indecency	1/10/96	King County	
6. Attempted Forgery	11/26/97	King County	Suspended
7. Deposition of Refuse on Public Prop.	8/1/98	King County	

JUVENILE FELONIES:

Second Degree Burglary (B)	9/4/81	Pacific County	Community Supervision
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JUVENILE MISDEMEANORS

None.

OTHER: (NOT COUNTED AS CRIMINAL HISTORY)

6/26/06
DATE

CP
Deputy Prosecuting Attorney/WSBA # 35470

CERTIFIED COPY

FILED

06 AUG 14 AM 10:48

PAUL DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



INELIGIBLE TO CARRY FIREARMS

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

06-1-00241-0

Plaintiff,

JUDGMENT AND SENTENCE

v.

Prison

NEWLUN, WAYNE ALLEN

Jail One Year or Less

First Time Offender

Defendant.

Special Drug Offender Sentencing Alternative

Clerk's Action Required,
restraining order entered para. 4.3

SID: WA12176549

If no SID, use DOB: 12/08/1963

Clerk's action required

firearms rights revoked, para. 4.3 and 5.6

Clerk's action required, para 5.4, 5.3

Restitution Hearing set, Notice of Withholding

I. HEARING *(A) Exceptional Sentence*

1.1 A sentencing hearing was held and 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, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on June 30, 2006 by plea of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	First Degree Identity Theft	9.35.020(1) and (2) 9.94A.535(2)(d)	BOT, 0520189	11/16/05
II	Forgery	9A.60.020(1)(b) 9.94A.535(2)(d)		11/02/05
III	Forgery	9A.60.020(1)(b) 9.94A.535(2)(d)		11/02/05
IV	Forgery	9A.60.020(1)(b) 9.94A.535(2)(d)		11/01/05
V	Forgery	9A.60.020(1)(b) 9.94A.353(2)(d)		11/11/05
VI	Unlawful Possession of Personal Identification Device	9A.56.320(3) 9.94A.535(2)(d)		11/02/05
VII	Unlawful Possession of Personal Identification Device	9A.56.320(3) 9.94A.535(2)(d)		11/11/05

as charged in the Information.

Additional current offenses are attached in Appendix 2.1.

ORIGINAL

AS
34

EXHIBIT 8

2cc Jail QH
1 stmt

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A. 525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1 *Second Degree Burglary	10/26/82	King County, WA		A	B
2 *Second Degree Theft	10/26/82	King County, WA		A	C
3 Second Degree Burglary	11/01/84	King County, WA		A	B
4 Violation of Work Release	05/27/87	King County, WA		A	C
5 Second Degree Theft	05/27/87	King County, WA		A	C
6 First Degree Theft	05/27/87	King County, WA		A	B
7 Unlawful Issuance of Bank Check	05/27/87	King County, WA		A	C
8 Second Degree Possession of Stolen Property	09/11/89	King County, WA		A	C
9 NSF Check	03/30/92	Ada County, ID		A	C
10 First Degree Theft	06/01/92	Mason County, WA		A	B
11 Unlawful Issuance of Bank Check	06/01/92	Mason County, WA		A	C
12 VUCSA—Possession	05/17/96	King County, WA		A	C
13 Unlawful Issuance of Bank Check	05/17/96	King County, WA		A	C
14 Forgery (2 counts)	05/17/96	King County, WA		A	C
15 Attempted First Degree Theft	05/17/96	King County, WA		A	C
16 Forgery	09/22/00	King County, WA		A	C
17 First Degree Theft	09/22/00	King County, WA		A	B
18 Second Degree Possession of Stolen Property	09/22/00	King County, WA		A	C
19 Residential Burglary	12/07/00	Snohomish County, WA		A	B

*Court ordered sentences to be served consecutively

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement or community custody (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525): (Input)
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520 (Input)

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS. LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	26	IV	63-84 months		63-84 months	10 years/\$20,000
II	26	I	22-29 months		22-29 months	5 years/\$10,000
III	26	I	22-29 months		22-29 months	5 years/\$10,000
IV	26	I	22-29 months		22-29 months	5 years/\$10,000
V	26	I	22-29 months		22-29 months	5 years/\$10,000
VI	Unranked	Unranked	Not more than 12 months		Not more than 12 months	5 years/\$10,000
VII	Unranked	Unranked	Not more than 12 months		Not more than 12 months	5 years/\$10,000

*Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile Present

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

- [] A special verdict/finding for use of a **deadly weapon** which was a **firearm** was returned on Count(s) _____ RCW 9.94A.602, 9.41.010, 9.94A.533
- [] A special verdict/finding for use of **deadly weapon** which was not a firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533
- [] A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9.94A.835.
- [] A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____ RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter.; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- [] A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.
- [] The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030(45)
- [] This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [] The court finds that the offender has a **chemical dependency** which contributed to the offense and imposes as a condition of sentence that defendant shall participate in the rehabilitative program/affirmative conduct:

RCW 9.94A.607.
- [] The crime charged in Count(s) _____ involve(s) **domestic violence**.
- [] The offense in Count(s) _____ was committed in a county jail or state correctional facility. RCW 9.94A.533(5)
- [] The court finds that in Count _____ a **motor vehicle** was used in the commission of this felony. The Department of Licensing shall revoke the defendant's driver's license. RCW 46.20.285.
- [] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 06-1-00223-1 Count I: Second Degree Identity Theft, Count II: Forgery. 06-1-00648-2 Count I: Second Degree Identity Theft, Count II: Forgery

2.4 **EXCEPTIONAL SENTENCE (For Determinate Sentence)**. Substantial and compelling reasons exist which justify an exceptional sentence above [] within [] below the standard range for Count(s)

[] The defendant and state stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentence 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. The jury's interrogatory is attached. The prosecuting attorney [] did [] did not recommend a similar sentence.

[] **EXCEPTIONAL MINIMUM TERM (For Maximum and Minimum Term Sentence)** Substantial and compelling reasons exist which justify an exceptional minimum term [] above [] within [] below the standard range for Count(s) _____. RCW 9.94A.712(3), 9.94A.535. Findings of fact and conclusions of law are attached in Appendix 2.4. 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, 10.01.160(3)

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

2.6 The prosecutor's recommendation was 84 months/days on Count 1, 29 months/days on Count 2, 29 months/days on Count 3, 29 months/days on Count 4, 29 months/days on Count 5, 12 months/days on Count 6, 12 months/days on Count 7. The prosecutor recommended counts all counts run concurrently/consecutively.

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 _____
 3.3 The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RMA	<u>\$15/\$25/\$50</u>	Restitution Monitoring Fee	SCC 4.94.010
		The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations.	RCW 9.94A.760
PCV	<u>\$500</u>	Victim assessment	RCW 7.68.035
CRC	<u>\$ waived</u>	Court costs, including	RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/SRF
		Jury demand fee \$ _____	JFR
		Other \$ _____	
PUB	<u>\$83 waived</u>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDP/LDV	\$ _____	Drug enforcement fund of _____	RCW 9.94A.760
FCD/NTF/SAD/SDI	\$ _____		
CLF	\$ _____	Crime lab fee <input type="checkbox"/> deferred due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	<u>\$100 waived</u>	Biological Sample Fee (for offenses committed after 7-1-2002)	RCW 43.43.7541
	\$ _____	Domestic Violence Penalty (for offenses committed after 6-4-2004 - maximum \$100)	RCW 10.99.080
	\$ _____	Other costs for: _____	
	<u>\$ 500</u>	TOTAL	RCW 9.94A.760

The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.

RESTITUTION. Schedule attached, Appendix 4.1.
 Restitution ordered above shall be paid jointly and severally with:

<u>NAME of other defendant</u>	<u>CAUSE NUMBER</u>	<u>(Victim name)</u>	<u>(Amount-\$)</u>
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RJN

The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, 9.94A.760(9)

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than

\$ 50 per month commencing upon release
RCW 9.94A.760

All payments shall be made within 120 months of release of confinement;
 entry of judgment; Other _____.

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$50.00 per day unless another rate is specified here _____ . RCW 9.94A.760(2)

The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.2 HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 206, Everett, WA 98201 within one (1) hour of this order to arrange for the test. RCW 70.24.340

DNA TESTING. The defendant shall have a blood sample (offenses committed pre 7-1-2002 Biological sample (offenses committed 7-1-2002 and after) drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

4.3 The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence). EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.

(Check for any domestic violence crime as defined by RCW 10.99.020(3)): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST. ANY ASSAULT, DRIVE-BY SHOOTING, OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.050.

(Check for any harassment crime as defined by RCW 9A.46.060): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 9A.46 AND WILL SUBJECT A VIOLATOR TO ARREST. RCW 9A.46.080.

(For Domestic Violence orders only:) The clerk of the court shall forward a copy of this order on or before the next judicial day to the _____ County Sheriff's Office or _____ Police Department (where the protected person above-named lives), which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

4.4 OTHER: _____

4.5 CONFINEMENT OVER ONE YEAR.

CONFINEMENT [Determinate Sentences]. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>84</u>	months on Count	<u>1</u>	_____	months on Count	_____
<u>29</u>	months on Count	<u>2</u>	_____	months on Count	_____
<u>29</u>	months on Count	<u>3</u>	_____	months on Count	_____
<u>29</u>	months on Count	<u>4</u>	_____	months on Count	_____
<u>29</u>	months on Count	<u>5</u>	_____	months on Count	_____
<u>12</u>	months on Count	<u>6</u>	_____	months on Count	_____
<u>12</u>	months on Count	<u>7</u>	_____	months on Count	_____

CONFINEMENT [Maximum Term And Minimum Term]. Defendant is sentenced to total confinement as follows. The maximum and minimum terms of confinement shall be served in a facility or institution operated, or utilized under contract, by the State of Washington. RCW 9.94A.712

- Count _____: maximum term of _____ years AND minimum term of _____ months
- Count _____: maximum term of _____ years AND minimum term of _____ months
- Count _____: maximum term of _____ years AND minimum term of _____ months
- Count _____: maximum term of _____ years AND minimum term of _____ months
- Count _____: maximum term of _____ years AND minimum term of _____ months
- Count _____: maximum term of _____ years AND minimum term of _____ months
- Count _____: maximum term of _____ years AND minimum term of _____ months

FURTHER PROVISIONS APPLICABLE TO ALL SENTENCES:

The minimum term of actual total confinement ordered on all counts cumulatively is eighty four months
 (Add mandatory firearm and deadly weapon enhancement time to run consecutively to other counts. See Sec. 2.3, Sentence Data above.)

The maximum term of total confinement ordered on all counts cumulatively is one hundred forty one months on all cause numbers

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon, or sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: (3)

The sentence herein shall run consecutively with the sentence in cause number(s) 06-1-00223-1 and 06-1-00498-2
 but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589

Confinement shall commence immediately unless otherwise set forth here: _____

The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

COMMUNITY PLACEMENT [For Determinate Sentences] is ordered as follows: Count _____ for _____ months; Count _____ for _____ months; Count _____ for _____ months.

COMMUNITY CUSTODY RANGE [For Determinate Sentences] is ordered as follows:
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

COMMUNITY CUSTODY [For Maximum And Minimum Term Sentences]: For each count, the defendant is sentenced to community custody under the supervision of the Department of Corrections (DOC) and the authority of the Indeterminate Sentence Review Board for any period of time that the defendant is released from total confinement before expiration of the maximum sentence. In addition to other conditions, the defendant shall comply with any conditions imposed by the Indeterminate Sentence Review Board under RCW 9.94A.713; 9.95.420, .425, .430, .435.

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with orders of the court as required by DOC (7) notify DOC of any change in the defendant's address or employment. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.
 Defendant shall have no contact with: _____
 Defendant shall remain within outside of a specific geographical boundary, to wit: _____

The defendant shall participate in the following crime-related treatment or counseling services: _____

The defendant shall undergo an evaluation for treatment for domestic violence alcohol abuse controlled substance abuse mental health anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: _____

4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections:

4.9 Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5)
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): W.A.
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.750.
 A restitution hearing shall be set for _____
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

5.6 **FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

If this is a crime enumerated in RCW 9.41.040 which makes you ineligible to possess a firearm, you must surrender any concealed pistol license at this time, if you have not already done so.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the department of licensing along with the date of conviction).

Cross off if not applicable:

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 3 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this State's Department of Corrections.

If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 14 days after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report in person to the sheriff of the county where you are registered on a weekly basis if you have been classified as a risk level II or III, or on a monthly basis if you have been classified as a risk level I. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least 5 years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

Cross off if not applicable:

5.8 **RIGHT TO APPEAL.** If you plead not guilty, you have a right to appeal this conviction. If the sentence imposed was outside of the standard sentencing range, you also have a right to appeal the sentence.

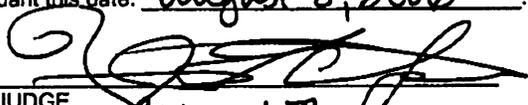
This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

5.9 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: August 8, 2006


 JUDGE
 Print name: Edward Thoppe

  
 COURTNEY A. POPP, #35470 MAX P. HARRISON, #12243 WAYNE ALLEN NEWLUN
 Deputy Prosecuting Attorney Attorney for Defendant Defendant

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: 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 92A.84.660

Defendant's signature: _____

Interpreter signature/Print name: _____
 I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.
 CAUSE NUMBER of this case: _____

I, Pam L. Daniels, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA12176549
(If no SID take fingerprint card for State Patrol)

Date of Birth: 12/08/1963

FBI No. 791412PA5

Local ID No:

PCN No. _____

DOC : 283750

Alias name, SSN, DOB: August 9 1949, JAMES MICHAEL BRISKI, RICHARD FRANCIS DAVIS, WADE SCOTT HILTS, WAYNE A HILTS, WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN, WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 6'1

Weight: 190

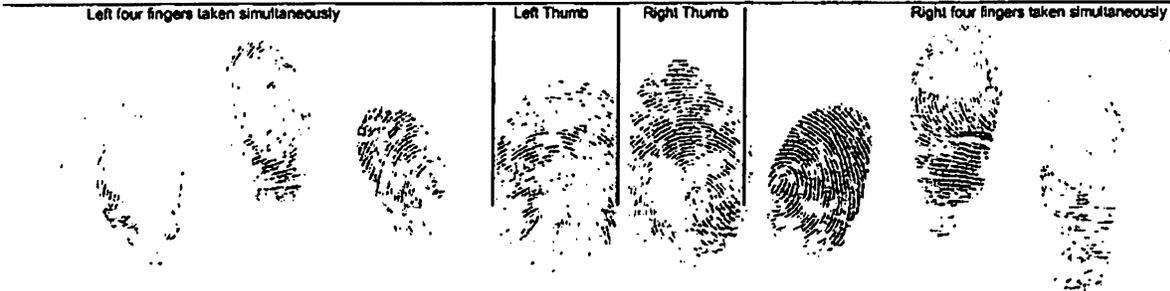
Hair: Brown

Eyes: Blue

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: J. McColey, Deputy Clerk.
Dated: 8-8-06

DEFENDANT'S SIGNATURE: _____

ADDRESS: _____



FILED

ORDER OF COMMITMENT

06 AUG 14 AM 10:18
PAM L. DANIELS
SNOHOMISH CO. WASH.

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington, GREETINGS:

WHEREAS, WAYNE ALLEN NEWLUN, has been duly convicted of the crime(s) of Count 1 First Degree Identity Theft, Count 2 Forgery, Count 3 Forgery, Count 4 Forgery, Count 5 Forgery, Count 6 Unlawful Possession of Personal Identification Device, Count 7 Unlawful Possession of Personal Identification Device, as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to conduct him to the Washington Corrections Center at Shelton, Washington, in Mason County, and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these presents shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable Richard Thorne, Judge of the said Superior Court and the seal thereof, this 8th day of August, 2006.

Pam L. Daniels
CLERK OF THE SUPERIOR COURT

By: J. McCall
Deputy Clerk

FILED

06 AUG 11 PM 1:42

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



CL11683492

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00241-0

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FOR AN EXCEPTIONAL SENTENCE

APPENDIX 2.4 JUDGMENT AND SENTENCE

SID: WA12176549
If no SID, use DOB: 12/08/1963

An exceptional sentence [X] above [] within [] below the standard range should be imposed based upon the following Findings of Fact and Conclusions of Law.

I. FINDINGS OF FACT

1. The defendant has twenty prior felony convictions, and an offender score of 26.
2. The defendant has pled guilty to one count of First Degree Identity Theft, four counts of Forgery, and two counts of Unlawful Possession of Personal Identification Device.

II. CONCLUSIONS OF LAW

1. Because of the defendant's high offender score, the standard range sentence for all seven counts is the same as the standard range sentence for First Degree Identity theft alone.
2. Since the defendant has committed multiple current offenses, and the defendant's high offender score would result in some of the current offenses going unpunished, an exceptional sentence is justified under RCW 9.94A.535(2)(c).

Dated: August 11, 2006

C. Popp #35470
Deputy Prosecuting Attorney
COURTNEY A. POPP

[Signature]
JUDGE RICHARD J. THORPE
APPROVE AS TO FORM ONLY
Attorney for Defendant #72043
MAX P. HARRISON

(NO JTS filed as of 8-14-06 MS)

AS
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**CERTIFIED
COPY**

FILED

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**PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.**



CL11753347

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00648-2

INFORMATION

Aliases: August 9 1949, JAMES MICHAEL BRISKI, RICHARD FRANCIS DAVIS, WADE SCOTT HILTS, WAYNE A HILTS, WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN, WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe

Other co-defendants in this case:

Comes now JANICE E. ELLIS, Prosecuting Attorney for the County of Snohomish, State of Washington, and by this, her Information, in the name and by the authority of the State of Washington, charges and accuses the above-named defendant(s) with the following crime(s) committed in the State of Washington:

COUNT I: SECOND DEGREE IDENTITY THEFT, committed as follows: That the defendant, on or about the 14th day of December, 2005, did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Guy Randal, with the intent to commit, aid and abet a crime, to-wit: forgery; proscribed by RCW 9.35.020 (1) and (3), a felony.

COUNT II: FORGERY, committed as follows: That the defendant, on or about the 14th day of December, 2005, with intent to injure and defraud and knowing the same to be forged, did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: check drawn on the Bank of America account of Pavlina Selezneva and Valeriy Akulov; proscribed by RCW 9A.60.020(1)(b), a felony.

JANICE E. ELLIS
PROSECUTING ATTORNEY

JOHN J. JUHL, #18951
Deputy Prosecuting Attorney

Information Page 1
St. v. NEWLUN, WAYNE ALLEN
PA#08F01063 3/16/2008

Snohomish County Prosecuting Attorney
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NVL/JJJ/fjs

.....
Address: 8006 15TH ST BALLARD WA 98115
HT: 6'1 DOB: 12/08/1963 SID: WA12176549
WT: 190 SEX: M FBI: 791412PA5
EYES: Blue RACE: White DOC: 283750
HAIR: Brown DOL: NEWLU-WA-375RH, WA
ORIGINATING AGENCY: LYNNWOOD POLICE DEPARTMENT AGENCY CASE#: 0512289
.....

FILED
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PAH L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.



SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. 06-1-00648-2

AFFIDAVIT OF PROBABLE CAUSE

Aliases: August 9 1949, JAMES MICHAEL BRISKI , RICHARD FRANCIS DAVIS , WADE SCOTT HILTS , WAYNE A HILTS , WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN , WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe»

Other co-defendants in this case:

AFFIDAVIT BY CERTIFICATION:

The undersigned certifies that I am a Deputy Prosecuting Attorney for Snohomish County, Washington, and make this affidavit in that capacity; that criminal charges have been filed against the above-named defendant(s) in this cause, and that I believe probable cause exists for the arrest of the defendant(s) on the charges because of the following facts and circumstances:

According to reports and witness statements submitted by the Lynnwood Police Department the following criminal activity took place in Snohomish County, Washington: On or about December 14, 2005, WAYNE ALLEN NEWLUN knowingly possessed and used Guy Randal's identification with intent to commit a forgery; and on or about December 14, 2005, WAYNE ALLEN NEWLUN did possess, offer, and put off a true a check drawn on the Bank of America account of Pavlina Selezneva and Valeriy Akulov, knowing the same to be forged and with intent to injure and defraud. Affiant has no knowledge of these events independent of the reports and statements submitted, except as noted.

According to reports, on December 14, 2005, Detective Gillebo responded to a reported forgery at the Safeway located at 19715 Highway 99, Lynnwood, WA. Cashier Robert Schroeder stated that approximately 3:30 p.m., a male subject, later identified as WAYNE ALLEN NEWLUN, attempted to purchase a \$110 gift card and some groceries using a check for payment. Schroeder stated that he told NEWLUN that he would have to pay cash for the gift card and NEWLUN said he would purchase the card later and wrote a check for the groceries, the check had the name Guy Randal printed above two other

Affidavit of Probable Cause Page 1
St. v. NEWLUN, WAYNE ALLEN
PA#06F01063

Snohomish County Prosecuting Attorney
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EXHIBIT 10

names, Pavlina Selezneva and Valeriy Akulov. Schroeder stated that NEWLUN presented a driver's license with the name Guy Randal and Schroeder wrote the license number on the check. The Safeway check security system indicated that more than twenty checks had been written on the account to Safeway in the past twenty-four hours. Schroeder handed the check to a manger and requested the manager make a photo copy of the check. NEWLUN left the store without the check and without the groceries. The transaction was recorded by the video surveillance.

Detective Gillebo contacted Pavlina Selezneva whose name was also on the check. Selezneva had been the victim of a burglary on December 12, 2005, and one of the items taken was her checkbook. Detective Gillebo discovered that Guy Randal had been a victim of a vehicle prowl on October 31, 2005. Detective Gillebo also discovered that WAYNE ALLEN NEWLUN was a suspect in other forgeries involving Randal and Selezneva ID and checks. Detective Gillebo obtained a DOL photo of NEWLUN and recognized NEWLUN as the same person in the surveillance video. Detective Gillebo prepared a photo montage and showed it to Schroeder on February 17, 2006. Schroeder picked NEWLUN's photo as his strongest recollection of the person who presented the forged check on December 14, 2005.

The Prosecutor's understanding of the defendant's criminal history shows convictions for:

Second Degree Burglary (B)	10/26/82	King County;
Second Degree Theft (C)	10/26/82	King County;
Second Degree Burglary (B)	11/1/84	King County;
Violation of Work Release (C)	5/27/87	King County;
Second Degree Theft (C)	5/27/87	King County;
First Degree Theft (B)	5/27/87	King County;
Unlawful Issuance of Bank Check (C)	5/27/87	King County;
2 nd Deg. Possession of Stolen Property (C)	9/11/89	King County;
NSF Check (C)	3/30/92	Ada County, ID;
First Degree Theft (B)	6/1/92	Mason County;
Unlawful Issuance of Bank Check (C)	6/1/92	Mason County;
VUCSA - Possession (C)	5/17/96	King County;
Unlawful Issuance of Bank Check (C)	5/17/96	King County;
Forgery (C)	5/17/96	King County;
Attempted First Degree Theft (C)	5/17/96	King County;
Forgery (C)	9/22/00	King County;
First Degree Theft (B)	9/22/00	King County;
2 nd Deg. Possession of Stolen Property (C)	9/22/00	King County;
Residential Burglary (B)	12/7/00	Snohomish County;

Seven misdemeanor convictions between 1989 and 1998.

The State respectfully requests bail set in the amount of \$10,000.

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



JOHN J. JUHL, #18951
Deputy Prosecuting Attorney

DATED this 16 day of March, 2006 at the Snohomish County Prosecutor's Office.

Affidavit of Probable Cause Page 2
St. v. NEWLUN, WAYNE ALLEN
PA#06F01083

Snohomish County Prosecuting Attorney
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NVL/JJJ/fjs



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DANIEL DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

**SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY**

THE STATE OF WASHINGTON,

Plaintiff,

v.

NEWLUN, WAYNE ALLEN

Defendant.

No. ~~06-1-00648-2~~

**STATEMENT OF DEFENDANT
ON PLEA OF GUILTY**

1. My true name is WAYNE ALLEN NEWLUN.

2. My age is 42.

3. I went through the 12 grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is MAX P. HARRISON.

(b) I am charged with the crime(s) of Count I: Second Degree Identity Theft, Count II: Forgery, RCW 9.35.020(1) and (3), 9A.60.020(1)(b).

The elements of the crimes are:

COUNT I: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 14th day of December, 2005, 3) did knowingly obtain, possess, use and transfer a means of identification and financial information of a person, to-wit: Guy Randal, 4) with the intent to commit, aid and abet a crime, to-wit: forgery.

COUNT II: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 14th day of December, 2005, 3) with intent to injure and defraud and knowing the same to be forged, 4) did possess, utter, offer, dispose of, and put off as true a written instrument, described as follows: check drawn on the Bank of America account of Pavlina Selezneva and Valeriy Akulov.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed.
- (b) The right to remain silent before and during trial, and I need not testify against myself.
- (c) The right at trial to hear and question witnesses who testify against me.
- (d) The right at trial to testify on my own behalf and to have other witnesses testify for me. These witnesses can be made to appear at no expense to me.

Statement of Defendant on Plea of Guilty Page 1 of 7
St. v. NEWLUN, WAYNE ALLEN
PA#06F01063 6/26/2006

Snohomish County Prosecuting Attorney
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(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.

(f) The right to appeal a determination of guilty after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancement)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancement)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(m))	MAXIMUM TERM AND FINE
1	43-57 months		43-57 months		5 years/\$10,000
2	22-29 months		22-29 months		5 years/\$10,000

* (F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Horn, See RCW 48.61.520 (JP) Juvenile Present.

(b) The standard range(s) shown above are based on the prosecuting attorney's understanding of my criminal history. Criminal history includes prior adult and juvenile convictions, whether in this state, in federal court, or elsewhere. Even so, my plea of guilty to the crime(s) is binding on me. I cannot change my mind if additional history is discovered even though the maximum sentence, the standard sentence range, and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without possibility of parole is required by law.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) I understand that the prosecutor's understanding of my criminal history is tentative in nature, and that it will be the Judge who ultimately determines my correct score. If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, or if it is determined that the prosecutor's scoring is incorrect, both the standard sentence and the prosecuting attorney's recommendations may increase.

(e) In addition to sentencing me to confinement, the judge will order me to pay \$500 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, and costs of incarceration. The judge may place me on community supervision, community placement, or community custody, impose restrictions on my activities, and order me to perform community restitution.

(f) The prosecuting attorney will make the recommendation to the judge as stated on the attached plea agreement form.

(g) Persons other than the prosecutor may make sentence recommendations which could differ from the prosecutor's recommendation. The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

NOTIFICATIONS RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

(h) ~~Three Strikes Law. The crime of _____ is a "most serious offense" as defined by RCW 9.94A.030(25). If I am a "persistent offender," as defined by RCW 9.94A.030(26), the court must sentence me to life imprisonment without possibility of parole, or early release, regardless of the maximum penalty stated above. I am a "persistent offender" if (a) before I committed this crime, I had two convictions for "most serious offenses," either in this state, federal court, a court martial or elsewhere and (b) one of my prior convictions for a "most serious offense" occurred before I committed the other "most serious offense."~~

~~(i) Two Strikes Law. If a current offense is (A) rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation; (C) an attempt to commit any of the aforementioned crimes and I have at least one prior conviction for one of the aforementioned crimes in this state, in federal court, in a court martial, or elsewhere, the current crime I am charged with carries a mandatory sentence of life imprisonment without possibility of parole or early release, regardless of any other stated maximum penalty. The prior conviction must have occurred before commission of the current offense.~~

~~(j) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without possibility of parole (the "Three Strikes" or "Two Strikes" Law) as described in paragraph 6(h) or 6(i) above. The law does not allow any reduction of this sentence.~~

~~(k) The crime(s) of _____ has a (special firearm allegation) (deadly weapon enhancement) which carries an additional penalty of _____ years of total confinement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements. The law does not allow any reduction of this sentence.~~

~~(l) The crime of _____ carries a mandatory minimum fine of \$ _____.~~

~~(m) Counts _____ and _____ are two or more serious violent offenses arising from separate and distinct criminal conduct, and the sentences for these counts will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~

~~(n) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is less than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. If this crime is a sex offense, the court will order me to serve at least three years of community custody. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h).~~

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is less than 12 months. If the crime I have been convicted of falls into one of the offense types

listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months or up to the period of earned release, whichever is longer
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer
Crimes Against Persons as defined by RCW 9.94a.411(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.505)	9 to 12 months or up to the period of earned release, whichever is longer

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

~~(e) The judge may sentence me as a First Time Offender instead of imposing a sentence within the standard range if I qualify under RCW 9.94A.030(23). This sentence could include as much as 90 days confinement, and (if the crime was committed prior to July 1, 2000), up to two years community supervision, or (if the crime was committed on or after July 1, 2000) up to two years of community custody, plus all of the conditions described in paragraph 8(e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a described course of study or occupational training.~~

~~(p) If this crime involved a motor vehicle or was a felony in the commission of which a motor vehicle was used, my driver's license or privilege to drive will be revoked. If I have a driver's license, I must now surrender it to the judge.~~

~~(q) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.~~

~~(r) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.~~

~~(s) I will be required to provide a biological sample for purposes of DNA identification analysis. Unless expressly waived by the Court, I will be required to pay a biological testing fee in the amount of \$100.~~

~~(t) Because this crime involves a sex offense as defined by RCW 9A.44.130(9)(a), or a kidnapping offense involving a minor, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Sex Offender Registration Requirement" attachment.~~

~~(t-1) If I qualify under RCW 9.94A.120(8), the judge may suspend execution of the standard range term of the confinement under the Special Sex Offender Sentencing Alternative (SSOSA). The judge may impose up to six months confinement. If the judge suspends execution of the standard range of confinement, I will be placed on community custody for the length of the suspended sentence or three years, which ever is greater. I will be ordered to participate in sex offender treatment, and I will be subject to all of the conditions described in paragraph 8 (e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a~~

~~violation of sentence occurs during community custody, or the judge finds that I fail to make satisfactory progress in treatment, the judge may revoke the suspended sentence.~~

(u)(i) If the crime charged herein is a felony or one of the following crimes when committed by one family or household member against another, committed on or after July 1, 1993: Assault in the fourth degree, coercion, stalking, reckless endangerment in the second degree, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040), or

(ii) If I have previously been involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless my right to possess a firearm has been restored as provided in RCW 9.41.047,

(iii) or if I am under eighteen years of age, except as provided in RCW 9.41.042; and/or

(iv) If I am free on bond or personal recognizance pending trial, appeal, or sentencing for a serious offense as defined in RCW 9.41.010, I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard or comparable identification to the department of licensing along with the date of conviction).

(v) Applicable to all felonies: I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record, and I must immediately surrender any concealed pistol license. RCW 9.41.040, 9.41.047. All offenders sentenced to terms involving community custody, community supervision, community placement, or community restitution may not own, use, or possess firearms or ammunition. RCW 9.94A.120(16).

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court.

~~(w) If the court finds that a chemical dependency has contributed to my offense, the court may, as a condition of the sentence and subject to available resources, order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I have been convicted and reasonably necessary or beneficial to me and the community in rehabilitating me. If this crime is a violation of the uniform controlled substances act under chapter 69.50 RCW the court, unless specifically waived, shall order the Department of Corrections to complete a chemical dependency screening report before imposing sentence.~~

~~(w-1) If I qualify under RCW 9.94A.505, the judge may sentence me under the Special Drug Offender Sentencing Alternative (DOSA). This sentence includes total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions of paragraph 6(e). During confinement I would be required to undergo a comprehensive substance abuse assessment and to participate in treatment. Community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status will also be imposed. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars a month to offset the cost of monitoring and require other conditions, including affirmative conditions. If the Department of Corrections finds that I violated a condition of sentence, or I fail to complete the DOSA program, or I am administratively terminated from the program, the Department of Corrections will reclassify me to serve the balance of the original sentence of total confinement within the standard range.~~

~~(w-2) A conviction for a violation of the state drug laws will affect eligibility for various federal benefits and programs and state programs funded by the federal government including, but not limited to, food stamps, welfare, and education.~~

(x) If this crime is a felony sexual offense or if the court determines that I may be a mentally ill person as defined in RCW 71.24.025, even if I have not established that at the time of the crime I lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the Department of Corrections to complete a presentence report before imposing sentence.

(y) If this is a crime of domestic violence and if I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program.

~~(z) If this crime involves the manufacture, delivery, or possession with intent to deliver methamphetamine or amphetamine, a mandatory methamphetamine clean-up fine of \$3,000 will be assessed. RCW 69.50.401(a)(ii).~~

~~(z-1) The special allegation that there was a person under age 18 on the premises when the defendant committed (a) manufacture of methamphetamine or (b) possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine, carries a mandatory sentence enhancement of twenty-four months total confinement.~~

~~(aa) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).~~

~~(bb) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9A1.040 for unlawful possession of a firearm in the first or second degree and one or more convictions of the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will be imposed for each firearm unlawfully possessed.~~

~~(cc) No payment of public assistance will be made to a convict during the period of confinement/incarceration. RCW 74.08.290.~~

7. I plead guilty to the crimes of Count I: Second Degree Identity Theft, Count II: Forgery, as charged in the Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:

COUNT I ON 12-14-05, I KNOWINGLY POSSESSED A MEANS
OF IDENTIFICATION AND FINANCIAL INFORMATION OF GUY RANDAL
WITH THE INTENT TO COMMIT OR ASSIST THE CRIME OF FORGERY

COUNT II ON 12-14-05, WITH THE INTENT TO INJURE AND DEFRAUD
AND KNOWING THE SAME TO BE FORGED I POSSESSED AND PUT ON
AS A TRAVEL WARRANT INSTRUMENT A CHECK DRAWN ON THE
ACCOUNT OF PAVLINA SELSZNEWA AND VALERIE AKILOV.

THESE ACTS OCCURRED IN SNOHOMISH COUNTY, WASHINGTON.

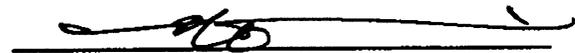
12. I am aware that an Affidavit of Probable Cause has been filed in this case. The court may consider this Affidavit in deciding whether there is a factual basis for my plea.

13. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the attachments/appendices to this document. I understand them all. I have been given a copy of this 'Statement of Defendant on Plea of Guilty', including attachments/appendices. I have no further questions to ask the judge.


WAYNE ALLEN NEWLUN
DEFENDANT

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.


COURTNEY A. POPP, #35470
DEPUTY PROSECUTING ATTORNEY

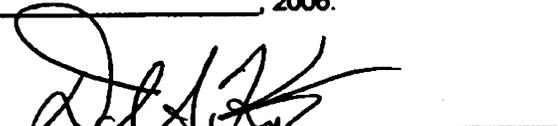

MAX P. HARRISON, #12243
DEFENDANT'S LAWYER

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check appropriate box):

- (a) The defendant had previously read the entire statement above (including attachments/appendices) and that the defendant understood it in full.
 (b) The defendant's lawyer had previously read to him or her the entire document above (including attachments/appendices) and that the defendant understood it in full; or
 (c) An interpreter had previously read to the defendant the entire statement above (including attachments/appendices) and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 30 day of June, 2008.


Judge

INTERPRETER'S STATEMENT

I am a certified interpreter or I am fluent in the _____ language and have been found qualified by the court to interpret in the aforementioned language which the defendant understands. I have translated this entire document, including attachments/appendices, for the defendant from English into the aforementioned language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document, including attachments/appendices.

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

Dated: _____

Located: _____

Interpreter

PLEA AGREEMENT
(SENTENCING REFORM ACT)

Defendant: WAYNE ALLEN NEWLUN
ON PLEA TO: [X] AS CHARGED - []

CAUSE NO.: 06-1-00648-2

Special Finding/Verdict of possession of deadly weapon on Count(s) _____
(RCW 9.94A.125).

The State of Washington and the defendant enter into this PLEA AGREEMENT which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea. The PLEA AGREEMENT is indicated above and as follows:

1. [] DISMISS: Upon disposition of Count(s) _____, the State moves to dismiss Count(s)

2A [] REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows:

[] as set forth in the affidavit(s) of probable cause filed herein

[] as set forth in attached Appendix C.

2B. SENTENCING FACTS: Facts to be considered for imposing a standard range sentence are as set forth in the affidavits(s) of probable cause filed herein.

3. RESTITUTION: Pursuant to statute, the defendant agrees to pay restitution as follows:

in full to victim(s) on charged counts

as set forth in attached Appendix C.

4. [] OTHER: _____

[] The defendant agrees that a chemical dependency contributed to the commission of this offense and further agrees to cooperate in the preparation of a chemical dependency screening report and allow the results of that report to be submitted to the court and the Prosecuting Attorney prior to sentencing.

[] The defendant agrees to undergo an evaluation by Treatment Alternatives to Street Crime and allow the results of that evaluation to be submitted to the court and the Prosecuting Attorney, prior to sentencing.

5. SENTENCE RECOMMENDATION: *agreed*

The defendant agrees to the foregoing Plea Agreement and that the attached Prosecutor's Understanding of Defendant's Criminal History (Appendix A), and the attached Sentencing Guidelines scoring form(s) (Appendix B) are accurate and complete and that the defendant was represented by counsel or waived counsel at the time of prior conviction(s). Any challenge by the defendant to the criminal history or scoring will constitute a breach of this agreement. The State makes the sentencing recommendation set forth in State's Sentence Recommendation. The sentencing recommendation may increase in severity if any additional convictions are discovered.

[] The defendant disputes the Prosecutor's Statement of the Defendant's Criminal History, and the State makes no agreement with regard to a sentencing recommendation and may make a sentencing recommendation for the full penalty allowed by law.

Mandatory Minimum Term (RCW 9.94A.120(4) only): _____

[] Mandatory license revocation RCW 46.20.285.

Ten years jurisdiction and supervision for monetary payments.

RCW 9.94A.120(9).

6. AGREEMENT NOT TO CHALLENGE CONVICTION: The defendant agrees not to challenge the conviction for this crime, whether by moving to withdraw the plea, appealing the conviction, filing a personal restraint petition, or in any other way. If an exceptional sentence is imposed, the defendant may appeal the sentence without violating this agreement.

7. **NON-COMPLIANCE WITH AGREEMENT:** If the defendant fails to appear for sentencing, or if prior to sentencing the defendant commits any new offense or violates any condition of release, the State may recommend a more severe sentence.

If the defendant violates any other provision of this agreement, the State may either recommend a more severe sentence, file additional or greater charges, or re-file charges that were dismissed. The defendant waives any objection to the filing of additional or greater charges based on pre-charging or pre-trial delay, statutes of limitations, mandatory joinder requirements, or double jeopardy.

In any event, the defendant will remain bound by the agreement and will not be allowed to withdraw the plea. If the defendant's violation of the agreement constitutes a crime, the defendant may be charged with that crime.

8. **AGREEMENT NOT TO FILE ADDITIONAL CHARGES**

This agreement is limited to cause numbers or crimes specifically referred to in this plea agreement and identified by crime, victim, and police incident number immediately following this paragraph and does not apply to any other matters which may be under investigation, pending, or being handled by any other DPA or agency.

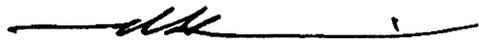
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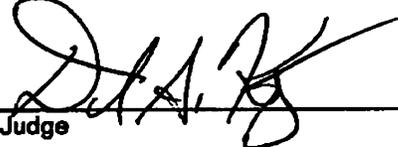
WAYNE ALLEN NEWLUN
Defendant



COURTNEY A. POPP, #35470
Deputy Prosecuting Attorney



MAX P. HARRISON, #12243
Attorney for Defendant



Judge

STATE'S SENTENCE RECOMMENDATION (CONFINEMENT OF OVER ONE YEAR)
(SENTENCING REFORM ACT)

DATE: June 26, 2006

DEFENDANT: WAYNE ALLEN NEWLUN

CAUSE NO.: 06-1-00648-2

State recommends that the sentence of this defendant be as follows:

TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement in the custody of the Department of Corrections as follows:

Count I 37 months/years
Count II 29 months/years

Terms on each count to run concurrently consecutively.

MONETARY PAYMENTS: The defendant shall make the following monetary payments under the supervision of the Secretary of the Department within 10 years:

Restitution as set forth on attached page entitled "Plea Agreement" and ~~Appendix C.~~

Mandatory Victim Penalty Assessment

~~\$100.00 prior to June 6, 1996; \$500.00 on or after June 6, 1996.~~

- Pay a fine of \$ _____
- Pay probationer assessment pursuant to RCW 9.94A.270.
- Pay costs of extradition.
- Pay court costs and costs of appointed counsel.
- Pay mandatory \$100 state crime lab fee.\
- Pay \$100 DNA fee.

COMMUNITY PLACEMENT: The defendant shall serve a _____-year term of community placement subject to the conditions set forth in RCW 9.94A.120(8)(b) and the following conditions. The defendant shall:

- Have no direct contact with _____
- Not consume alcohol.
- Participate in crime-related treatment and counseling.
- Shall remain (within)(outside of) the following geographical area: _____

Shall comply with the following crime-related prohibitions: _____

COMMUNITY CUSTODY: Defendant shall be on Community Custody for the length of _____. Community custody shall commence immediately but is tolled during any term of confinement. Defendant shall report no later than the next business day after sentencing, or if in custody, the next business day after release from confinement to the State Department of Corrections and shall comply with all rules, regulations and requirements of that department.

Participate fully and successfully complete community-based sexual deviancy treatment program, including all conditions imposed by the therapist.

No contact with victim(s) _____

No contact with minor children unless supervised by an adult previously approved by the therapist and community corrections officer.

OTHER (crime related prohibitions, treatment, etc.): _____

PROBATION REVOCATION/MODIFICATION: State recommends revocation/modification of probation or community supervision on Snohomish County Cause Number(s) _____ and recommends that terms be run concurrently/consecutively.

EXCEPTIONAL SENTENCE: This is an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth on the attached form.

OTHER: _____



COURTNEY A. POPP, 35470
Deputy Prosecuting Attorney

**APPENDIX A TO PLEA AGREEMENT
PROSECUTOR'S UNDERSTANDING OF DEFENDANT'S CRIMINAL HISTORY
(SENTENCING REFORM ACT)**

DATE: June 26, 2006 (gp/dhw)
 DEFENDANT: **NEWLUN, Wayne Allen**
 Aka HILTS, Wade Scott
 DOB: 12/8/63 W/M
 SID: WA12176549 FBI: 791412PA5 DOC: 283750

<u>CRIME</u>	<u>DATE OF CONVICTION</u>	<u>PLACE OF CONVICTION</u>	<u>Incarceration/Probation DISPOSITION</u>
ADULT FELONIES:			
* Second Degree Burglary (B)	10/26/82	King County 82-1-00696-0	10 Yrs. Suspended 7 Mos. Confinement 3 Yrs. Probation
* Second Degree Theft (C)	10/26/82	King County 82-1-02454-2	5 Yrs. Suspended 6 Mos. Confinement 3 Yrs. Probation
*Court ordered sentences to be served consecutively			
Second Degree Burglary (B)	11/1/84	King County 83-1-01970-9	10 Yrs.
Violation of Work Release (C)	5/27/87	King County 86-1-00740-3	3 Mos. Confinement
Second Degree Theft (C)	5/27/87	King County 86-1-01660-7	13 Mos. Confinement
First Degree Theft (B)	5/27/87	King County 86-1-03880-5	22 Mos. Confinement
Unlawful Issuance of Bank Check (C)	5/27/87	King County 86-1-04641-7	13 Mos. Confinement
Second Degree Possession of Stolen Property (C)	9/11/89	King County 89-1-03672-6	4 Mos. Confinement
NSF Check (C)	3/30/92	Ada County, ID	1 Yr. Jail 3 Yrs. Probation Restitution \$2,018 Extradited to Washington
First Degree Theft (B)	6/1/92	Mason County 88-1-00139-1	29 Mos. Confinement
Unlawful Issuance of Bank Check (C)	6/1/92	Mason County 88-1-00139-1	18 Mos. Confinement
VUCSA – Possession (C)	5/17/96	King County 95-1-00197-8	29 Mos. Confinement

Appendix A to Plea Agreement - Page 2

NEWLUN, Wayne Allen

ADULT FELONIES: (continued)

Unlawful Issuance of Bank Check (C)	5/17/96	King County 95-1-07009-1	29 Mos. Confinement
Forgery (C) (2 Counts)	5/17/96	King County 95-1-07641-2	29 Mos. Confinement
Attempted First Degree Theft (C)	5/17/96	King County 95-1-08362-1	36 Mos. Confinement
Forgery (C)	9/22/00	King County 99-1-07978-3	29 Mos. Confinement
First Degree Theft (B)	9/22/00	King County 00-1-00355-9	50 Mos. Confinement
Second Degree Possession of Stolen Property (C)	9/22/00	King County 00-1-00355-9	29 Mos. Confinement
Residential Burglary (B)	12/7/00	Snohomish County 00-1-01721-3	84 Mos. Confinement 6/21/05 Released

ADULT MISDEMEANORS:

1. Third Degree Theft	2/8/89	King County	
2. Bad Check	1/24/94	Utah	
3. Refuse to Give Info/Cooperate	11/30/95	King County	
4. Driving While Suspend/Revoked	11/30/95	King County	
5. Public Indecency	1/10/96	King County	
6. Attempted Forgery	11/26/97	King County	Suspended
7. Deposition of Refuse on Public Prop.	8/1/98	King County	

JUVENILE FELONIES:

Second Degree Burglary (B)	9/4/81	Pacific County	Community Supervision
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JUVENILE MISDEMEANORS

None.

OTHER: (NOT COUNTED AS CRIMINAL HISTORY)

DATE

6/26/06


Deputy Prosecuting Attorney/WSBA #35470

6/26/06 (dhw)
 3/15/06 (gp)
 NEWLUN, Wayne Allen
 aka HILTS, Wade Scott

IDENTITY THEFT, SECOND DEGREE
 (RCW 9.35.020(2)(b))
CLASS C FELONY
NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-13)

I. OFFENDER SCORING (RCW 9.94A.525(7))

ADULT HISTORY:

Enter number of felony convictions 20 x 1 = 20

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 0 x 1 = 0

Enter number of nonviolent felony dispositions 1 x 1/2 = 1/2

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 6 x 1 = 6

STATUS: Was the offender on community custody on the date the current offense was committed? (if yes), + 1 = 0

Total the last column to get the Offender Score
 (Round down to the nearest whole number)

26

II. SENTENCE RANGE

A. OFFENDER SCORE:

**STANDARD RANGE
 (LEVEL II)**

0	1	2	3	4	5	6	7	8	9 or more
0 - 90 days	2 - 6 months	3 - 9 months	4 - 12 months	12+ - 14 months	14 - 18 months	17 - 22 months	22 - 29 months	33 - 43 months	43 - 57 months

- B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-5 or III-6 to calculate the enhanced sentence.
- C. If a sentence is one year or less: community custody may be ordered for up to one year (See RCW 9.94A.545 for applicable situations).

III. SENTENCING OPTIONS

- A. If "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.
- B. If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).
- C. Partial confinement may be served in home detention (RCW 9.94A.030).
- D. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.690).
- E. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-7 (RCW 9.94A.660).

•The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules

6/26/06 (JHW)

3715/06 (SP)
NEWLUN, Wayne Allen
aka HILTS, Wade Scott

FORGERY
(RCW 9A.60.020(3))
CLASS C FELONY
NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-13)

I. OFFENDER SCORING (RCW 9.94A.525(7))

ADULT HISTORY:

Enter number of felony convictions 20 x 1 = 20

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 0 x 1 = 0

Enter number of nonviolent felony dispositions 1 x 1/2 = 1/2

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 6 x 1 = 6

STATUS: Was the offender on community custody on the date the current offense was committed? (If yes), + 1 = 0

Total the last column to get the Offender Score
(Round down to the nearest whole number) 26

II. SENTENCE RANGE

A. OFFENDER SCORE:
STANDARD RANGE
(LEVEL I)

0	1	2	3	4	5	6	7	8	9 or more
0 - 60 days	0 - 90 days	2 - 5 months	2 - 6 months	3 - 8 months	4 - 12 months	12+ - 14 months	14 - 18 months	17 - 22 months	22 - 29 months

B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-5 or III-6 to calculate the enhanced sentence.

III. SENTENCING OPTIONS

- A.** If "First-time Offender" eligible: 0-90 days confinement and up to one year of community custody. If treatment is ordered, the period of community custody may include up to the period of treatment, but shall not exceed two years.
- B.** If sentence is one year or less: one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.680).
- C.** Partial confinement may be served in home detention (RCW 9.94A.030).
- D.** If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-7 (RCW 9.94A.660).
 - The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules

APPENDIX C TO PLEA AGREEMENT
SENTENCING MEMORANDUM (REAL FACTS/RESTITUTION)
(SENTENCING REFORM ACT)

Date: 6/26/06

Defendant: WAYNE ALLEN NEWLUN

Cause No.: 06-1-00648-2

A. [] REAL FACTS OF HIGHER/MORE SERIOUS AND/OR ADDITIONAL CRIMES: In accordance with RCW 9.94A.370, the parties have stipulated that the court, in sentencing, may consider as real and material facts information as follows: _____

B. SENTENCING FACTS: Facts to be considered for imposing a standard range sentence are as set forth in the affidavit(s) of probable cause filed herein: _____

C. RESTITUTION-CHARGED COUNTS (Indicate count, police department, police number and victim's name) is as follows:

ct 1 - Lynnwood PD, #05-12289, Garry Randal
ct 2 - Lynnwood PD, #05-12289, Paulina Selesneva

D. [] RESTITUTION-UNCHARGED CRIMES, RCW 9.94A.140(2) (indicated police department, police number and victim's name) is as follows: _____

As conditions of any plea agreement, the defendant must agree to allow the court to consider the above-stated REAL FACTS at sentencing and/or agree to make the above-stated RESTITUTION on uncharged crimes.

C. P. P.
COURTNEY A. P. P. P., #35470



FILED
06 AUG 14 AM 10:48
PAUL DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

CERTIFIED
COPY

PROHIBITED TO CARRY FIREARMS

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

06-1-00648-2

Plaintiff,

JUDGMENT AND SENTENCE

v.

Prison

NEWLUN, WAYNE ALLEN

Jail One Year or Less

Defendant.

First Time Offender

Special Drug Offender Sentencing Alternative

SID: WA12176549

If no SID, use DOB: 12/08/1963

Clerk's Action Required,
restraining order entered para. 4.3

Clerk's action required
firearms rights revoked, para. 4.3 and 5.6

Clerk's action required, para 5.4, 5.3

Restitution Hearing set, Notice of Withholding

I. HEARING

1.1 A sentencing hearing was held and 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, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on June 30, 2006 by plea of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	Second Degree Identity Theft	9.35.020(1) and (3)	LYN, 0512289	12/14/05
II	Forgery	9A.60.020(1)(b)		12/14/05

as charged in the Information.

Additional current offenses are attached in Appendix 2.1.

A special verdict/finding for use of a deadly weapon which was a firearm was returned on Court(s) _____ RCW 9.94A.602, 9.41.010, 9.94A.533

A special verdict/finding for use of deadly weapon which was not a firearm was returned on Court(s) _____ RCW 9.94A.602, 9.94A.533

A special verdict/finding of sexual motivation was returned on Court(s) _____ RCW 9.94A.835.

A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Court(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter.; or in, or

ORIGINAL

AB
30.1

EXHIBIT 12

1 stmt
acc Jail 05/04

within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.
- The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030(45)
- This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- The court finds that the offender has a chemical dependency which contributed to the offense and imposes as a condition of sentence that defendant shall participate in the rehabilitative program/affirmative conduct:

RCW 9.94A.607.
- The crime charged in Count(s) _____ involve(s) domestic violence.
- The offense in Count(s) _____ was committed in a county jail or state correctional facility. RCW 9.94A.533(5)
- The court finds that in Count _____ a motor vehicle was used in the commission of this felony. The Department of Licensing shall revoke the defendant's driver's license. RCW 46.20.285.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589): (INPUT)
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 06-1-00241-0 Count I: First Degree Identity Theft, Count II: Forgery, Count III: Forgery, Count IV: Forgery, Count V: Forgery, Count VI: Unlawful Possession of Personal Identification Device, Count VII: Unlawful Possession of Personal Identification Device. 06-1-00223-1 Count I: Second Degree Identity Theft, Count II: Forgery.

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A. 525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.,	TYPE OF CRIME
1 *Second Degree Burglary	10/26/82	King County, WA		A	B
2 *Second Degree Theft	10/26/82	King County, WA		A	C
3 Second Degree Burglary	11/01/84	King County, WA		A	B
4 Violation of Work Release	05/27/87	King County, WA		A	C
5 Second Degree Theft	05/27/87	King County, WA		A	C
6 First Degree Theft	05/27/87	King County, WA		A	B
7 Unlawful Issuance of Bank Check	05/27/87	King County, WA		A	C
8 Second Degree Possession of Stolen Property	09/11/89	King County, WA		A	C
9 NSF Check	03/30/92	Ada County, ID		A	C
10 First Degree Theft	06/01/92	Mason County, WA		A	B
11 Unlawful Issuance of Bank Check	06/01/92	Mason County, WA		A	C
12 VUCSA—Possession	05/17/96	King County, WA		A	C
13 Unlawful Issuance of Bank Check	05/17/96	King County, WA		A	C
14 Forgery (2 counts)	05/17/96	King County, WA		A	C
15 Attempted First Degree Theft	05/17/96	King County, WA		A	C
16 Forgery	09/22/00	King County, WA		A	C
17 First Degree Theft	09/22/00	King County, WA		A	B
18 Second Degree Possession of Stolen Property	09/22/00	King County, WA		A	C
19 Residential Burglary	12/07/00	Snohomish County, WA		A	B

*Court ordered sentences to be served consecutively

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement or community custody (adds one point to score). RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525): (Input)
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520 (Input)

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS. LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	26 months	II	43-57 months		43-57 months	5 years/\$10,000
II	26 months	I	22-29 months		22-29 months	5 years/\$10,000

*Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile Present

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

2.4 **EXCEPTIONAL SENTENCE [For Determinate Sentence].** Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s)

The defendant and state stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentence 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. The jury's interrogatory is attached. The prosecuting attorney did did not recommend a similar sentence.

EXCEPTIONAL MINIMUM TERM [For Maximum and Minimum Term Sentence] Substantial and compelling reasons exist which justify an exceptional minimum term above within below the standard range for Count(s) _____ RCW 9.94A.712(3), 9.94A.535. Findings of fact and conclusions of law are attached in Appendix 2.4. 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, 10.01.160(3)

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753(5)):

2.6 The prosecutor's recommendation was 57 months/days on Count 1, 29 months/days on Count 2. The prosecutor recommended counts 1 + 2 run concurrently consecutively.

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 _____
- 3.3 The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

RMA	<u>\$15/\$25/\$50</u>	Restitution Monitoring Fee The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations.	SCC 4.94.010 RCW 9.94A.760
PCV	<u>\$500</u>	Victim assessment	RCW 7.68.035
CRC	<u>\$ waived</u>	Court costs, including Criminal filing fee \$ _____ FRC Witness costs \$ _____ WFR Sheriff service fees \$ _____ SFR/SFS/SFW/SRF Jury demand fee \$ _____ JFR Other \$ _____	RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190
PUB	<u>\$835 waived</u>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A..760
FCM	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDFLDV	\$ _____	Drug enforcement fund of _____	RCW 9.94A.760
FCD/NTF/SAD/SDI	\$ _____	Crime lab fee <input type="checkbox"/> deferred due to indigency	RCW 43.43.690
CLF	\$ _____	Extradition costs	RCW 9.94A.505
EXT	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	<u>\$100 waived</u>	Biological Sample Fee(for offenses committed after 7-1-2002)	RCW 43.43.7541
	\$ _____	Domestic Violence Penalty (for offenses committed after 6-4-2004 – maximum \$100)	RCW 10.99.080
	\$ _____	Other costs for: _____	
	<u>\$ 500</u>	TOTAL	RCW 9.94A.760

The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753.

~~XP~~

RESTITUTION. Schedule attached, Appendix 4.1.
Restitution ordered above shall be paid jointly and severally with:

<u>NAME of other defendant</u>	<u>CAUSE NUMBER</u>	<u>(Victim name)</u>	<u>(Amount-\$)</u>
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RJN

The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, 9.94A.760(9)

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than

\$ 50 per month commencing upon release
RCW 9.94A.760

All payments shall be made within 120 months of ~~the~~ release of confinement;
[] entry of judgment; [] Other _____

[] In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$50.00 per day unless another rate is specified here _____ RCW 9.94A.760(2)

[X] The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.

[X] The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.2 [] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 206, Everett, WA 98201 within one (1) hour of this order to arrange for the test. RCW 70.24.340

[] DNA TESTING. The defendant shall have a [] blood sample (offenses committed pre 7-1-2002 [] Biological sample (offenses committed 7-1-2002 and after) drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

4.3 The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence). EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.

[] (Check for any domestic violence crime as defined by RCW 10.99.020(3)): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST. ANY ASSAULT, DRIVE-BY SHOOTING, OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.050.

[] (Check for any harassment crime as defined by RCW 9A.46.060): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 9A.46 AND WILL SUBJECT A VIOLATOR TO ARREST. RCW 9A.46.080.

[] (For Domestic Violence orders only:) The clerk of the court shall forward a copy of this order on or before the next judicial day to the _____ County Sheriff's Office or _____ Police Department (where the protected person above-named lives), which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

4.4 OTHER: _____

4.5 CONFINEMENT OVER ONE YEAR.

CONFINEMENT [Determinate Sentences]. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

57 months on Count 1
29 months on Count 2

CONFINEMENT [Maximum Term And Minimum Term]. Defendant is sentenced to total confinement as follows. The maximum and minimum terms of confinement shall be served in a facility or institution operated, or utilized under contract, by the State of Washington. RCW 9.94A.712

Count ____: maximum term of _____ years AND minimum term of _____ months

Count ____: maximum term of _____ years AND minimum term of _____ months

FURTHER PROVISIONS APPLICABLE TO ALL SENTENCES:

The minimum term of actual total confinement ordered on all counts cumulatively is fifty-seven months
(Add mandatory firearm and deadly weapon enhancement time to run consecutively to other counts. See Sec. 2.3, Sentence Data above.)

The maximum term of total confinement ordered on all counts cumulatively is _____.

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon, or sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) 06-1-00241-0
but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589

Confinement shall commence immediately unless otherwise set forth here: _____

The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

4.6

COMMUNITY PLACEMENT [For Determinate Sentences] is ordered as follows: Count _____ for _____ months; Count _____ for _____ months; Count _____ for _____ months.

COMMUNITY CUSTODY RANGE [For Determinate Sentences] is ordered as follows:
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding. Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

COMMUNITY CUSTODY [For Maximum And Minimum Term Sentences]: For each count, the defendant is sentenced to community custody under the supervision of the Department of Corrections (DOC) and the authority of the Indeterminate Sentence Review Board for any period of time that the defendant is released from total confinement before expiration of the maximum sentence. In addition to other conditions, the defendant shall comply with any conditions imposed by the Indeterminate Sentence Review Board under RCW 9.94A.713; 9.95.420, .425, .430, .435.

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with orders of the court as required by DOC (7) notify DOC of any change in the defendant's address or employment. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders may be extended for up to statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

The defendant shall not consume any alcohol.
 Defendant shall have no contact with: _____
 Defendant shall remain within outside of a specific geographical boundary, to wit: _____

The defendant shall participate in the following crime-related treatment or counseling services:

The defendant shall undergo an evaluation for treatment for domestic violence alcohol abuse
 controlled substance abuse mental health anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or DOC during community custody, or are set forth here:

4.7 [] **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections:

4.9 Unless otherwise ordered, all conditions of this sentence shall remain in effect notwithstanding any appeal.

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5)
- 5.3 **NOTICE OF INCOME-WITHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): JLL
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.750.
 A restitution hearing shall be set for _____
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634

5.6 **FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

If this is a crime enumerated in RCW 9.41.040 which makes you ineligible to possess a firearm, you must surrender any concealed pistol license at this time, if you have not already done so.

(Pursuant to RCW 9.41.047(1), the Judge shall read this section to the defendant in open court. The Clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the department of licensing along with the date of conviction).

Cross off if not applicable:

5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200.** Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 3 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 3 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this State's Department of Corrections.

If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington State, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 14 days after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report in person to the sheriff of the county where you are registered on a weekly basis if you have been classified as a risk level II or III, or on a monthly basis if you have been classified as a risk level I. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level.

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least 5 years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

Cross off if not applicable:

5.8 **RIGHT TO APPEAL.** If you plead not guilty, you have a right to appeal this conviction. If the sentence imposed was outside of the standard sentencing range, you also have a right to appeal the sentence.

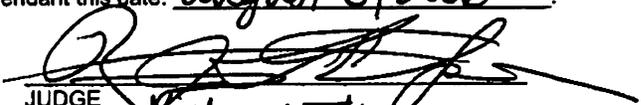
This right must be exercised by filing a notice of appeal with the clerk of this court within 30 days from today. If a notice of appeal is not filed within this time, the right to appeal is IRREVOCABLY WAIVED.

If you are without counsel, the clerk will supply you with an appeal form on your request, and will file the form when you complete it.

If you are unable to pay the costs of the appeal, the court will appoint counsel to represent you, and the portions of the record necessary for the appeal will be prepared at public expense.

5.9 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: August 8, 2006


 JUDGE
 Print name: Richard Thorne


 COURTNEY A. POPP, #35470
 Deputy Prosecuting Attorney


 MAX P. HARRISON, #12243
 Attorney for Defendant


 WAYNE ALLEN NEWLUN
 Defendant

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: 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 92A.84.660

Defendant's signature: _____

Interpreter signature/Print name: _____
 I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

CAUSE NUMBER of this case: _____

I, Pam L. Daniels, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA12176549
(If no SID take fingerprint card for State Patrol)

Date of Birth: 12/08/1963

FBI No. 791412PA5

Local ID No:

PCN No. _____

DOC : 283750

Alias name, SSN, DOB: August 9 1949. JAMES MICHAEL BRISKI, RICHARD FRANCIS DAVIS, WADE SCOTT HILTS, WAYNE A HILTS, WAYNE SCOTT HILTS June 15 1959, BRUCE ALAN NEWCOMB December 8 1961, WAYNE A NEWLAN, WAYNE ALLEN NEWLAND December 19 1961, WAYNE A NEWLUND Decembe

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 6'1

Weight: 190

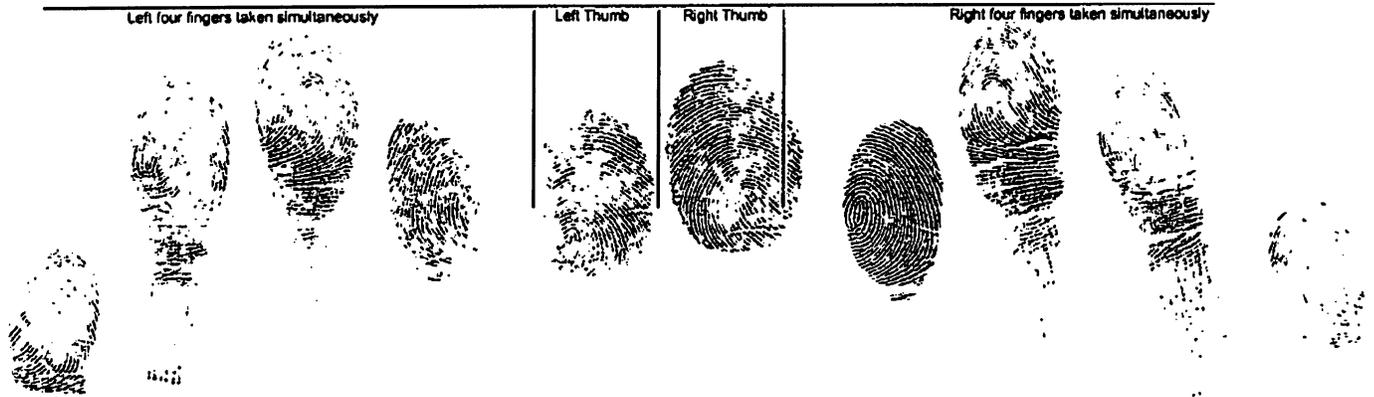
Hair: Brown

Eyes: Blue

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: J. McCollery, Deputy Clerk.
Dated: 8-8-06

DEFENDANT'S SIGNATURE: _____

ADDRESS: _____



FILED

ORDER OF COMMITMENT

06 AUG 14 AM 10:08

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

THE STATE OF WASHINGTON to the Sheriff of the County of Snohomish; State of Washington, and to the Secretary of the Department of Corrections, and the Superintendent of the Washington Corrections Center of the State of Washington, GREETINGS:

WHEREAS, WAYNE ALLEN NEWLUN, has been duly convicted of the crime(s) of Count 1 Second Degree Identity Theft, Count 2 Forgery, as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to conduct him to the Washington Corrections Center at Shelton, Washington, in Mason County, and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

And these presents shall be authority for the same. HEREIN FAIL NOT.

WITNESS the Honorable Richard Thorpe, Judge of the said Superior Court and the seal thereof, this 8th day of August, 2006.

Pam L. Daniels
CLERK OF THE SUPERIOR COURT

By: J. McCarty
Deputy Clerk

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

THE STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.) NO. 06-1-00241-0
)
 WAYNE A. NEWLUN,) COP NO. 58762-5-I
)
 Defendant.)

VERBATIM REPORT OF PROCEEDINGS

SENTENCING
AUGUST 8, 2006

Stephanie Magee, CSR
Official Court Reporter
Snohomish County Courthouse
Everett, Washington
425.388.3274

DISK INCLUDED

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

THE STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.) NO. 06-1-00241-0
)
 WAYNE A. NEWLUN,) COP NO. 58762-5-I
)
 Defendant.)

VERBATIM REPORT OF PROCEEDINGS

BE IT REMEMBERED that on the 8th day of August 2006, the above-entitled and numbered cause came on before the Honorable Richard J. Thorpe, one of the judges of the above-entitled courts, sitting in Department No. 10 thereof, at the Snohomish County Courthouse, in the City of Everett, County of Snohomish, State of Washington;

The plaintiff appeared through its counsel, Ms. Courtney Popp, Deputy Prosecuting Attorney for Snohomish County;

The defendant appeared in person and through his counsel, Mr. Max Harrison, Attorney at Law;

WHEREUPON, the following occurred:

Sentencing

1 AFTERNOON PROCEEDINGS

2 MS. POPP: Courtney Popp appearing on behalf
3 of State. This is Cause Number 06-1-00241-0;
4 06-1-00223-1; and 06-1-00648-2; State of Washington vs.
00:00 5 Wayne Allen Newlun. The defendant is present in
6 custody, represented by Mr. Harrison.

7 On June 30th, 2006, the defendant pled guilty to
8 these three cause numbers. And the cause number ending
9 00648-2, the defendant pled guilty to second degree
00:00 10 identity theft and forgery.

11 Would Your Honor like to go through each cause
12 number individually? There are about 15 counts.

13 THE COURT: Do it all in one block.

14 MS. POPP: Under 00223-1, the defendant pled
00:00 15 guilty, as well, to one count second degree identity
16 theft and one count forgery. And under 00241-0,
17 defendant pled guilty to one count first degree
18 identity theft, four counts of forgery, and two counts
19 of unlawful possession of personal identification
00:01 20 device.

21 The defendant's offender score is a 26. On these
22 cause numbers, he has maxed out, obviously, on every
23 charge. On the second degree identity theft and
24 forgery, he is facing on count one 43 to 57 months; on
00:01 25 Count II, 22 to 29 months; and on the other two, the

Sentencing

1 second degree identity theft and forgery, same,
2 obviously; and on the first degree identity theft, the
3 defendant's range is 63 to 84 months. That is a level
4 4 offense.

00:01 5 On the forgeries, he is again facing 22 to 29
6 months on all four of those counts; and Counts 6 and 7,
7 the unlawful possession of personal identification
8 device, an unranked crime, facing up to twelve months.

9 Through negotiations with the defense, we have
00:01 10 reached a recommendation that is agreed that Your Honor
11 impose 84 months' confinement on the first degree
12 identity theft and impose the maximum of 29 months on
13 all six counts of forgery, and twelve months on the
14 unlawful possession of personal identification device,
00:02 15 and that those counts -- the confinement all run
16 concurrent, resulting in a total of 84 months of
17 confinement.

18 Asking that you impose the \$500 victim penalty
19 assessment on each of the three cases; the \$100
00:02 20 biological sample fee; court costs and attorney's fees;
21 and most importantly, restitution on each matter.
22 There are several victims, charged and uncharged.
23 There are many, many others. This is an extremely
24 complicated case, and the resolution has included an
00:02 25 agreement not to charge an additional eight counts of

Sentencing

1 similar cases.

2 And present IN the courtroom, Your Honor, are at
3 least two victims who would like to speak: Mr. and
4 Mrs. Randal are here. Mr. Guy Randal has a statement
00:02 5 he prepared for you. And I believe he will address the
6 Court himself. And Ms. Teresa Buckmeier is also
7 present. She was a victim whose case came largely out
8 of King County. And I don't know if Your Honor has
9 received impact statements that were provided.

00:03 10 THE COURT: I have received one from the
11 Schreiners. Ms. Schreiner submitted one for her
12 husband. And I also received one from Paulina
13 Solsnayva (phonetic.)

14 MS. POPP: Those were the ones that were
00:03 15 provided. I have spoken to both of those victims, as
16 well as a couple of the other uncharged victims, and
17 they reiterate the same, that this has an extreme
18 impact. And I think the recommendation is extremely
19 fair given this defendant's outrageous history, as well
00:03 20 as the impact of the crimes on this community and the
21 lives of the victims.

22 Would you care to hear from --

23 THE COURT: Sure. Have them come up.

24 State your name, please, and spell your last name
00:04 25 for the court reporter.

Sentencing

1 MR. RANDAL: Guy Randal, R-A-N-D-A-L.

2 Your Honor, I would like to thank you for this
3 opportunity to address the Court.

4 The last nine months have been an extremely
00:04 5 difficult and trying time for many. My wife and I are
6 here today to put a face to the individual who has
7 caused so much hardship, and hopefully find closure to
8 this chapter of our lives.

9 From October of 2005 to January 2006, we would
00:04 10 have to close and reopen our bank accounts not once or
11 twice, but three separate times in order to protect
12 ourselves from this individual. We would file over 100
13 separate affidavits of forgery. We would have to
14 suffer the abuse and harassment of numerous private
00:04 15 investigators, some of which had no clue about what
16 they were actually getting involved with. We would
17 have to endure countless phone calls from businesses
18 and creditors. We would spend countless hours working
19 damage control with the three major credit reporting
00:05 20 agencies, and go under the scrutiny of law enforcement
21 in the Pacific Northwest.

22 To date, we have still not fully recovered
23 credit-wise, and do not expect to do so for several
24 years, Your Honor.

00:05 25 Because this individual had stolen my passports,

Sentencing

1 my government and my private passports, and some
2 documents that I use, I lost the ability to perform my
3 duties for about a four-month period and fell under the
4 scrutiny of the Naval Investigative Service. You see,
00:05 5 Your Honor, I work for the federal government. I
6 provide engineering, technical and training assistance
7 for combat systems for surface and subsurface units of
8 the US Pacific fleets and the US Coast Guard. I really
9 felt worthless.

00:05 10 By February, this would finally catch up with me.
11 I broke down and would miss 27 days of work. And all
12 this time this was just fun and games for this person.
13 Over the period of October to January, I watched as
14 this took a severe emotional and physical toll on my
00:06 15 wife also.

16 We had no real Thanksgiving. We had no real
17 Christmas that year. And the New Year's was just
18 another day. By mid January, my wife was on the verge
19 of a physical breakdown. She had become extremely ill.
00:06 20 And through all of this time, I felt incapable of
21 caring for her properly.

22 But, Your Honor, Doreen and I are the lucky ones.
23 We did not lose everything. In fact, from the first
24 day he wormed his way into our accounts, we knew it was
00:06 25 happening and were able to keep pace with him, and it

Sentencing

1 became an overwhelming task.

2 There are those, though, who were not so fortunate
3 and have lost everything because of this person. Some
4 examples? The woman who found out she had cancer the
00:06 5 day before he stole her life. The elderly couple
6 living in a retirement home whose lives he stole. The
7 young single mother trying to make her way in life
8 whose life he stole. His own son, whose life he has
9 ruined.

00:07 10 With 19 criminal convictions, this man, in my
11 mind, is a career criminal who has managed to fall
12 through the cracks. In my mind, he is no better than a
13 murderer or a rapist, a child molester or a terrorist,
14 Your Honor; he's a life taker. He steals peoples'
00:07 15 lives and he steals their dignity. I can only imagine,
16 as a husband, a father and a supposed mentor, he must
17 be very proud. I understand that his son is marching
18 squarely in his footsteps.

19 Your Honor, it's time that this Court, not only in
00:07 20 Snohomish County or Washington State, but across the
21 nation, send a clear message to people like this that
22 identity theft, the fastest growing crime in America,
23 cannot and will not be tolerated. Yes, Your Honor, I
24 fully support a bill that would make this kind of act a
00:07 25 terrorist act in the United States.

Sentencing

1 And thank you, Your Honor. And I would also like
2 to thank deputy prosecutor Courtney Popp and her staff
3 for taking this case. And I would like to especially
4 thank Detective Jerod Irving of the Everett Police
00:07 5 Department for his hard work, his professionalism and
6 his friendship throughout this ordeal.

7 Thank you, sir.

8 THE COURT: Thank you, sir.

9 MS. POPP: Ms. Buckmeier does not wish to
00:08 10 speak.

11 THE COURT: Very well.

12 Mr. Harrison.

13 MR. HARRISON: No one else is going to speak?

14 Your Honor, we're urge the Court to follow the
00:08 15 recommendation. There are many things that can be
16 said. I would simply say, for the people sitting here
17 today behind me and the gentleman who just spoke, that
18 far from one person doing all the things which have
19 been talked about, as in almost all these crimes, a
00:08 20 number of people get their hands on identities, pieces
21 of -- credit cards and those sorts of things -- which
22 assist in doing the kind of damage that this gentleman
23 just talked about. It's rarely a single person.
24 Usually one person sort of passes stuff on to the next,
00:09 25 and on and on and on. I'm confident that that is the

Sentencing

1 case here as well. But that doesn't really matter.

2 The point, the damage is done, and it's
3 undoubtedly terrible for the victims of these crimes.
4 I must say that I have great sympathy for that. The
00:09 5 question is what to really do about it. And there are
6 a number of ways to approach these kinds of problems.
7 I'm not at all sure that renaming crimes and those
8 sorts of things have the kind of -- end up with the
9 sort of solution that really is going to cure anything.

00:09 10 But one way or the other, we're asking the Court
11 to follow the recommendation. It's the high end. And
12 my client has agreed to that. And we're not going to
13 be asking for anything less. We simply urge the Court
14 to follow the recommendation.

00:10 15 We have nothing else to say.

16 THE COURT: Is there any particular reason why
17 some of these shouldn't be consecutive to one another?

18 MR. HARRISON: Your Honor, I think there is.
19 And one of the things that -- since that's been brought
00:10 20 up -- my client is chemically dependent. That is
21 really what's been the problem. He had only been out
22 about a total of six months from another stint in
23 prison when these crimes were committed. He had --
24 when he got out, he was able to get the best job he had
00:10 25 ever had. He was making \$32 an hour working in the

Sentencing

1 City of Seattle working on street lamps and things like
2 that. That led to an injury which got him on L&I for a
3 period of time. He was still making quite a bit of
4 money each month on L&I and seeing a specialist to have
00:11 5 his hand worked on.

6 During the time when he had nothing much going on,
7 he foolishly called a former confederate and began
8 talking, and that led him back to the abuse of drugs.
9 He had originally, in the other cases before, asked to
00:11 10 go on and try for a DOSA so that he would be treated
11 and be monitored. The prosecutor's in that case -- and
12 I understand -- declined to do that. I think that that
13 probably was a big mistake. I absolutely am totally
14 convinced that these crimes were committed as a result
00:11 15 of the use and overuse and abuse of chemical
16 substances.

17 The gentleman who was here before and who is
18 sitting over in the jury box right now talked about how
19 he doesn't want his life to go like this. He can
00:12 20 certainly look at the 42-year-old man who stands beside
21 me who has lost his family, his home, anything he ever
22 owned, and is spending a considerable amount of his
23 life in prison because he was not able to break the
24 cycle of drug abuse and the use of substances.

00:12 25 Your Honor, for those reasons, we would urge the

Sentencing

1 Court to follow the recommendation and impose the 84
2 months. If the Court wants, it can certainly find that
3 this gentleman is chemically dependent, and once he
4 gets out he would be monitored. And the type of
00:12 5 problem we saw here I do not believe would be repeated,
6 simply because of the type of monitoring that would go
7 on in that situation.

8 THE COURT: There is no community custody, is
9 there?

00:12 10 MS. POPP: No, Your Honor.

11 MR. HARRISON: If you found him chemically
12 dependent, I believe that they do follow those cases;
13 do they not?

14 THE DEFENDANT: If I can get some treatment, I
00:13 15 mean -- high end is --

16 THE COURT: Mr. Newlun, is there anything you
17 would like to say before I pass sentence?

18 THE DEFENDANT: Last time in here in court I
19 tried to get DOSA and then I went to prison. And I was
00:13 20 unable to participate in any chemical dependency
21 classes course or anything unless you were ordered by
22 the Court to drug treatment or evaluation, at least.
23 And so that's why I'm desperately -- I want to do what
24 I can. Whatever way it goes, I'm going to do
00:14 25 everything I can to get the help I need. Otherwise,

Sentencing

1 I'm going to die in prison.

2 And you know, I wasn't able to do it last time.

3 And I got out and I did the very best that I could. I
4 mean, by losing everything, but I still did the very
00:14 5 best I could.

6 Like Mr. Harrison's explained, that all this, my
7 participation in this, was just -- that was -- I was
8 out of my mind. I was -- methamphetamines, angel dust.
9 The worst that I have ever done. And the fastest I've
00:14 10 ever went back to prison. Every other time to prison,
11 she says 26 points. But the last time to prison was
12 five or six points. That was drug spree number five.
13 Drug spree number four was four or five points. Every
14 time is -- it's not like -- every time I do drugs, and
00:14 15 the end of that story is the chaos that I caused. And
16 the prison -- years in prison, all the times I've lost,
17 my family.

18 And this is the first time that there has ever
19 been a face put to this crime for me. This is the
00:15 20 first time any victims have shown up in court. I thank
21 them. I mean, I always looked at it like a faceless
22 crime. I would never do this upon anybody I knew.

23 My drugs, I just rationalized it. If I don't
24 know, I don't know. I knew it was causing a mess but I
00:15 25 didn't realize to the extreme I did. I really didn't.

Sentencing

1 And I had no regard for my own life during that time,
2 let alone anybody else's. So I mean, it's horrible. I
3 mean, I hope that they are able to -- they have any
4 questions, I mean, I hope they are able to get their
00:15 5 lives straightened out.

6 I'm going to do everything I can to do that for
7 myself and my son. It's just -- I didn't want it. I
8 wasn't like preying on people. It comes with the
9 drugs. It comes hand in hand with methamphetamines.
00:16 10 And I was just -- I don't have anything to show for it.
11 I mean, everything went to drugs. Everything went to
12 that. And I didn't have any Christmas, I didn't have
13 any New Year's. I didn't have any of that, either. I
14 was out of my mind. I'm done.

00:16 15 That's about it, Your Honor.

16 THE COURT: All right. Well, ordinarily when
17 a person has that bad a drug habit, they commit several
18 drug crimes. Of the 19 felonies that you committed,
19 before you got out in June of '05, only one was a
00:17 20 VUCSA. It may be an addiction, and if you do, I
21 certainly hope that you do something about it. But it
22 wasn't the drugs that was committing these crimes.

23 THE DEFENDANT: I realize that, sir. I
24 realize that, Your Honor.

00:17 25 THE COURT: Anything else you want to say

Sentencing

1 before I pass sentence?

2 MR. HARRISON: Your Honor, he and I spoke last
3 night at the jail for quite a time. And I want to
4 reiterate what he was just attempting to say, and I'm
00:17 5 not sure that it came across the way he meant it. He
6 is not trying to deflect the blame here. He
7 understands. He committed the crimes. He is the one
8 that is going to be punished, and rightfully so. He is
9 not asking to be forgiven because he took some drugs
00:18 10 and all of this. And his life hasn't gone the way he
11 wanted because of his behavior. He understand it's his
12 behavior. He is not trying to hide behind some other
13 kind of shield, using the drugs. But there is no doubt
14 that they played an incredible part of all this. That
00:18 15 is the only reason he would bring it up at all.

16 THE COURT: All right. Thank you.

17 On 06-1-00223-1, on Count I, 57 months in prison;
18 on Count II, 29 months in prison, to run concurrently
19 with one another. You will be required to pay a \$500
00:18 20 victim penalty assessment and restitution to Alex
21 Weezer or Wazer (phonetic) and Teresa Spencer in an
22 amount to be set by the Court. I'll waive court costs
23 and attorney's fees and DNA sample fee.

24 On 06-1-00648-2, 57 months on Count I, 29 months
00:19 25 on Count II, to run concurrent with one another and

Sentencing

1 concurrently with the term of 06-1-00223-1. You will
2 be required to pay a \$500 victim penalty assessment in
3 that case as well, and restitution to Guy Randal and to
4 Ms. Solsnayva (phonetic.) Waive court costs and
5 attorneys fees.

00:20 6 MR. HARRISON: DNA fee?

7 THE COURT: That will be waived as well.

8 On 06-1-00241-0, I'm going to declare an
9 exceptional sentence. The information had indicated,
10 and the statement of the defendant on plea of guilty
11 indicated, with respect to each of those seven counts,
12 that the crime was aggravated by the following
13 circumstance: The crime was a major economic offense
14 due to the following factors: The crime involved
15 multiple victims and multiple incidents per victim.
16 And I find that that alone is sufficient for an
17 exceptional sentence.

18 I also find that every single one of these seven
19 counts, there would be -- for Counts II through VII,
20 there would be absolutely no additional penalty for
21 those over and above the other two causes, the other
22 four felonies; and the only amount by which the penalty
23 for Count I would be any greater than the others is the
24 27 months' difference between it and the high end of
25 the standard range on the others.

Sentencing

1 And so in that cause, on Count I, I'm sentencing
2 you to 84 months in prison; on Count II to 29 months in
3 prison; on Count III, 29 months in prison; on Count IV,
4 29 months; and Count V, 29 months; on Count VI, 12
00:22 5 months; and Count VII, twelve months. All of those are
6 to run concurrently with one another, but they are to
7 run consecutively to the sentences in the other two
8 causes. In that case, you will be required to pay
9 restitution.

00:23 10 Is there not an appendix C for this one?

11 MS. POPP: Your Honor, I do have an appendix
12 C. Would you like me to hand forward my copy?

13 THE COURT: Yes.

14 You will be required to pay restitution in all the
00:24 15 charged and uncharged counts listed in appendix C. The
16 names are Guy Randal in two different cases. No. It's
17 one case. Stuart Schreiner. I see. Those are by
18 counts. And then also Bill and Francis Hilaker
19 (phonetic,) Alex Wazer (phonetic,) Teresa Spencer and
00:24 20 Pamela Taylor Clark.

21 You will be required to pay a \$500 victim penalty
22 assessment. I'll waive court costs and attorneys fees
23 and the DNA sample fees.

24 Because of your conviction on these, you may not
00:25 25 own, use, or possession any firearm unless your right

Sentencing

1 to do so is restored by a court of record.

2 No later than the close of business the day after
3 you get out of prison, you will go to the clerk's
4 office and sign a time payment agreement promising to
00:25 5 pay these legal financial obligations at the rate of at
6 least \$50 a month on each count, or 10 years, whichever
7 is less time.

8 Any questions?

9 MR. HARRISON: No questions, Your Honor.

00:25 10 THE COURT: \$50 a month on each cause number.

11 MS. POPP: Thank you, Your Honor.

12 THE COURT: Waive presence?

13 MR. HARRISON: He will waive presence at
14 formal signing.

00:26 15 THE COURT: Court will be in recess.

16 (Court recessed at 1:53 p.m.)

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1 THE COURT: Mr. Newlun.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: There he is. Because the sentence
4 on 06-1-00241-0 was an exceptional sentence, you have
02:13PM 5 the right to appeal that sentence because it was
6 outside the standard range. This right must be
7 exercised by filing a Notice of Appeal with the clerk
8 of this court within 30 days from today. If a Notice
9 of Appeal is not filed within this time, the right to
02:13PM 10 appeal is irrevocably waived, gone forever.

11 If you're without counsel, the clerk will supply
12 you with an appeal form on your request and will file
13 the form when you complete it. If you're unable to pay
14 the cost of the appeal, the Court will appoint counsel
02:13PM 15 to represent you, and the portions of the record
16 necessary for the appeal will be prepared at public
17 expense. Any questions?

18 MR. HARRISON: Thank you very much, Your
19 Honor. No questions.

02:14PM 20 MS. POPP: And, Your Honor, the State would
21 ask for leave to supplement the exceptional sentence
22 plea paperwork. There's no Appendix 2.4, so I need to
23 prepare findings and conclusions. And Mr. Harrison has
24 indicated he'd be available to sign that later today or
02:14PM 25 tomorrow morning.

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02:14PM

MR. HARRISON: That's correct, Your Honor.
And we would waive our appearance at the formal
signing.

THE COURT: Very well. Court will be in
recess.

(Whereupon, the proceedings were
concluded.)

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR THE COUNTY OF SNOHOMISH
3

4 STATE OF WASHINGTON,)

5)
6 Plaintiff,)

7 v.)

8 WAYNE NEWLUN,)

9 Defendant.)

No. 06-1-00241-0
COA No. 58762-5-I

10 VERBATIM REPORT OF PROCEEDINGS
Clarification of Judgment and Sentence

11 DATE: August 11, 2006

12 APPEARANCES:

13 For the Plaintiff: COURTNEY POPP
14 Deputy Prosecuting Attorney

15
16 For the Defendant: MAX HARRISON
17 Attorney at Law

18
19
20 The Honorable Richard J. Thorpe

21 Department 10

22 William Meek, CSR
23 Official Court Reporter
24 CSR No. 2696
25 Department No. 9
Snohomish County Courthouse
Everett, Wa 98201
(425) 388-3282

COPY

1 BE IT REMEMBERED that on the 11th day of
2 August, 2006, the above-entitled and numbered cause came
3 regularly on for Clarification of Judgment and Sentence
4 before the Honorable RICHARD J. THORPE, one of the
5 Judges of the above-entitled Court, sitting in
6 Department No. 10 thereof, at the Snohomish County
7 Courthouse, in the City of Everett, County of Snohomish,
8 State of Washington.

9 The Plaintiff appeared by and through its attorney,
10 COURTNEY POPP;

11 The Defendant appeared by and through its attorney,
12 MAX HARRISON;

13 WHEREUPON, both sides having announced they were
14 ready to begin, the following proceedings were had,
15 to-wit:
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1 MS. POPP: Good afternoon, Your Honor. State of
2 Washington v. Wayne Allen Newlun, Cause 06-1-00241-0.
3 Courtney Popp appearing on behalf of the State. The
4 defendant is present, in custody, represented by Mr.
5 Harrison.

6 Your Honor, we've noted this hearing in regards to
7 the exceptional sentence imposed by Your Honor on August
8 of 2006 under this cause number, which sentenced the
9 defendant on seven counts. One count of First Degree
10 Identity Theft, four counts of Forgery, and two counts
11 of Unlawful Possession of Personal Identification
12 Device. And in Your Honor's ruling on the sentencing,
13 you imposed 84 months on Count I, and cumulative with
14 the other cause numbers you ran concurrent. It totalled
15 to 141 months on this case, ultimately, as they ran
16 consecutive; is that a fair summary?

17 And after reviewing RCW 9.94A.537, it appears that
18 what my understanding was that Your Honor imposed the
19 exceptional sentence based on the finding that the
20 crimes committed were a major economic offense and that
21 multiple victims were involved. And in reviewing the
22 statute, it appears that that is not a factor that the
23 Court can rely on in finding an exceptional sentence,
24 that that would be a finding made by a jury under the
25 statute.

1 THE COURT: Why? He admitted to it and he plead to
2 it. It was in the Information, and he pled it, and he
3 adopted that language in his plea.

4 MS. POPP: That is correct, Your Honor, and it
5 appears that the statute delineates those factors solely
6 to be found by a jury and additional factors that could
7 be found by a judge. And in the State's plea agreement,
8 we agreed not to recommend the exceptional sentence and
9 not to seek the additional time in exchange for Mr.
10 Newlun's guilty plea on all the matters that were
11 pending. And so, while there may be a basis for that,
12 the State hasn't recommended an exceptional sentence,
13 and if it appears to do so, it would have to be under a
14 prong that Your Honor could impose but would be
15 different from.

16 THE COURT: What's the statute?

17 MS. POPP: 9.94A.537. And the factors that the
18 Court may impose are under subsection 2.

19 THE COURT: 9 point what?

20 MS. POPP: 94A, actually, .535.

21 THE COURT: .535?

22 MS. POPP: Yes. Oh, I'm sorry. Is it -- 537, I'm
23 sorry. Well, it's both.

24 THE COURT: Hm, that's newer than the book that I
25 have. Do you have a copy of it?

1 MS. POPP: Yes, Your Honor. Handing forward the
2 entire RCW.

3 THE COURT: Please.

4 MS. POPP: It appears on page 167 of this volume.

5 THE COURT: Thank you. (Pause.) And did you say
6 that there were some grounds that the court could decide?

7 MS. POPP: Your Honor, it would be the State's
8 understanding from reading the statute that the only
9 legally permissible avenue for Your Honor to impose an
10 exceptional sentence would be under 9.94A.535(2)(c), but
11 the State, because of the plea agreement, is not
12 actually recommending that, but that would be a finding
13 that could be made by the Court in relation to this
14 case.

15 THE COURT: Okay. (Pause.) Well, actually, I made
16 reference to that in giving my decision, and I certainly
17 would find that the defendant has committed multiple
18 current offenses, and the defendant's high offender
19 score results in some of the current offenses going
20 unpunished, namely, all the -- the two Second Degree
21 Identity Theft charges and the Forgeries that were
22 accompanying them.

23 MS. POPP: Pursuant to those findings, Your Honor,
24 the State would submit the Appendix 2.4 on the Judgment
25 and Sentence.

1 THE COURT: Anything you want to add for the
2 record, Mr. Harrison?

3 MR. HARRISON: Nothing at this time, Your Honor.
4 We obviously do not agree with either the Prosecutor's
5 Office or the Court on any of this. And I just want to
6 make sure this is cause 06-1-00241-0; is that correct?

7 MS. POPP: That's correct.

8 MR. HARRISON: Okay.

9 THE COURT: That's the seven count one?

10 MS. POPP: It is, Your Honor.

11 THE COURT: Very well.

12 MR. HARRISON: I've signed approved as to form
13 only.

14 THE COURT: Very well.

15 MS. POPP: And, Your Honor, I'm handing the signed
16 form to you.

17 THE COURT: I've signed the Findings of Fact and
18 Conclusions of Law for an exceptional sentence in the
19 presence of the defendant. Court will be in recess.

20 MR. HARRISON: Your Honor, I do have a Notice of
21 Appeal and an Order of Indigency for the Court to sign.
22 Your Honor, I'm going to have to amend it for today's
23 hearing, and I'll have it for signature in just a
24 second.

25 THE COURT: All right. That's fine.

(The proceedings were concluded.)

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR THE COUNTY OF SNOHOMISH
3

4 STATE OF WASHINGTON,)
5)
6 Plaintiff,)
7 v.) No. 06-1-00241-0
8 WAYNE NEWLUN,) COA No. 58762-5-I
9 Defendant.)

10 VERBATIM REPORT OF PROCEEDINGS
11 Guilty Plea

12 DATE: June 30, 2006

13 APPEARANCES:

14 For the Plaintiff: COURTNEY POPP
15 Deputy Prosecuting Attorney

16 For the Defendant: MAX HARRISON
17 Attorney at Law

18
19
20 The Honorable David Kurtz
21 Department 304

22 William Meek, CSR
23 Official Court Reporter
24 CSR No. 2696
25 Department No. 9
Snohomish County Courthouse
Everett, Wa 98201
(425)388-3282

COPY

1 BE IT REMEMBERED that on the 30th day of
2 June, 2006, the above-entitled and numbered cause came
3 regularly on for Guilty Plea before the Honorable DAVID
4 KURTZ, one of the Judges of the above-entitled Court,
5 sitting in Department No. 304 thereof, at the Snohomish
6 County Courthouse, in the City of Everett, County of
7 Snohomish, State of Washington.

8 The Plaintiff appeared by and through its attorney,
9 COURTNEY POPP;

10 The Defendant appeared by and through its attorney,
11 MAX HARRISON;

12 WHEREUPON, both sides having announced they were
13 ready to begin, the following proceedings were had,
14 to-wit:

1 MR. HUPP: We are ready on number 8, 9 and 10, the
2 matters of Wayne Newlun. Ms. Popp is here for the
3 State. Mr. Harrison is here representing the defendant,
4 who is present in custody.

5 MS. POPP: Thank you, Your Honor. Courtney Popp
6 appearing on behalf of the State. This comes before
7 Your Honor for the defendant's change of plea to three
8 cause numbers and multiple counts. I don't know if
9 you'd like to handle one at a time, there are two brief
10 matters, and one which includes seven counts.

11 THE COURT: My intent would be, if possible, to
12 handle them all at the same time.

13 MS. POPP: Okay. Under 06-1-00241-0, I have
14 reviewed the plea paperwork, and the facts appear --
15 appears to have facts sufficient to support the
16 defendant's change of plea to guilty on seven counts,
17 and I will not read those into the record. Mr.
18 Harrison's office has prepared an Appendix I which does
19 include the statements of the defendant. I've reviewed
20 all of those, and signed of plea paperwork that's being
21 handed forward.

22 Under 06-1-00223-1, I have reviewed paragraph 11.
23 It appears to contain facts sufficient to support the
24 defendant's change of plea on one count Second Degree
25 Identity Theft and one count of Forgery.

1 And on the final cause number, 06-1-00648-2, I have
2 reviewed paragraph 11, and it appears to contain facts
3 sufficient to support a change of plea on Count I,
4 Second Degree Identity Theft, and Count II, Forgery.

5 THE COURT: And to just clarify, counsel, please,
6 is it as charged in the Informations that were currently
7 on file?

8 MS. POPP: That is correct, Your Honor.

9 THE COURT: Okay. Before I turn to you, Mr.
10 Harrison, Mr. Hupp, if I can hand down the bail order
11 you just presented. (Pause.) I'm sorry. Mr. Harrison?

12 MR. HARRISON: Your Honor, for the record, I'm Max
13 Harrison. I represent Mr. Newlun. Mr. Newlun and I
14 went over the plea work a couple of days ago at the jail
15 and then again briefly today while he was in the back of
16 the room. He's entering the plea freely and
17 voluntarily. He understands what the standard ranges
18 are, what the offer of the prosecutor is on the cases,
19 and the fact that these are all going to be -- they're
20 asking for concurrent time on each of the counts on all
21 three of these cases under each cause number and also
22 concurrently with each other. All of that is now
23 included in the paperwork.

24 As the Court will see, and I'm not looking at the
25 cause number, but on the seven count case where there

1 are the seven various counts, what we did is there
2 simply wasn't room to include the statement of defendant
3 on the small place that the forms have provided, so what
4 we did is do an addendum and incorporated it by
5 reference, and that includes the statement on each of
6 the separate counts. Mr. Newlun has reviewed that and
7 has signed off in the appropriate place on the following
8 page indicating that those are his statements.

9 THE COURT: Okay. Give me just a moment further
10 here to review the paperwork, and then, Mr. Newlun, I'll
11 turn to you. (Pause.) Is community custody a factor on
12 any of these counts?

13 MS. POPP: No, Your Honor.

14 THE COURT: I thought not. Okay. Sir, if I can
15 ask you to please state your name for the Court.

16 MR. NEWLUN: Wayne Newlun.

17 THE COURT: And, Mr. Newlun, I have before me three
18 separate statements of defendant on plea of guilty.

19 MR. NEWLUN: Yes.

20 THE COURT: There's a lot of paper here. I need to
21 ask you, did you read each one of these three statements
22 in their entirety?

23 MR. NEWLUN: Yes, I had plenty of time to review it.

24 THE COURT: Okay. Do you feel that you understood
25 everything in the three statements?

1 MR. NEWLUN: Yes.

2 THE COURT: Did you, in fact, sign each of the
3 three statements?

4 MR. NEWLUN: Yes, I did.

5 THE COURT: Has anyone made any threats or promises
6 to get you to plead guilty today for all these counts,
7 other than -- has anyone made any threats or promises to
8 get you to plead guilty today other than what's
9 contained in these documents?

10 MR. NEWLUN: No, that would be it, that's --
11 voluntarily.

12 THE COURT: Okay. Well, that was my next
13 question. Are you pleading guilty of your own free
14 choice and doing so voluntarily?

15 MR. NEWLUN: Yes, Your Honor, I'm guilty.

16 THE COURT: Okay. In each case on each statement
17 there's a paragraph 4 which lists what you're charged
18 with in each case, and it also lists the elements, or
19 the things that the State is required to prove on each
20 of the counts in order for you to be found guilty of
21 that particular count. Are you aware of all those
22 things?

23 MR. NEWLUN: Yes, I am.

24 THE COURT: In paragraph 5 of each statement
25 there's a listing of all the rights that you have. Are

1 you aware of all those rights?

2 MR. NEWLUN: Yes, Your Honor.

3 THE COURT: And did you hear me reciting earlier in
4 court the rights that you have?

5 MR. NEWLUN: Yes.

6 THE COURT: And do you understand that by pleading
7 guilty you will be giving up those rights?

8 MR. NEWLUN: Yes, I do.

9 THE COURT: In paragraph 6 of each statement there
10 is listed the standard ranges for each of these
11 offenses. Are you aware of each of those standard
12 ranges?

13 MR. NEWLUN: Yes, I reviewed those.

14 THE COURT: And are you aware that a number of
15 these standard ranges, indeed most of them, involve
16 significant prison time. Are you aware of that?

17 MR. NEWLUN: Yes, I am.

18 THE COURT: And indeed, also, in addition to the
19 substantial standard ranges, each of them carry a
20 maximum penalty. For instance, on Cause No.
21 06-1-00648-2, the maximum for those two counts is -- on
22 each count is five years in prison and a \$10,000 fine.
23 Are you aware of that?

24 MR. NEWLUN: Yes, I am.

25 THE COURT: In the other case, where there are two

1 counts, likewise, with those two counts there is a
2 maximum penalty on each of the counts of five years and
3 a \$10,000 fine. Are you aware of that?

4 MR. NEWLUN: Yes, I am.

5 THE COURT: And then on the seven count
6 information, I don't -- I'm going to recite them
7 specifically. On the first count, which is a forgery
8 charge -- excuse me, First Degree Identity Theft, the
9 maximum penalty for First Degree Identity Theft is ten
10 years and/or a \$20,000 fine. Are you aware of that?

11 MR. NEWLUN: Yes, I am.

12 THE COURT: And then for -- actually, I wanted to
13 clarify this, counsel. On Counts VI and VII, which is
14 Unlawful Possession of Personal Identification Device,
15 it is listed as a maximum term simply unranked.
16 Obviously, that is a scrivener's error, and I want it
17 made clear what, in fact, that is, what the maximum is.

18 MS. POPP: And that's just possession of another's
19 identity.

20 THE COURT: It is. The counts are listed here,
21 Unlawful Possession of Personal Identification Device.
22 Is that a Class C felony?

23 MR. HARRISON: I believe that it is, Your Honor.

24 MS. POPP: I think that's an unranked crime, Your
25 Honor. I think that was recently changed by the

1 legislature.

2 THE COURT: It may be an unranked crime for
3 purposes of scoring purposes. My question is what is
4 the statutory maximum, that is my question.

5 MS. POPP: Five years and \$10,000 fine.

6 THE COURT: You believe that's five years and
7 \$10,000? That sounds right, although I would ask if
8 there are other counsel here they might want to be able
9 to double-check that. Obviously, that is a critical
10 component that we have to identify.

11 MR. HUPP: I do believe it's a Class C felony, Your
12 Honor.

13 THE COURT: Okay. Give me just a moment while I
14 write that in. Okay.

15 Sir, Mr. Newlun, going back again to the maximum
16 penalties, on Count I, as I indicated on this seven
17 count information, it's ten years and \$20,000. On the
18 remaining six counts, it appears that the maximums are
19 five years in prison on each count and a \$10,000 fine.
20 Are you aware of all that?

21 MR. NEWLUN: Yes, Your Honor.

22 THE COURT: Okay. In each of these three
23 statements of defendant on plea of guilty there is a
24 recommendation from the prosecutor. Are you aware of
25 each and every one of those recommendations?

1 MR. NEWLUN: Yes, Your Honor, I went over that with
2 my attorney.

3 THE COURT: Okay. Are you also aware that the
4 sentencing judge does not have to follow the
5 recommendation of the prosecutor?

6 MR. NEWLUN: Yes, I'm --

7 THE COURT: Are you aware of that?

8 MR. NEWLUN: Yes.

9 THE COURT: Are you aware further that the
10 sentencing judge does not have to follow anyone's
11 recommendation?

12 MR. NEWLUN: Correct, yes.

13 THE COURT: The sentencing judge is free to impose
14 whatever sentence he or she feels is appropriate, so
15 long as it's within the bounds of the law; are you aware
16 of that?

17 MR. NEWLUN: Yes, Your Honor.

18 THE COURT: I know that there are a lot of counts
19 here, but I need to make sure that there's a factual
20 basis for each of them. I see on the two count cases
21 that there is a handwritten statement, which I assume is
22 in the handwriting of your attorney Mr. Harrison; is
23 that correct?

24 MR. NEWLUN: Yes, that is.

25 THE COURT: And also, as I already mentioned, there

1 is an appendix which contains a factual statement
2 regarding each of the seven counts in the seven count
3 information case. Are you aware of that?

4 MR. NEWLUN: Yes.

5 THE COURT: All these statements purport to be your
6 statement, and I need to read them out loud to just make
7 sure that, in fact, you believe they are accurate and
8 true.

9 First of all, as to Cause No. 06-1-00648-2, it says
10 regarding Count I, on December 14, 2005, I knowingly
11 possessed a means of identification and financial
12 information of Guy Randal with the intent to commit
13 and/or effect the crime of forgery. Is that true?

14 MR. NEWLUN: That is true, Your Honor.

15 THE COURT: Regarding Count II, on December 14,
16 2005, with the intent to injure and defraud, and knowing
17 the same to be forged, I possessed and put off as true a
18 written instrument, a check, drawn on the account of
19 Pavlina Selezneva and Valeriy Akulov. Is all of that
20 true?

21 MR. NEWLUN: Yes, that is, Your Honor.

22 THE COURT: And is it also true that these acts
23 occurred in Snohomish County, Washington?

24 MR. NEWLUN: Yes.

25 THE COURT: As to the other two count information,

1 in 06-1-00223-1, the handwritten statement says
2 regarding Count I, on January 21, 2006, I knowingly
3 possessed a means of identification and financial
4 information of Alexander Wazier, W-A-Z-I-E-R, with
5 intent to commit or effect the crime of forgery; is that
6 true?

7 MR. NEWLUN: That's true, Your Honor.

8 THE COURT: As to Count II, on January 21, 2006,
9 with the intent to injure and defraud, I falsely made or
10 altered a written instrument, check no. 262, drawn on
11 the Wells Fargo bank account of Theresa Spencer; is that
12 also true?

13 MR. NEWLUN: Yes, Your Honor.

14 THE COURT: And is it also true that these acts
15 occurred in Snohomish County, Washington?

16 MR. NEWLUN: That's true.

17 THE COURT: And as to the seven count case,
18 regarding Count I, it says on November 16, 2005, I
19 knowingly possessed a means of identification and
20 financial information belonging to Guy Randal with the
21 intent to commit or effect the crime of First Degree
22 Theft, and that I or an accomplice used such person's
23 means of identification and financial information to
24 obtain credit, money, goods, services and other things
25 having an aggregate value totaling more than \$1,500.

1 The crime was aggravated by the following circumstances;
2 the crime was a major economic offense due to the
3 following factors, the crime involved multiple victims
4 and multiple incidents per victim. Is all that true?

5 MR. NEWLUN: Yes.

6 THE COURT: As to Count II, it says on November 2,
7 2005, with intent to injure and defraud and knowing the
8 same to be forged, I possessed identification belonging
9 to Stuart Shriener. And the crime was aggravated by the
10 following circumstance, the crime was a major economic
11 offense due to the following factors, the crime involved
12 multiple victims and multiple incidents per victim. Is
13 all that true?

14 MR. NEWLUN: Yes, Your Honor.

15 THE COURT: As to Count III, it says on November 2,
16 2005, with the intent to injure and defraud and knowing
17 the same to be forged, I possessed identification
18 belonging to Stuart Shriener, and the crime was
19 aggravated by the following circumstance, the crime was
20 a major economic offense due to the following factors,
21 the crime involved multiple victims and multiple
22 incidents per victim. Is all that true?

23 MR. NEWLUN: Yes, Your Honor.

24 THE COURT: As to Count IV, it says on November 1,
25 2005, with the intent to injure and defraud, I possessed

1 identification belonging to Stuart Shriener, and the
2 crime was aggravated by the following circumstances, the
3 crime was a major economic offense due to the fact that
4 it involved multiple victims and multiple incidents per
5 victim. Is all that true?

6 MR. NEWLUN: Yes, Your Honor.

7 THE COURT: As to Count V, that says, on November
8 11, 2005, with the intent to injure and defraud and
9 knowing the same to be forged, I possessed
10 identification belonging to Guy Randal, and the crime
11 was aggravated by the fact that it was a major economic
12 offense because the crime involved multiple victims and
13 multiple incidents per victim. Is all that true?

14 MR. NEWLUN: Yes, Your Honor.

15 THE COURT: Regarding Count VI, it says on November
16 2, 2005, I possessed a personal identification device
17 with intent to use such device to commit theft, and then
18 puts in a parentheses which means to obtain or control
19 the property of another by color or aid of deception
20 with intent to deprive such other of such property, and
21 forgery, and it has in parentheses which means to
22 falsely make, complete and alter a written instrument,
23 and to put off such instrument as true knowing the same
24 to be forged and with the intent to injure and defraud.
25 And identity theft, and it has in parentheses to

1 knowingly use and transfer a means of identification of
2 another person with the intent to commit a felony, and
3 to aid the commission of an unlawful activity intended
4 to harm such person. And it says further, the crime is
5 aggravated by the fact that it was a major economic
6 offense because the crime involved multiple victims and
7 multiple incidents per victim. Is all of that true?

8 MR. NEWLUN: Yes, Your Honor.

9 THE COURT: And then, as to Count VII, it says --
10 and I believe the language, actually, is identical to
11 the preceding count, except it is alleged that those
12 events occurred on November 11, 2005. Is all of that
13 true as to Count VII?

14 MR. NEWLUN: Yes, Your Honor.

15 THE COURT: Is it also true that all of these
16 counts, seven counts, that these acts occurred in
17 Snohomish County, Washington?

18 MR. NEWLUN: Yes, that's true.

19 THE COURT: Okay. Mr. Newlun, do you feel that you
20 have discussed everything to your satisfaction with your
21 attorney Mr. Harrison?

22 MR. NEWLUN: Yes.

23 THE COURT: Do you have any remaining questions at
24 this time?

25 MR. NEWLUN: No, sir.

1 THE COURT: Then as to the two counts in
2 06-1-00223-1, which are Second Degree Identity Theft and
3 Forgery, what is your plea to those two counts?

4 MR. NEWLUN: Plead guilty to those.

5 THE COURT: And as to the seven counts in
6 06-1-00241-0, to those seven counts, Count I being First
7 Degree Identity Theft, Counts II, III, IV and V being
8 Forgery, and Counts VI and Count VII being Unlawful
9 Possession of a Personal Identification Device, what is
10 your plea to those seven counts?

11 MR. NEWLUN: Guilty to all of them.

12 THE COURT: And as to the two count information in
13 06-1-00648-2, the two counts being Second Degree
14 Identity Theft and Forgery, what is your plea to those
15 two counts?

16 MR. NEWLUN: Guilty.

17 THE COURT: Guilty pleas will enter. In all
18 instances the Court will find that the pleas were made
19 knowingly, voluntarily and intelligently, and that there
20 is a factual basis for them.

21 Regarding sentencing, what is your request?

22 MS. POPP: Your Honor, I think these matters should
23 be specially set. There are multiple victims in these
24 cases who wish to come in and address the court at
25 sentencing, so, if we could set -- I know Mr. Newlun

1 would like to have sentencing specially set as soon as
2 possible.

3 MR. HARRISON: We would be asking for the 10th of
4 July, if that's at all possible.

5 THE COURT: Ms. Popp, does that give enough time to
6 contact the victims?

7 MS. POPP: Many of the victims are in contact with
8 me directly on a routine basis, so for the vast majority
9 I shouldn't have any difficulty. I would anticipate a
10 week would be sufficient time to contact the remaining
11 three victims.

12 THE COURT: So July 10 is available?

13 MS. POPP: If that's available for a special set,
14 yes.

15 THE COURT: All right. Let me see. It appears
16 that we have one judge available on July 10, that would
17 be Judge Cowsert.

18 MS. POPP: Your Honor, I'm sorry, I'm not -- our
19 unit is not to appear in front of Judge Cowsert. It's a
20 non-violent crime.

21 THE COURT: I understand. That week, Mr. Harrison,
22 we could do it on July 11 in front of Judge McKeeman.

23 MR. HARRISON: That would be fine -- no, no, Your
24 Honor, we would file an affidavit of prejudice in that
25 case if we were to be assigned there. Is there any

1 other judge available that day?

2 THE COURT: The only other judge available that day
3 is Judge Cowsert. It is a little bit unclear to me
4 about the dates available here, but I believe Judge
5 Bowden, on Thursday, July --

6 MR. HARRISON: Your Honor, I will be in trial in
7 another part of the county. Perhaps we can go to the
8 following week, July 17. I hate to go out that far, but
9 I don't think I have any choice. Is it possible to
10 perhaps do the sentencing at 3:00 on Friday, July 14? I
11 know it would be a little unusual, but --

12 THE COURT: I don't really see an option there. Is
13 July 17 problematic?

14 MS. POPP: That's fine.

15 THE COURT: Mr. Harrison?

16 MR. HARRISON: That's fine with me.

17 MS. POPP: It's me who has the conflict, but it's
18 fine. I have a vacation scheduled, but it's nothing I
19 can't alter. The victims really want to get this taken
20 care of, as well, Your Honor.

21 THE COURT: Counsel, I hate to --

22 MS. POPP: That's fine.

23 THE COURT: -- impose on a vacation.

24 MS. POPP: I have no problem with that, Your
25 Honor.

1 THE COURT: All right. The other option, I see
2 Judge Bowden, the calendar suggests he could do it on
3 Wednesday, but I know that that is drug court day, and
4 with all the victims here and there would be --

5 MR. HARRISON: I'll be in trial on that day, as
6 well, so I'm not available.

7 MS. POPP: The 17th in front of Judge Bowden would
8 be acceptable.

9 THE COURT: Actually, it would not be Judge Bowden.
10 The options are for Thorpe, McKeeman and Cowsert. So
11 Thorpe would have to be the one.

12 MR. HARRISON: Judge Thorpe would be fine.

13 MS. POPP: Okay. On the 17th, in which department,
14 Your Honor?

15 THE COURT: Judge Thorpe, I believe, is in
16 Courtroom No. 10 at this time. So, Mr. Newlun, do you
17 understand that your sentencing on all three cases will
18 be in front of Judge Thorpe on Monday, July 17, at 1:00
19 p.m. in Courtroom No. 10 up on the fifth floor;
20 understood?

21 MR. NEWLUN: Okay, Your Honor. Thank you.

22 MS. POPP: Thank you, Your Honor.

23 (The matter was concluded.)
24
25