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JUN 16 2010

King County Prosecutor
Appellate Unit

64177-8

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

STATE OF WASHINGTON,
Respondent,

v.

JUAN ERAS - DUQUE,
Petitioner, Pro-Se.

No. 64177-8-0-1

STATEMENT OF
ADDITIONAL GROUNDS
PURSUANT TO
RAP 10.10

I. STATEMENT

I, Juan Eras-Duque have received and reviewed the opening brief prepared by my appellate attorney, Jennifer Winkler, of Nielson, Broman & Koch. Summarized below are the additional grounds that my appellate attorney did not address in her opening brief on my behalf of King County Superior Court Case Number 08-1-04054-9 SEA. Appellant believes that the following issues have merit and should be addressed by this Honorable Court. Appellant understands that the Court will review this Statement of Additional Grounds for Review prepared by me when my appeal is considered.

II. FACTS GROUND ONE

SPEEDY TRIAL

1. On May 21, 2008, the case schedule hearing was set for June 2, 2008
2. On June 2, 2008 a Schedule Order Waiver was entered for “ongoing negotiations” and signed by defendant. It was rescheduled for June 16, 2008. This was not recorded and had an expiration date of August 15, 2008 signed by Judge Cheryl B. Casey
3. On June 16, 2008 a Schedule Order was entered and proceeding was not recorded for a continuance to June 18, 2008 and signed by Judge Cheryl B. Casey. There were no reasons given for this continuance.
4. On June 18, 2008 a Schedule Order was entered and proceeding was not recorded for a continuance to June 23, 2008 and signed by Judge Andrea Darvas. There were no reasons given for this continuance.
5. On June 23, 2008 a Schedule Order waiver was entered due to a “new offer being considered” and was signed by the defendant. It was rescheduled for June 26, 2008. This hearing was not recorded and had a new expiration date of August 25, 2008 and signed by Judge Cheryl B. Casey.
6. On June 26, 2008 a Scheduling Order was entered and proceeding was not recorded for a continuance to June 30, 2008 and signed by Judge Palmer Robinson. There were no reasons given for this continuance.
7. On June 30, 2008 a Scheduling Order waiver was entered and not recorded for a continuance to July 7, 2008 and signed by Judge Cheryl B. Casey and the defendant with a new expiration of September 4, 2008. The reason for extension was “considering offer.”
8. On July 7, 2008 a Scheduling Order waiver was entered and not recorded due to “defendant is seeking new counsel” and was signed by the defendant. Next hearing was scheduled for July 14, 2008 and the new expiration date is September 11, 2008 and signed by Judge Jeffrey Ramsdell.
9. On July 14, 2008 a Scheduling Order waiver was entered and not recorded because defendant “hiring a new attorney” and was signed by Judge Julie Spector and by defendant. Next hearing scheduled for August 4, 2008 with new expiration date of October 2, 2008,
10. On August 4, 2008 a Scheduling Order was entered and proceeding was not recorded for a continuance to August 5, 2008 and signed by Judge Cheryl B. Casey. There were no reasons given for this continuance.

11. On August 5, 2008 a Scheduling Conference was finally held. An Omnibus hearing was scheduled for September 19, 2008 and trial date set for October 1, 2008. The new expiration date is October 15, 2008 signed by Judge Cheryl B. Casey and defendant. This hearing was recorded.
12. On September 19, 2008 there was a non recorded stipulated order to continue Omnibus hearing to September 26, 2008 signed by Judge Cheryl B. Casey. There was no signature of defendant.
13. On September 26, 2008 an order to continue trial date was brought before the court on plaintiffs' motion for "further investigation leading to possible resolution." The new Omnibus date is October 31, 2008 and expiration date December 13, 2008 signed by Judge Cheryl B. Casey.
14. On October 31, 2008 a stipulated order to continue Omnibus hearing was entered and not recorded, nor signed by defendant. The hearing was rescheduled to November 7, 2008 at 8:30 am. The order was signed by Judge Catherine Shaffer.
15. On November 7, 2008 Defense counsel Carey L. Huffman motioned the court for pretrial competency hearing. It was granted and signed by Judge Cheryl B. Casey. Return date was December 5, 2008 and Omnibus was continued until December 5, 2008.
16. On November 13, 2008 a continuance was signed by Judge Helen L. Halpert. The original expiration date was October 15, 2008; which is now reset to December 13, 2008 no signature of defendant was given.
17. On December 1, 2008 the forensic psychological report was filed and distributed.
18. On December 5, 2008 a stipulated order to continue omnibus hearing to "determine if the defense will hire his own expert and contest competency." Omnibus was continued to December 12, 2008 @ 8:30 am and signed by Judge Cheryl B. Casey. No defendant signature.
19. On December 12, 2008 a motion to continue omnibus hearing to January 20, 2009. This hearing was digitally recorded. Start time 10:22:30am End time 10:26:58am. Signed by Judge Julie Spector. No signature of Defendant who was present in court. There were no reasons given for this continuance.
20. On January 20, 2009 everybody was a no show for the state, defense counsel, or defendant. Judge Sharon S. Armstrong continued the competency return to January 26, 2009. This was unrecorded.
21. On January 28, 2009 Judge Sharon S. Armstrong entered a ruling to hold over to January 29, 2009.

22. On January 29, 2009 Judge Sharon S. Armstrong held to February 20, 2009. There were no reasons given for this continuance.
23. On February 19, 2009 defendant filed motion to discharge counsel and was denied by Judge Sharon S. Armstrong. On this same date the trial that was set for November 13, 2008 is continued to March 23, 2009. This is alleged to have been brought by defendant, yet it is unsigned by him. Omnibus hearing date is set for March 13, 2009. New Expiration date is March 27, 2009. The defendant was present.
24. On February 20, 2009 Judge Sharon S. Armstrong entered the same continuance to March 23, 2009 and 60/90 day waiver of March 27, 2009.
25. On March 13, 2009 Omnibus held. An order on discovery of all remaining witnesses' interviews will be completed by March 20, 2009 signed by Judge Sharon S. Armstrong Audio tape Start time 10:53:16. Trial date set for March 23, 2009.
26. On March 23, 2009 an order continuing trial date to April 15, 2009 over defendant's objection. Defendant moved to discharge counsel. Both orders were signed by Judge Sharon S. Armstrong. New counsel confirmation set for March 26, 2009.
27. On March 24, 2009 Order was entered continuing trial to April 15, 2009 and 60/90 waiver to May 15, 2009.

[All through the previous proceedings the same counsel, Carey L. Huffman, represented Defendant, Juan Eras Duque.]

28. On March 26, 2009 court confirms new counsel Deborah Wilson; grants defense motion to continue trial date and omnibus. New omnibus set for May 8, 2009; new trial May 28, 2009, expiration of June 27, 2009. This order was signed by Judge Palmer Robinson and signed by defendant. Mr. Duque received new counsel from the same office.
29. On May 8, 2009 stipulated order to continue omnibus hearing was signed by Judge Sharon S. Armstrong to be held on May 15, 2009. Trial date remains May 28, 2009. There were no reasons given for this continuance.
30. On May 15, 2009 an order continuing trial was presented by defendant's counsel for "witness transport, (for defense case)." Omnibus rescheduled to May 29, 2009 and new trial date set for June 4, 2009. Expiration July 4, 2009. The defendant refused to sign for the continuance.
31. On May 18, 2009 defendant without counsel filed pro se motion to dismiss for violation of right to speedy trial.
32. On May 27, 2009 defendant received new counsel as far as can be seen on the record (Kevin McCabe) who filed a motion to suppress identification.

33. On May 29, 2009 the omnibus hearing was held Judge Palmer Robinson presiding. Trial date set for June 4, 2009 with expiration of July 4, 2009. During this hearing it witnesses had yet to be interviewed and were scheduled at a later date (June 2, 2009). Judge Palmer ordered witness interviews shall be completed by June 2, 2009.
34. On June 4, 2009 the state moved to continue trial date to June 22, 2009 because of “outstanding interview with co-defendant, transcription. Defendant disagreed and did not sign. Expiration July 22, 2009. Order signed by Judge Sharon S. Armstrong and digital recording; Start Time 8:47:35 and held to June 5, 2009.
35. On June 5, 2009 Judge Sharon S. Armstrong signed order to continue trial to June 22, 2009. 60/90 day waiver to July 22, 2009.
36. On June 22, 2009 Judge Sharon S. Armstrong assigned the case to Judge Catherine D. Shaffer.

Enclosed with this Statement of Additional Grounds is all the above Court Papers.

III. ARGUMENT GROUND ONE

1. Was the Defendant’s right to a fast and speedy trial violated?

CrR 3.3 was amended in 2003. In general, application of the speedy trial provisions now commences upon the defendant’s arraignment, rather than upon a date computed from when the charges were filed in court and the defendant answered or should have been brought before the court to answer the charges; such computation involves a number of inquiries concerning the relative diligence and fault of the parties. A defendant not released from jail pending trial must be brought to trial not later than 60 days after the date of arraignment. **CrR 3.3 (b) (1) and CrR 3.3 (c) (1); State v Hardesty, 110 WA. App. 702, 42 P.3d 450 (2002).**

On several different occasions (as seen above) the court continued this case at the behest of mostly the defense for ongoing negotiations. This would have been fine had the defense performed the other tasks associated with representation. Instead, he lacked the diligence required under **RPC 1.2** in pursuing his client’s case by performing interviews with witnesses, or

other tasks associated with investigation toward the resolve of the case, and even went so far as to tell the Court on 9/26/08 that he needed more time for further investigation. His investigation did not ever begin for Mr. Duque. This can be seen by the March 13th, 2009 request for more time to perform witness interviews, and still did not perform those tasks. Later, he was dismissed as counsel, most likely because of his performance and lack of diligence in this case.

All along his counsel had duped him through the use of an interpreter into believing that he was signing (although blank forms) for his trial to begin. This language barrier resulted in his rights being violated under CrR 3.3. He had not signed any more continuances since his September 18, 2008 hearing. This case has had a lot of history which was brought up in this February 19, 2009 hearing.¹

On November 7, 2008 Defense counsel Carey L. Huffman motioned the court for pretrial competency hearing. It was granted and signed by Judge Cheryl B. Casey. Return date was December 5, 2008 and Omnibus was continued until December 5, 2008.

The Department of Social and health Services found Mr. Duque competent to stand trial. The State later (in the hearing) questioned his competency because he refused to accept any of the plea offers, and maintained his innocence from the time of his arrest.

¹ Included are the transcripts of the following proceedings:
Case Setting Hearing – August 5, 2008 – Judge Cheryl B. Carey;
Omnibus Hearing – September 26, 2008 – Judge Cheryl B. Carey;
Omnibus Hearing – November 7, 2008 – Judge Cheryl B. Carey;
Omnibus Hearing – December 12, 2008 – Judge Julie Spector;
Omnibus Hearing – February 19, 2009 – Judge Sharon Armstrong;
Omnibus Hearing – February 20, 2009 – Judge Sharon Armstrong;
Omnibus Hearing – March 23, 2009 – Judge Sharon Armstrong;
Omnibus Hearing – March 26, 2009 – Judge Palmer Robinson;
Omnibus Hearing – May 8, 2009 – Judge Sharon Armstrong;
Omnibus Hearing – May 15, 2009 – Judge Sharon Armstrong;
Omnibus Hearing – May 29, 2009 – Judge Palmer Robinson;
Omnibus Hearing – June 4, 2009 – Judge Sharon Armstrong;

When Mr. Duque left for the competency evaluation there were only six (6) days left in the speedy trial. **VRP of Pre-Trial status hearing of 2/19/09 at page 4.** During this hearing Mr. Duque asked to talk to the court and told Judge Sharon Armstrong that he was ready for trial last August 15th, 2008, and that they already had the responsible one in prison for the crime. **VRP of Pre-Trial status hearing of 2/19/09 at page 7.** Mr. Duque then asked for a new attorney and that request was denied, the judge further explained that she read the letter that defendant provided to Judge Carey that made the same point in Spanish, but the request is denied. This was also the first of three inquiries into his speedy trial rights wherein the court made no ruling about.

During this same hearing Mr. Huffman acknowledges to the Court that he could not offer any of the State's plea offers to Mr. Duque if he had interviewed any of the victims or started that process. **VRP of Pre-Trial status hearing of 2/19/09 at page 6.**

The sum of this is that Mr. Duque's counsel and the State believed that he was incompetent because he maintained his innocence and refused any offers that were presented, so decided to have him evaluated for competency. The action by the State not to allow Mr. Duque's counsel perform as required constitutionally, prejudiced the defense. Mr. Duque was furious. He asked the judge to fire his Public Defender due to his frustration which was denied. **VRP of Pre-Trial status hearing of 2/19/09 at page 8.**

The hearing of February 19th, 2009 wherein the Court gave another order of a March 13th, 2009 Omnibus Date and a trial date of March 23rd, 2009. The new expiration date was March 27th, 2009. Mr. Duque objected to this date. **VRP of Pre-Trial status hearing of 2/19/09 at page 7.** Here, Mr. Huffman now stated that there were 37 days left, when earlier it was stated there were only six. **VRP of Pre-Trial status hearing of 2/19/09 at page 6.**

On March 13, 2009 Omnibus held. An order on discovery of all remaining witnesses' interviews will be completed by March 20, 2009 signed by Judge Sharon S. Armstrong Audio tape Start time 10:53:16. Trial date set for March 23, 2009. The tasks of Defense counsel were never performed, and the Court did another continuance over the objections of Mr. Duque on March 23, 2009. On March 23, 2009 an order continuing trial date to April 15, 2009 over defendant's objection. Defendant moved to discharge counsel. Both orders were signed by Judge Sharon S. Armstrong. New counsel confirmation set for March 26, 2009.

As can be seen there was many actions in this matter, none of which were to the benefit of Mr. Duque, and his right to speedy trial. From the above date that the judge ordered all remaining witnesses' interviews "will" (being the operative word here) be completed by March 20, 2009. The fact remains that this was not done until after June 4, 2009, even after another order was signed by Judge Palmer that they "will" be completed by June 2, 2009. The trial did not even begin until June 22nd, 2009. This was over 13 months after Mr. Duque was arrested.

This was not the end of Mr. Duque's request for review by the Court about his right to speedy trial. **2 VRP 3.5 Hearing of June 23rd, 2009 at Pg. 94**; Mr. Duque again applied to the Court about his right to speedy trial rights. The court again sidestepped any ruling, only after the State misinformed the Court as to who asked for the continuances, and since Mr. Duque has limited ability or comprehension of English he was again disparaged by the Court, the State and his attorney. The State and the Court reasoned several things that were never mentioned to make it show that Mr. Duque wanted these continuances, but for the most part they were all done in front of other judges, not this particular one, so he had no idea of the alarming number of continuances that happened in this case. As can be seen above in the numbered continuances there were an alarming amount of them.

2. Has Mr. Duque been prejudiced by the long delay in coming to trial?

The lengthy delay in this case has affected the witnesses' memories. When Mr. Duque finally came to trial, not a one witness could identify him as being one of the people or not who robbed them or the El Abuelo Store. More precisely, their memories had faded to the point of not even being able to identify whether the clothing worn in the offense were the specific clothes. Although this uncertainty is helpful to his case, and not to the State's, this uncertainty caused him to be found guilty because the witnesses could not directly identify with certainty that he was not the one, or the use of inference upon inference that he could have been the one in the store. He could have been the one they seen. He could have been the one wearing the clothes which the State held as evidence. Overall, had his counsel(s) performed with reasonable diligence in this case, within the parameters of **RPC 1.2** and the State and Federal Constitutions, Mr. Duque would have received a speedy trial, and most importantly a fair trial.

Court rules are interpreted as if drafted by the Legislature. **State v Brown**, 111 Wn.2d 124, 154, 761 P.2d 588 (1988), *adhered to on rehearing*, 113 Wn.2d 520, 782 P.2d 1013, 787 P.2d 906, 80 A.L.R. 4th 989 (1989). The Court must construe Court Rules consistent with their purpose. See **PUD 1 v WPPSS**, 104 Wn.2d 353, 369, 705 P.2d 1195(1985). Accordingly, the spirit and intent of the rule should take precedence over a strained and unlikely interpretation. See **Morris v Blaker**, 118 Wn.2d 133, 143, 821 P.2d 482 (1992). Under general principles of statutory construction, when interpreting a rule, the court must give effect to the plain meaning of the rules language. **State v Greenwood**, 120 Wn.2d 585, 592, 845 P.2d 971(1993). **CrR 3.3 (b) (1)** plainly states that a defendant detained in jail shall be brought to trial within the longer of **(i)** 60 days after the commencement date specified in this rule. The Court is ultimately responsible for ensuring a speedy trial of the defendant under **CrR 3.3**. See **State v Raper**, 47

WA. App. 530, 538, 736 P.2d 680, review denied, 108 Wn.2d 1023 (1987) (trial court's reliance on erroneous speedy trial expiration date constituted a reasonably unavoidable or unforeseen circumstances justifying an extension under **CrR 3.3 (d) (8)**). But counsel for a defendant bears some responsibility for asserting **CrR 3.3** rights of a client and assuring compliance with the rule. See **State v White, 94 Wn.2d 498, 502-03, 617 P.2d 998(1998); State v Malone, 72 WA. App. 429, 433, 864 P.2d 990(1994); State v Raper, 47 WA. App. 530, 538, 736 P.2d 680, review denied, 108 Wn.2d 1023 (1987).**

In the case at bar, there is no record of what all the reasons for the continuances were based, most of the proceedings were not recorded so that this Court could review whether the Superior Court based their decisions to continue was manifestly unreasonable or exercised on untenable grounds, or for untenable reasons. **State v. Downing, 151 Wn.2d 265, 272, 87 P.3d 1169 (2004) (quoting State ex rel, Carroll v Junker, 79 Wn.2d 12, 26, 482 P.2d 775 (1971)).** There is no record sufficient to show whether these continuances were excluded periods or cure periods, or otherwise. There simply is no ruling or record of the reasons for continuing the trial, and as such the time clock ran to the speedy trial clock since there being 27 continuances over a 13 month period is manifestly unreasonable. Out of these 27 continuances, Mr. Duque only signed to allow them 7 times, which equals to 130 days at 60 days a signature since he was incarcerated pending trial. That leaves 265 days unaccounted for reason of timely trial because the Court did not state on the record or in writing the reasons for all the continuances.

At the onset, Mr. Duque had problems with his attorney. This can be seen by his request for a continuance to seeking new counsel on July 7, 2008 and July 14, 2008. The counsel he had (Mr. Huffman) was not following his wishes or listening to him. Mr. Duque told him that he was innocent and wanted to go to trial, he did not follow his requests, so he decided that he needed

new counsel, but was unable to acquire new counsel. See above, **FACTS at 8, 9**. Then since Mr. Duque would not take any of the State's offers for a plea agreement, his counsel (Huffman) motioned the court in collusion with the State for a pre-trial competency hearing. **FACTS at 15**. Then after the forensic psychological report arrived, counsel now wanted to contest the competency. **FACTS at 18**.

Due to the overall performance of counsel and the State inhibiting the defense from performing any of its functions required by the State and Federal Constitutions was highly prejudicial to Mr. Duque's case, and caused an unusually lengthy delay, which was presumptively prejudicial due to length, in this case, 13 months and 22 days, and witness memories. In *State v Corrado*, 94 WA. App. 228, 233, 972 P.2d 515 (1999), a defendant who makes a speedy trial argument must show that the State failed to prosecute his case with customary promptness. *Doggett v. United States*, 505 U.S. 647, 652, 112 S. Ct. 2686, 120 L. Ed. 2d 520 (1992). If the defendant makes this showing, then the court must consider the extent of the delay. *Doggett*, 505 U.S. at 652. And the presumption that delay has prejudiced the defendant "intensifies over time." *Doggett*, 505 U.S. at 652.

The *Doggett* court suggested that a delay of one year is presumptively prejudicial. *Doggett*, 505 U.S. at 652, n.1. Other courts have noted that shorter delays are presumptively prejudicial. *United States v. Beamon*, 992 F.2d 1009, 1012-13 (9th Cir. 1993) (noting that the second circuit in *United States v. Vassell*, 970 F.2d 1162, 1164 (2d Cir. 1992), found a general consensus that eight months delay is presumptively prejudicial). See also *United States ex rel. Fitzgerald v. Jordan*, 747 F.2d 1120, 1127 (7th Cir. 1984) (delay of eight months is enough to provoke a speedy trial inquiry).

In the case at bar, the delay of over thirteen months here is beyond the one year in *Doggett*, and should be considered presumptively prejudicial. Further, there should hold strong evidentiary weight of Mr. Duque's assertion of his speedy trial rights. He did not any longer sign the waivers. He filed to separate motions for dismissal due to failure to bring him to trial within the 60 day period in the Court Rule CrR 3.3. Mr. Duque tried through counsel and pro-se to object to any delays to his trial on occasion, even if the delay was not the topic then before the court. "Delay which occurs after a speedy trial is demanded should be scrutinized with particular care." *Cain v Smith*, 686 F.2d 374, 382 (6th Cir. 1982) (citing *United States v Carini*, 562 F.2d 144 (2nd Cir.1977); *United States v New Buffalo Amusement Corp.*, 600 F.2d 368, 377-78 (2nd Cir. 1979)).

"Although not essential to finding a violation of speedy trial rights, prejudice is a major consideration." *Corrado*, 94 WA. App. At 233 (citing *Higley*, 78 WA. App. 172, 185, 902 P.2d 659 (1995) (citing *Moore v Arizona*, 414 US 25, 26, 94 S.Ct. 188, 38 L.Ed.2d 183 (1973))). Prejudice "should be assessed in the light of the interests . . . the speedy trial right was designed to protect." *Barker v Wingo*, 407 US 514, 532, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972). These interests include: (1) preventing oppressive pretrial incarceration; (2) minimizing anxiety and concern of the accused; and (3) limiting the possibility that the defense will be impaired. While such presumptive prejudice cannot alone carry a [speedy trial] claim, its importance increases with the length of the delay. *Doggett*, 505 US at 655-56.

Mr. Duque argues that his constitutional right to a speedy trial was violated. A criminal defendant's right to a speedy trial is guaranteed by both our federal and state constitutions. U.S. Const. Amend. VI; Const. Art. I, § 22. "[T]he constitutional right to speedy trial is not violated at the expiration of a fixed time, but at the expiration of a reasonable time." *State v. Monson*, 84

WA. App. 703, 711, 929 P.2d 1186 (1997) (citing **State v. Higley, 78 WA. App. 172, 184-85, 902 P.2d 659 (1995)**). Mr. Duque argues that the trial court violated his constitutional speedy trial rights and CrR 3.3, and requests that the court vacate his conviction and dismiss the charges against him because the witnesses memories faded so much so that they could not identify him to be the robber or not the robber, which he needed their memories to verify to the court that he was not the one robbing them that day.

CrR 3.3 provides “flexibility in avoiding the harsh remedy of dismissal with prejudice,” including a “30-day buffer period” for excluded periods and a “one-time ‘cure period’ ... that allows the court to bring a case to trial after the expiration of the time for trial period.” **State v Flinn, 154 Wash.2d 193, 199 n. 1, 110 P.3d 748 (2005)**; *see* **CrR 3.3 (b) (5). (g)**. But under CrR 3.3, once the 60 or 90 day time for trial expires without a stated lawful basis for further continuances, the rule requires dismissal and the trial court loses authority to try the case. **CrR 3.3 (b), (f) (2), (g), (h)**. The rule’s importance is underscored by the responsibility it places on the trial court itself to ensure that the defendant receives a timely trial and its requirement that criminal trials take precedence over civil trial. **CrR 3.3 (a) (1)-(2)**.

Here, Mr. Duque consistently resisted extending time for trial while he was incarcerated awaiting trial on the first degree robbery charges. The continuances granted are without adequate basis or reason articulated by the State or defense counsel or the Court. Mr. Duque’s defense counsel and the State either agreed to a continuance for further negotiations which were contested by Mr. Duque or relied on the different judges just to make uninformed reasons for the continuances.

In **State v Kenyon, 167 Wash.2d 130, 216 P.3d 1024 (2009)** should help compel the result here. The Washington Supreme Court recently reversed decisions and dismissed numerous

unlawful firearm possession charges based on the “trial court’s failure to articulate an adequate basis of continuances beyond the speedy trial limits.” *Kenyon*, 167 Wn.2d at 131-32, 138-39, 216 P.3d 1024. In Division Two of the Washington Court of Appeals in *State v Saunders*, 153 WA. App. 209, 220 P.3d 1238 (2009) there as here, trial was set over and again after his attorney moved for continuances based upon ongoing investigations/negotiations. There *Saunders* refused to sign the continuances, which are the issues that happened here. Mr. Duque was not willing to negotiate, so his counsel decided that he was incompetent to stand trial and moved to have a competency evaluation, which was granted. He continually disagreed with his attorney’s requests and even went as far as to file his own dismissal for violation of his right to speedy trial. Further, the court had never entered or specified under what rule the continuances were granted, most of the proceedings were off the record and only have Clerk’s Papers for review, and limited Omnibus Hearing Transcripts. *State v Saunders* is analogous to the issue of speedy trial in this case.

IV. CONCLUSION - GROUND ONE

Absent any convincing valid reasons for the continuances that were granted, the trial court’s orders granting the continuances were “manifestly unreasonable, [and] exercised on untenable grounds [and] for untenable reasons.” *Downing*, 151 Wash.2d at 272, 87 P.3d 1169 (quoting *Junker*, 79 Wash.2d at 26, 482 P.2d 775). The trial court abused its discretion in granting further delays in commencing Mr. Duque’s trial. Under those circumstances, this Court should reverse and remand for entry of an order dismissing the charges against Mr. Duque under CrR 3.3 (h).

V. FACTS AND ARGUMENT GROUND TWO

PROSECUTORIAL MISCONDUCT

This is a case of many inferences of guilt. There were so many inferences stacked one upon another without a single in Court identification that Mr. Duque was in fact the one who was present during the robbery.

On Monday July 6th, 2009 the trial of Mr. Duque was coming to a close. **8 VRP 78.**² Ms. Jennifer Miller is the Prosecutor for the State; Kevin McCabe for the Defense and Honorable Catherine Shaffer presiding.

The State did not allow Mr. Duque's counsel perform as constitutionally required, which prejudiced the defense because they were not allowed to investigate if they wanted to take advantage of the plea agreement. **VRP of Pre-Trial status hearing of 2/19/09 at page 8.**

During the closing arguments Ms. Miller's opening played to the passions of the jury by displaying to them the heartfelt sympathy of what people come to this country for is because they have a dream to live as American's. **8 VRP 79.** Ms. Miller told the jury how happy certain individuals were, until the night of the alleged robbery. **8VRP 80.** Then she went into how they were scared and frightened, talked of pregnant girlfriends and family in Mexico. **8 VRP 80-81.** Then Ms. Miller went into how the evidence points to shoes that the suspects were wearing, i.e.

² 1 VRP is 3.5 Hearing of June 22nd, 2009, Pages 1 – 103;
2 VRP is 3.5 Hearing of June 23rd, 2009, Pages 1 – 123;
3 VRP is 3.5 Hearing of June 24th, 2009, Pages 1 – 124;
4 VRP is Trial of June 25th, 2009, Pages 89 – 124;
5 VRP is Trial of June 29th, 2009, Pages 1 – 162;
6 VRP is Trial of June 30th, 2009, Pages 1 – 114;
7 VRP is Trial of July 1st, 2009, Pages 1 – 109;
8 VRP is Trial of July 6th, 2009, Pages 1 – 117;
9 VRP is Trial of July 7th, 2009, Pages 118 – 119;
10 VRP is Sentencing of August 21st, 2009, Pages 120 – 157.

red boots and tennis shoes, and how this shows that the State has met its burden of proof in this case that the defendant (Mr. Duque) was the perpetrator.

The State further elicited and leads Ms. Armenta (4 VRP 116) that she sometimes has someone “Your little one?” come visit. With objection by defense counsel for leading. Later, she told the Court that she could not have an officer testify in front of the jury; “We have the officer that has the death in the family.” The court admonished her for this behavior. 5 VRP 98-99. Further, the chain of custody of the evidence is tainted [currency is less than what is stated on the seal, nor conforms to testimony of the officers].

Thereafter, she began with what the judge had read to the jury called instructions as being a roadmap, rule book and your guidebook, and how they will help during their deliberations when they go into the back. 8 VRP 81-82. Ms. Miller slowly set up the point that she was trying to bring to bear. She asked the jury to pay special attention to the fact that not all of the evidence will go back with you to the jury room and how the cell phone, wedding rings and gun will be allowed to go back to the jury room with them, and went on about the jury instructions. 8 VRP 83. Then, suddenly, Ms. Miller told the jury that she “thinks it’s important that we discuss the fact that Mr. Eras-Duque did not testify. You are not allowed - - “

Mr. McCabe: Objection.

Ms. Miller: To hold this against him in any way.

The Court: Ladies and Gentlemen, whether or not the defendant has testified is not something that you should weigh in the sense it does not prejudice him, does not in any way consider, does not have any bearing on whether or not the State has established guilt. It’s moved to a different argument.

Ms. Miller: As I was indicating, you are not allowed to hold this against him in any way. And there's a jury instruction that says that and I ask you to read that and please follow that." 8 VRP 84.

3. Did the prosecutor appeal to the passions or prejudice of the jury during closing by commenting to and pointing out Mr. Duque's silence or failure to testify?

A defendant has the right to have his failure to testify at trial protected against adverse comment by the prosecution and the Court. **Griffin v California, 380 US 609, 85 S.Ct. 1229, 14 L.Ed.2d 106(1965), rehearing denied 381 US 957, 85 S.Ct. 1797, 14 L.Ed.2d 730(1965).** Allusion to the defendant's failure to testify violates his constitutional privilege against compulsory self-incrimination. **State v Jeffries, 105 Wn.2d 398, 717 P.2d 722(1986).** The prosecutor may not comment upon the exercise of a privilege. **State v Torres, 16 WA. App. 254, 554 P.2d 1069 (1976); State v Peyton, 29 WA. App. 701, 630 P.2d 1362 (1981).** A defendant has a constitutional right not to testify and the prosecution is prohibited from commenting on the exercise of the privilege. **State v Contreras, 57 WA. App. 471, 788 P.2d 1114 (1990), review denied 115 Wn.2d 1014(1990).**

In the case at bar, the prosecutor intentionally talked about the jury instruction that tells of the exercise of Mr. Duque's right not to testify. This was done in such a way as to prejudice his defense of not being the accomplice or the perpetrator. In the way she let the jury know that if Mr. Duque was in fact innocent, he would have testified in his defense. The reality of this was that the state had nothing to show that Mr. Duque actually was at the scene but to place inference upon inference to be evidence of guilt. There was not a single reason that Ms. Miller should have proceeded with telling the jury about this instruction when the court had already instructed the jury. This was done only to emphasize and cast doubt to Mr. Duque's defense that he is

remaining silent and not testifying because of guilt. The evidence in this case is far from overwhelming for the jury to convict Mr. Duque. Had it not been for the prosecutor's insinuations and comments and denial to let Mr. Duque's attorney(s) provide for their client the services as constitutionally required, and under Rule of the Court (**Rules of Professional Conduct (RPC) 1.2**) essentially denied Mr. Duque a fair determination during trial.

When a criminal defendant has been advised of the right to remain silent, an ensuing silence may be merely the exercise of that right. "Thus, every post-arrest silence is insolubly ambiguous." **Doyle v Ohio, 426 U.S. 610, 617, 49 L. Ed. 2d 91, 96 S. Ct. 2240 (1976)**. Calling attention to that silence, and suggesting thereby that an unfavorable inference might be drawn, violates due process. This basic constitutional principle was set out by the United States Supreme Court in **Doyle v Ohio, Supra**, in an opinion which drew on the earlier case of **US v Hale, 422 U.S. 171, 45 L. Ed. 2d 99, 95 S. Ct. 2133 (1975)**.

In *Hale* and *Doyle* the defendants were cross-examined about their post-arrest silences when they testified at their trials. In *Hale* the court remanded for a new trial on general principles of evidence, holding the probative value of the defendant's silence was outweighed by the prejudice to him of admitting the evidence. The court decided the issue on constitutional grounds in *Doyle*, though, reasoning that due process is violated when the prosecution calls attention to a defendant's post-arrest silence and suggests the silence casts doubt on the defendant's credibility.

In this case the objectionable references to defendant's silence were made during the State's closing argument, not on cross-examination. See e.g., **State v Fricks, 91 Wn.2d 391, 588 P.2d 1328 (1979)**. The State's case here was not overwhelming of guilt. Not a one of the State's witnesses ever identified Mr. Duque as the person who allegedly robbed them. The jury was left to believe either the police had lied about the witness identification process, or that Mr. Duque

was guilty. Here there is no substantive evidence of Mr. Duque's guilt. The State bears the burden of showing that the error is harmless. The error is not harmless here because the jury may not have reached the same result absent the errors. Commenting on the Defendant's silence was prejudicial since the evidence is not overwhelming of Mr. Duque's guilt.

VI. CONCLUSION – GROUND TWO

Reverse and remand to the trial court for new trial.

VII. FACTS AND ARGUMENT – GROUND THREE

INEFFECTIVE ASSISTANCE OF COUNSEL(s)

Mr. Duque has had a rough time with the justice system in the State of Washington. He had maintained employment until an injury prevented him from working any longer and he then received disability from the Washington Department of Labor and Industries. Further, he has no criminal history whatsoever. **10 VRP 130.**

When he was arrested and received counsel, he told them of the third person that was involved that owned the car. **10 VRP 142.** However, counsel failed to provide Mr. Duque with the adequate representation required under the United States Constitution Amendment 6. All of the defense counsel that were provided to him should have investigated who the third person was that he went to the el Abuelo store with, i.e., the one with the car. Mr. Duque during sentencing told his story and how he tried to call police with his own cell phone, how he had several hundred dollars of his own, and that he was wearing a hat when he went into the store and when he ran out, and that they had been placed in the back of the patrol car when he was arrested. **10 VRP 138 – 143.** None of the witnesses referred to a man wearing a hat, nor did the 911 tapes.

4. **Carey Huffman, Deborah Wilson, and Kevin McCabe (Counsel(s) for Defendant) provided less than constitutionally required representation by failing to investigate other suspects or interview witnesses in a timely manner?**

In *Jones v. Wood*, 207 F.3d 557 (9th Cir. 2000) (Defense counsel's failure to conduct a pretrial investigation of alternative suspect where evidence tended to connect alternative suspect to crime constituted ineffective assistance of counsel). This failure by counsel prejudiced Mr. Duque's denial of being the one who robbed the store. On so many levels Mr. Duque had pleaded with his attorney's and repeatedly told them he was innocent of these crimes and therefore would not plead guilty whatsoever. Instead, counsel thought he was incompetent and colluded with the State to have him committed to the Western State Hospital for a mental competency evaluation, while still doing nothing in his case. Counsel even admits during a hearing of February 19th, 2009 that he could not take advantage of the State's offers if he did any investigations into the case. So therefore, he did nothing, no witness interviews, and no investigations whatsoever.

Analogous to the case at bar is the following federal cases. *United States v. Tucker*, 716 F.2d 576 (9th Cir. 1983) (Trial counsel's failure to interview government's witnesses and identify or interview witnesses who would corroborate defendant's testimony, constitutes ineffective assistance); *Harris By and Through Ramseyer v. Wood*, 64 F.3d 1432 (9th Cir. 1995) (Trial counsel's failure to investigate and prepare for trial amounted to ineffective assistance); *Siripongs v. Calderon*, 35 F.3d 1308 (9th Cir. 1994) (Trial counsel's failure to investigate the existence of accomplices where there was evidence that other individuals were involved in the crime, constituted ineffective assistance of counsel and required an evidentiary hearing); *Lord v. Wood*, 184 F.3d 1083 (9th Cir. 1999) (Counsel's failure to investigate evidence, which

demonstrated his client's factual innocence, undermines the confidence in the verdict and constitutes ineffective assistance of counsel; **Turner v. Duncan, 158 F.3d 449 (9th Cir. 1998)** (Trial counsel's failure to investigate and to adequately conduct a pretrial preparation was not a strategic decision and required a remand for an evidentiary hearing to determine whether a pretrial investigation would have produced a conviction of a lesser degree of homicide). All of the above cases point to the denial of Mr. Duque's right to effective representation under the State and Federal Constitutions. See two prong test in **Strickland v. Washington, 466 U.S. 668, 80 L. Ed. 2d 674, 104 S. Ct. 2052 (1984)**. The test is obvious here, there can be no strategic reason to not investigate who the driver of the car was, who obviously is a part in this.

VIII. CONCLUSION – GROUND THREE

Reverse and remand for a new trial based on trial counsel(s) failure to investigate the driver of the car that was involved.

IX. FACTS AND ARGUMENT – GROUND FOUR

COMPLICITY, INSUFFICIENT, CIRCUMSTANTIAL EVIDENCE

During the pre-trial (3.5 hearing) the State called Silvestre Vazquez-Vazquez. **3 VRP 12**. During his testimony he was asked if he could identify the robbers and described what they looked like. During this identification he could not remember what it was they were wearing other than one had an orange shirt and sneakers, and the one that had the gun was wearing boots and white hair. When shown the items of clothing he could not remember if that was the clothing and believed that it was similar. **3 VRP 17-19**. Mr. Vazquez stated that he was able to

see them well because they didn't have any coverings on their faces. **3 VRP 19-20.** However, Mr. Vazquez did not identify the defendant as being one of the robbers.

During the trial the State called Maria Armenta. **4 VRP 111.** Ms. Armenta said that she could see the robbers as soon as they entered the store. **4 VRP 117-18.** She never identified Mr. Duque as being one of the robbers.

The State called Beatriz Rivera another person who was a witness to the robbery, who was approached by someone while she sat in her car, as her boyfriend was in the store being robbed. **5 VRP 107; 113-14.** The man that approached her in the parking lot tried to open her car door and asked her to go inside. **5 VRP 114.** Ms. Rivera was shown the clothes taken from the alleged robbers and did not recognize them as being the ones that were worn by them. **5 VRP 124-25.** She declares that she cannot identify anyone in the courtroom as being the person that approached her. **5 VRP 132.**

The State recalled Maria Armenta to finish her testimony. **5 VRP 135.** She states that the man that held the gun was wearing tennis shoes, and that she could not see what the other person looked like. **5 VRP 136-37.** Her identification of the clothes and shoes was that she doesn't remember and did not recognize them, but believed that the shoes were close. **5 VRP 138.** Therein, Ms. Miller called for a sidebar with the judge. Then the judge sent both of the attorney's out of the courtroom with Ms. Armenta to speak to them. **5 VRP 139-40.** Ms. Armenta does not recognize any of the defendants in the courtroom. **5 VRP 156.**

The State calls Juan Hernandez-Agular. **6 VRP 22.** Mr. Agular only remembers the items of clothing because they were shown to him in an earlier proceeding. **6 VRP 29; 32.** Mr. Agular's testimony conflicts with that of the officers in that the suspects were lying face down when they made the identification. **6 VRP 33.** He was asked on cross-examination if he could

identify the men in the courtroom as being the men who robbed him; he could not identify any one present in the courtroom. **6 VRP 43.**

The State called Silvestre Vazquez-Vazquez to testify. **6 VRP 83.** He also stated against the testimony of the police that the alleged suspects were laying on the grass when they made the identification from the back of the patrol car. **6 VRP 101.** Mr. Vazquez cannot identify anyone in the courtroom. **6 VRP 111.**

The State calls Detective Darrin Benko. **7 VRP 11.** He says that the suspects were laying on the sidewalk face down when he arrived. **7 VRP 14.** When he was asked about the identification, he says that "they would have standed them up and faced them toward the road to be Id'd. **7 VRP 19.**

5. There was not enough evidence to show that Mr. Duque was an accomplice to these crimes or even an actor?

There is insufficient evidence that Juan Eras-Duque did anything in association with the principal to accomplish the crimes carried out, or that he was ready to assist in the crimes charged. Further, even if the evidence was sufficient to sustain the convictions, I would find that prosecutorial misconduct requires reversal.

It is well established that the existence of a fact cannot rest in guess, speculation, or conjecture. **Home Ins. Co. v. Northern Pac. Ry., 18 Wn.2d 798, 140 P.2d 507, 147 A.L.R. 849 (1943).** This rule is even more essential in criminal cases where the evidence is entirely circumstantial. See **State v. Weaver, 60 Wn.2d 87, 88, 371 P.2d 1006 (1962),** "While a conviction may be sustained solely on circumstantial evidence, the circumstances proved must be unequivocal and inconsistent with innocence."

For accomplice liability to attach; there must be evidence that the accomplice did something in association with the principal to accomplish the crime. **State v. Murray, 10 WA.**

App. 23, 28, 516 P.2d 517 (1973); State v. Boast, 87 Wn.2d 447, 455-56, 553 P.2d 1322 (1976). The person giving aid must participate in the crime charged "as something he wishes to bring about, and by action to make it succeed." **Boast, 87 Wn.2d at 456.** "Mere presence at the scene of a crime, even if coupled with assent to it, is not sufficient to prove complicity. The State must prove that the defendant was ready to assist in the crime." **State v. Luna, 71 WA. App. 755, 759, 862 P.2d 620 (1993) (emphasis added); see also State v. Rotunno, 95 Wn.2d 931, 933, 631 P.2d 951 (1981) (quoting In re Welfare of Wilson, 91 Wn.2d 487, 491, 588 P.2d 1161 (1979)).**

Here, none of the witnesses could identify Mr. Duque as the robber or one of the actors in the crime(s). The evidence shows that Mr. Duque went with two other persons to el Abuelo Store. They arrived there in a car, (car is the unknown friend named Miguel's) and Mr. Duque went in first, Santos Castillo and Castillo's friend Miguel followed. Mr. Duque was under the impression that he was helping his sisters' renter (Castillo) out by taking him to a store where he usually shops for Mexican clothing and items. Mr. Castillo wanted some clothes for the wedding that they were about to attend. However, the plan was distinctly altered once they arrived to the Store, and after Mr. Duque went inside. Castillo and Miguel decided that they were going to rob the store. Mr. Duque had nothing to do with these crimes that were committed at el Abuelo store. None of the witnesses identified him as having a role in those crimes. Santos Castillo, the only witness who identified Mr. Duque as being present, testified that Mr. Duque did nothing, he ran out of the store; he did not assault or take any property from anyone there, or encourage anyone else to do anything. **7 VRP 43; 58; 73; 94-5.** The evidence in this case is far from overwhelming.

Accomplice liability does not "impose strict liability on putative accomplices for any and all crimes." **In re Pers. Restraint of Sarausad**, 109 WA. App. 824, 835, 39 P.3d 308 (2001). "The Legislature intended that an accomplice ' "have the purpose to promote or facilitate the particular conduct that forms the basis for the charge" ' and the accomplice ' " will not be liable for conduct that does not fall within this purpose." ' " **Id.** (quoting **State v. Roberts**, 142 Wn.2d 471, 510-11, 14 P.3d 713 (2000) (quoting from the comment to MODEL PENAL CODE § 2.06(3)(a), which is identical to RCW 9A.08.020(3)(a))).

"The mens rea for accomplice liability is knowledge, and the legislature intended that the culpability of an accomplice not extend beyond the crimes of which the accomplice actually has knowledge." **State v. Bolar**, 118 WA. App. 490, 502, 78 P.3d 1012 (2003) (citing **Roberts**, 142 Wn.2d at 511), review denied, 151 Wn.2d 1027 (2004). An accomplice may not be convicted of a crime absent specific knowledge of that general crime. **State v. King**, 113 WA. App. 243, 288, 54 P.3d 1218 (2002) (citing **In re Pers. Restraint of Sarausad**, 109 WA. App. 824, 836, 39 P.3d 308 2001)), review denied, 149 Wn.2d 1015 (2003).

The record shows that Mr. Duque, at most, had knowledge that a robbery was taking place at the el Abuelo Store. (Thus his running out of the Store when he seen what was going on and tried to call 911). However, there is no evidence that he knew that any of his actions would promote or facilitate the commission of the crimes charged. **RCW 9A.08.020(3)(a)**. Accomplice liability requires proof that the person charged knew he was aiding in the commission of the charged crime, not merely that defendant knew he was aiding in planning or committing some crime. **State v. Gallagher**, 112 WA. App. 601, 608, 51 P.3d 100 (2002), review denied, 148 Wn.2d 1023 (2003).

In King, 113 WA. App. at 288, Division One of this court reversed and dismissed with prejudice a kidnapping conviction of an accomplice in a home invasion robbery. There the court found that though the evidence was sufficient to convict for accomplice liability on the crime of robbery, there was no evidence to show that the kidnapping was part of the original plan; rather the decision to put the victims in the trunk of the car was a spontaneous one made by other accomplices. **Id.**

The same is true here - the crime that was actually committed by others is too far removed to hold Mr. Duque responsible. The spontaneous actions of Castillo and Miguel after Mr. Duque went into the store could hardly show he knew of their intentions. Even if the assault and robbery was a foreseeable outcome of the planning of Miguel and Castillo, foreseeability is an insufficient basis to establish accomplice liability. **State v. Stein, 144 Wn.2d 236, 246, 27 P.3d 184 (2001).**

After the event deviated from the initial plan of purchasing items for a wedding at the el Abuelo, the State points that only "two" men were present or implied presence during the demand for money and assault of Ms. Armenta. But presence, standing alone, cannot evince complicity. **State v Rotunno, 95 Wn.2d 931, 933, 631 P.2d 951 (1981) (quoting In re Welfare of Wilson, 91 Wn.2d 487, 491, 588 P.2d 1161(1979))**. One's presence during the commission of a crime, even if accompanied by knowledge that one's presence would aid in the commission of the crime, will not subject one to accomplice liability unless that person is "ready to assist" in the commission of the crime. **Rotunno, 95 Wn.2d at 933**. Further, the failure to stop a crime cannot establish complicity. **State v. Jackson, 137 Wn.2d 712, 724-25, 976 P.2d 1229 (1999)**. Here, Mr. Duque left the store and tried to call 911 but the battery was dead to his cell phone, so when he seen the officer's driving by, he tried to flag them down, but they continued past to the store.

Further, the inference upon inference that lead up to the information being redundant caused a prejudicial effect upon Mr. Duque because the jury convicted based upon the fact that he may have been in the clothes that were described, and by the prejudicial identification procedure after the alleged robbery, not because “in fact” that he was identified as an actor or accomplice in these crimes. The prejudicial effect of this made it so the burden of proof was shifted to Mr. Duque to prove his innocence.

X. CONCLUSION – GROUND FOUR

Because there is insufficient evidence that Mr. Juan Eras-Duque did anything in association with the principle to accomplish the crimes carried out, or was ready to assist in the crimes charged, reverse and dismiss the charges with prejudice.

XI. FACTS AND ARGUMENT – GROUND FIVE

CUMULATIVE ERROR

Where the cumulative effect of multiple errors so infected the proceedings with unfairness a resulting conviction or death sentence is invalid. See *Kyles v Whitley*, 514 US 419, 434-35, 115 S.Ct. 1555, 131 L.Ed.2d 490(1995). As the Ninth Circuit pointed out in *Thomas v Hubbard*, 273 F.3d 1164(9th Cir. 2001), “[i]n analyzing prejudice in a case in which it is questionable whether any single error examined in isolation is sufficiently prejudicial to warrant reversal, this Court has recognized the importance of considering the cumulative effect of multiple errors and not simply conducting a balkanized, issue-by-issue harmless error review.” *Id.* At 1178. (Internal quotations omitted) (Citing *US v Fredrick*, 78 F.3d 1370, 1381(9th Cir. 1996)); see also *Matlock v Rose*, 731 F.2d 1236, 1244(6th Cir. 1984) (“Errors that might not be so prejudicial as to amount to a

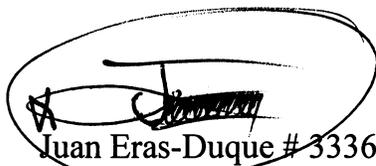
deprivation of due process when considered alone, may cumulatively produce a trial setting that is fundamentally unfair.”).

VIII. CONCLUSION – GROUND FIVE

Mr. Eras-Duque asserts that each of the errors described previously merits relief. However, considered cumulatively, they certainly resulted in sufficient prejudice to merit a new trial or resentencing. The above errors, measured cumulatively, were prejudicial and devastating to Mr. Eras-Duque and his right to fair trial and at sentencing.

Therefore, this Honorable Court should exercise its discretion, and request additional briefing from counsel to address the issues raised in this Statement of Additional Grounds.

Respectfully submitted this 10th day of June, 2010.



Juan Eras-Duque # 333673
Washington State Reformatory
Post Office Box 777
Monroe, WA 98272-0777

THE SUPERIOR COURT FOR THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,)
)
 Plaintiff,) No. 08-1-04054-9 SEA
)
 vs.) COA No. 64177-8-I
)
 JUAN ERAS-DUQUE,)
)
 Defendant.)

COPY

CASE SETTING HEARING - August 5, 2008
 OMNIBUS HEARING - September 26, 2008
 OMNIBUS HEARING - November 7, 2008

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Nielsen, Broman & Koch, P.L.L.C

The Honorable Cheryl B. Carey Presiding

OMNIBUS HEARING - December 12, 2008

The Honorable Julie Spector Presiding

OMNIBUS HEARING - February 19, 2009
 OMNIBUS HEARING - February 20, 2009
 OMNIBUS HEARING - March 23, 2009
 OMNIBUS HEARING - May 8, 2009
 OMNIBUS HEARING - May 15, 2009
 OMNIBUS HEARING - June 4, 2009

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The Honorable Sharon Armstrong Presiding

OMNIBUS HEARING - March 26, 2009
 OMNIBUS HEARING - May 29, 2009

The Honorable Palmer Robinson Presiding

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On Behalf of Plaintiff:

ERIN BECKER (8/5/08)
HUGH J. BARBER (9/26/08, 11/7/08, 12/12/08)
JENNIFER MILLER (2/19/09, 2/20/09, 3/23/09, 3/26/09, 5/8/09,
5/15/09, 5/29/09 and 6/4/09)

King County Prosecutor's Office
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104

On Behalf of Defendant:

CAREY L. HUFFMAN (8/5/08, 9/26/08, 11/7/08, 12/12/08, 2/19/09,
2/20/09 and 3/23/09)

The Defender Association
810 Third Avenue
Suite 800
Seattle, Washington 98104

DEBORAH WILSON (3/26/09 and 5/8/09)
KEVIN MCCABE (5/15/09, 5/29/09 and 6/4/09)

Associated Counsel for the Accused
110 Prefontaine Place South
Suite 200
Seattle, Washington 98104

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MS. BECKER: We're back on Juan Eras-Duque. Erin Becker for the State. Carey Huffman for Mr. Eras-Duque, who's in custody and we're waiting for him. It looks like we now have Mr. Eras-Duque. Also present is the Spanish interpreter, permanently sworn and certified, Susana Stettri-Sawrey.

THE COURT: Thank you.

MS. BECKER: Your Honor, we're here for a case setting. Mr. Eras-Duque is currently charged with three counts of robbery in the first degree with the standard range of 51 to 68 months. The State has offered to resolve this case with a plea to three counts of robbery in the second degree with a range of 15 to 20 months.

If Mr. Eras-Duque sets these matters for trial, the State expects to add firearm enhancements to each of the counts, bringing his total standard range to 231 to 248 months; roughly 20 years in prison, 15 years of which get no good time.

Mr. Eras-Duque has had this offer outstanding for several months.

THE INTERPRETER: I'm sorry, the interpreter
(inaudible) --

MS. BECKER: Mr. Eras-Duque has had this offer outstanding

1 for several months.

2 How does he wish to proceed today?

3 MR. HUFFMAN: Your Honor, I'll check once again with
4 Mr. Eras-Duque before we answer.

5 THE COURT: Thank you.

6 MR. HUFFMAN: Thank you for the time, Your Honor. I've
7 had an opportunity to speak with Mr. Eras-Duque. Again, I
8 would just note for the record that I've spoken with
9 Mr. Eras-Duque about this numerous times and his answer's
10 been the same. So at this point he would like to set the
11 matter for jury trial, understanding that these enhancements
12 are pending.

13 THE COURT: Thank you, Counsel.

14 MS. BECKER: And I should clarify that the offer
15 previously made will be revoked by setting this matter for
16 trial.

17 MR. HUFFMAN: I did explain that to Mr. Eras-Duque in my
18 conversation with him. I believe he understands that, but I
19 can double-check just to be sure, Your Honor.

20 THE COURT: Thank you.

21 MR. HUFFMAN: Yes, Your Honor. It's my understanding he
22 still wishes to set the matter for trial.

23 THE COURT: Thank you, Mr. Huffman.

24 MS. BECKER: Your Honor, we currently have expiration of
25 October 2nd. Counsel wishes trial for October 1st, and I'm

1 amenable to that, with an extension of expiration to October
2 15th. So we've prepared an order resetting commencement for
3 August 16th, with expiration on October 15th, and now
4 omnibus will be September 19th, with trial October 1st.

5 THE COURT: Thank you.

6 MR. HUFFMAN: And, Your Honor, for the record, I explained
7 that to Mr. Eras-Duque and he has signed the documents,
8 knowing that his speedy trial waiver would start on the new
9 date of August 16th.

10 THE COURT: Thank you.

11 MS. BECKER: And I (inaudible) application and served a
12 copy on the defense.

13 MR. HUFFMAN: Thank you, Your Honor.

14 MS. BECKER: Thank you.

15 THE COURT: Thank you.

16 (Conclusion of August 5, 2008 proceedings.)

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18 SEPTEMBER 26, 2008 PROCEEDINGS

19

20 THE BAILIFF: Eras-Duque, E-r-a-s-D-u-q-u-e.

21 MR. BARBER: Your Honor, this is the matter of State of
22 Washington v. Juan Eras-Duque, Cause No. 08-C-04054-9,
23 Seattle. Hugh Barber for the State. Defendant is present
24 with counsel, Carey Huffman.

25 Your Honor, this was originally a co-defendant case,

1 pretrial to robbery in the first degree. The co-defendant
2 pled guilty to two of those three counts on dismissal of the
3 third --

4 THE INTERPRETER: Excuse me, Your Honor, the interpreter
5 didn't hear the last sentence.

6 MR. BARBER: I'm sorry. I didn't know you -- I'm sorry.

7 The co-defendant pled guilty to two of those three counts
8 in return for a dismissal of the third.

9 The defendant, by the way, is present and being assisted
10 by a previously certified and permanently sworn interpreter
11 in the Spanish language.

12 THE COURT: All right. Why don't I briefly let her
13 introduce herself, please.

14 THE INTERPRETER: Good morning, Your Honor. My name is
15 (inaudible) -r-i-c-k, Washington (inaudible) Spanish
16 language (inaudible).

17 THE COURT: Thank you.

18 Go ahead.

19 MR. BARBER: Thank you. We are here for our first omnibus
20 hearing. The trial date is currently set for October 1st.
21 We are asking to continue the trial date to November 13th,
22 with an omnibus date of October 31st in hopes that Counsel
23 and I can sit down and at least attempt to find some
24 resolution, which I'm fairly optimistic we may be able to
25 do.

1 With that said, I'll defer to Counsel.

2 THE COURT: Counsel.

3 MR. HUFFMAN: I would concur with the State and
4 (inaudible) by the People, Your Honor. I'm passing forward
5 a motion.

6 You've already signed it?

7 MR. BARBER: Yes.

8 THE COURT: All right. That would make expiration 12/13?

9 MR. BARBER: Yes.

10 MR. HUFFMAN: Yes. And I wrote 1/12. Sorry. That should
11 be 12/13.

12 MR. BARBER: Or 12/12, actually. I think it's actually
13 12/12.

14 THE COURT: All right. Let me do this.

15 MR. BARBER: November 13th.

16 THE COURT CLERK: You want that to go to 12/13.

17 THE COURT: I was right.

18 (Inaudible colloquy)

19 MR. HUFFMAN: (Inaudible) the record to reflect.

20 THE COURT: Let the record reflect.

21 All right, then. All right. Based on that, I am going to
22 grant the request. We do have expiration now of 12/13/09.

23 MR. BARBER: Thank you, Your Honor.

24 THE COURT: Thank you. Thank you, sir.

25 (Conclusion of September 26, 2008 proceedings.)

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NOVEMBER 7, 2008 PROCEEDINGS

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MR. BARBER: Your Honor, this is the matter of State of Washington v. Juan Eras-Duque, Cause No. 08-C-04054-9, Seattle.

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I'm Hugh Barber for the State. The defendant is present with counsel, Carey Huffman. I'm being assisted by a previously certified and permanently sworn Spanish interpreter.

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THE INTERPRETER: For the record, Your Honor, Amy Andrews, Washington State court-certified Spanish interpreter permanently sworn.

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THE COURT: Thank you.

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MR. BARBER: We are here for omnibus, this matter being set for trial on November 13th. This is a -- there is a defense motion, which I think it will be most appropriate for me to defer to defense counsel on, and I'll briefly respond.

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MR. HUFFMAN: Good morning, Your Honor. Carey Huffman, (inaudible) attorney with The Defender Association.

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25

Your Honor, I'm before the Court in a position where I am going to inform the Court that I have questions as to my client's competency. They are not the normal questions of

1 competency, however, Your Honor.

2 I have been working with Mr. Eras-Duque for quite a long
3 time, trying to explain how the trial system works, and
4 trying to make sure that he understands what is involved in
5 a trial and what is allowed in a trial.

6 When I failed to do that, I thought perhaps there was some
7 difficulty between myself and Mr. Eras-Duque with an
8 interpreter. So I brought in another attorney from my
9 office, Mr. John Ostermann, who is fluent in Spanish, so
10 that I would then have an attorney who is speaking to
11 Mr. Eras-Duque in Spanish, and perhaps there would be
12 greater credibility there.

13 The difficulty that surrounds, Your Honor, in my belief,
14 is that Mr. Eras-Duque is not capable at this point of
15 knowingly and intelligently rejecting the State's offer.
16 The State has made an offer. I've conveyed it to
17 Mr. Eras-Duque. He tells me that he understands what the
18 offer is, and then he rejects it.

19 Unfortunately, Your Honor, the discussions that
20 Mr. Eras-Duque and I have had about a trial and what he
21 believes can happen in a trial and what I have tried to
22 explain to him are not allowed by the rules of evidence and
23 his -- his belief that I am simply explaining it
24 incorrectly, that I don't know what it is. And I can share
25 the information with the Court.

1 Mr. Eras-Duque would like, during the trial, for me to
2 read a letter that he has written which explains what
3 occurred during the incident. I've explained to him that I
4 can't do that. The rules of evidence will not allow me to
5 do it. It has taken numerous conversations and he still
6 will not believe that I can't.

7 I asked a hypothetical: Well, if you just agree that I
8 couldn't do it, then what would happen? And he says that
9 when the trial begins, he'll raise his hand and the judge
10 will call on him, and then he'll be allowed to read his
11 letter.

12 THE COURT: Let me ask you this.

13 MR. HUFFMAN: Yes, Your Honor.

14 THE COURT: I'm going to use the letter as an example.
15 If, in fact, you tell the State: I'm going to ask the Court
16 to admit this letter.

17 And the State says: Okay. I'm going to the judge, and
18 I'm going to ask the judge to make a ruling and exclude the
19 letter.

20 In other words, the judge says: I'm not letting anyone
21 read that letter to the jury. No one will ever know you
22 wrote that letter.

23 I mean, what is the difference with your client? I mean,
24 that's not an uncommon thing to have happen, is it?

25 MR. HUFFMAN: I've expressed that to the client, Your

1 Honor, and asked if I could perhaps do that at omnibus.

2 THE COURT: Uh-huh.

3 MR. HUFFMAN: And that when we are in court today, I would
4 ask this judge if that were allowed under the rules of
5 evidence, and more easy language: If he could do that.

6 THE COURT: So why not to the judge at trial?

7 MR. HUFFMAN: I'm trying to get there one step at a time
8 so that Mr. Eras-Duque can follow along.

9 THE COURT: Okay.

10 MR. HUFFMAN: And he said that asking the judge at omnibus
11 would be insufficient because it would only be the trial
12 judge that matters.

13 THE COURT: Right.

14 MR. HUFFMAN: And I can understand that.

15 THE COURT: Right.

16 MR. HUFFMAN: The difficulty, Your Honor, is he can't get
17 to the trial without rejecting the offer.

18 THE COURT: Right.

19 MR. HUFFMAN: And one of the difficulties here is because
20 I don't believe that Mr. Eras-Duque is intelligently and
21 knowingly rejecting this offer, then I have not yet
22 requested from the State to interview the victims, because
23 if I do that the offer will be removed.

24 THE COURT: Right.

25 MR. HUFFMAN: And so I am -- I am stuck in a position

1 whereas an attorney, if I make a step or take a -- take the
2 next step in the process, I will be denying my client the
3 ability to accept an offer, which I do not believe he is
4 knowingly and intelligently rejecting. And to me that means
5 that he cannot assist his attorney in his own defense.

6 THE COURT: What if he's just being stubborn?

7 MR. HUFFMAN: That may be the case, Your Honor.

8 THE INTERPRETER: Your Honor, the interpreter did not --

9 THE COURT: I'm sorry. What if -- what if he's just being
10 stubborn? We have very competent English-speaking
11 defendants who stand in front of you and I hear the same
12 thing over and over. Their attorney, very diligent, very
13 smart, very much aware of the rules of evidence, very much
14 aware of the court rules, try and communicate with their
15 client, who say: Look, there's no way, based on my
16 experience and of these rules, a judge will ever allow that
17 letter to be read to a jury.

18 So if that's the case, the jury's probably going to find
19 you guilty. This is a good offer. You really need to
20 consider it. And I will -- and I will stand -- sit there --
21 sit here, and I hear this all the time. And I watch their
22 client say: I want a trial date. I'm rejecting that offer.
23 And I don't care what will happen. And there we have it.

24 I'm not hearing that your client really is doing anything
25 different than the scenario that I just proposed.

1 MR. HUFFMAN: I (inaudible), Your Honor. In the last
2 portion of the Court's statement, which is: "I don't care."
3 That's not true about Mr. Eras-Duque, from his conversations
4 with me. He cares immensely --

5 THE COURT: Well -- and I probably shouldn't have used
6 that language. What I oftentimes see, though, is somebody
7 is unwilling to accept and/or agree with their attorney such
8 that they set the case for trial.

9 MR. HUFFMAN: And I'm not trying to hone in on the Court's
10 words as though the other clients were cavalier and "who
11 cares," and my client is deeply concerned with this
12 (inaudible). I don't think that there would be a difference
13 between clients on that.

14 What I mean is there isn't an acceptance and a statement
15 of, you know: I don't care. I understand. I'm still
16 wanting my trial.

17 It's the fact that there is no understanding there. It's
18 not that my client is being difficult and stubborn in my
19 opinion, it's that my client truly does not understand what
20 will occur at a trial. And I'm not saying that I can point
21 to a mental health history. But what I am saying, Your
22 Honor, is as an attorney I cannot state to the prosecution
23 that I have conveyed the offer to my client and that he has
24 knowingly and intelligently rejected that offer. And if I
25 can't do that, then if I tell the prosecutor, "We're

1 rejecting your offer," then I am not representing my client
2 effectively. Because it just might be, Your Honor, that
3 he's being stubborn. It might also be that he's not.

4 THE COURT: Well, even if you don't look at the prosecutor
5 and say, "My client's rejecting the offer," I'm presuming if
6 we have a trial date and it goes to trial, in essence,
7 that's what has occurred.

8 MR. HUFFMAN: I wouldn't disagree with the Court, Your
9 Honor.

10 THE COURT: Thank you.

11 MR. HUFFMAN: But part of the effective representation of
12 counsel is to convey all offers. Now --

13 THE COURT: Right.

14 MR. HUFFMAN: -- I'm not familiar with language that says
15 you have to then provide a response to the State.

16 THE COURT: Right.

17 MR. HUFFMAN: But in the system that we have in King
18 County, the State adopts the position that we will offer and
19 we will negotiate in good faith until you start interviewing
20 and that it may create a class of individuals, and in this
21 case it's the victims. And so I have not interviewed those
22 victims in order to maintain this offer open for my client,
23 because it is my firm belief that my client fails in the
24 second prong of competence, that he is not capable of
25 assisting his counsel in his own defense.

1 THE COURT: Well, let me ask you this: What is it today
2 at omnibus that you're asking for?

3 MR. HUFFMAN: I'm asking for this Court to agree to an
4 order to evaluate my client on the grounds of competency.
5 Because although I do not know about the first prong, I feel
6 incredibly confident, Your Honor, that my client fails the
7 second prong. I have spent hours talking with him. I have
8 brought in a Spanish-speaking attorney, and I -- it is my
9 opinion that my client cannot effectively assist me in his
10 own defense. And I've explained the situation to the
11 prosecutor, Your Honor.

12 THE COURT: Well, before I do in my own colloquy, if
13 that's what I needed to do, in terms of how the law would
14 define what is competent and what isn't, Counsel, you
15 indicated that you wanted to respond and I probably jumped
16 in with a few questions --

17 MR. BARBER: No, no, that's fine. And they were good
18 questions. I appreciate it.

19 This is -- this an uncommon scenario from my perspective.
20 As the Court points out, it's certainly not uncommon for a
21 defendant to be stubborn about the potential outcome and the
22 benefits in an offer that's being made. But this sounds
23 like it could potentially rise to the level of something
24 beyond stubbornness. I don't know.

25 My only position is I do not, as an individual or as a

1 representative of the office, want to try the case on three
2 counts of robbery in the first degree and three firearms
3 enhancements with a defendant facing, you know, 30-some-odd
4 years in prison if there's a chance that his failure to
5 meaningfully consider this offer is based on something other
6 than stubbornness.

7 I don't hear anything that we could necessarily hang our
8 hat on in terms of mental illness to suggest it is anything
9 other than that, except for Counsel's representations, which
10 of course I accept, that he has spent hours. I don't know.
11 I mean, I'm not sure the extent to which we even have a dog
12 in the fight. But certainly, I don't see any harm in the
13 evaluation of Mr. Eras-Duque to determine whether -- as
14 remote a possibility as it may be -- there's something else
15 happening here.

16 MR. HUFFMAN: I would just ask the Court respectfully,
17 Your Honor, to accept my opinion and to allow the
18 evaluation.

19 THE COURT: I do accept your opinion, and I do value your
20 opinion and your assessment of your client. I know that you
21 have been doing this for a period of time and I'd be
22 respective. I will accept it based on your representation.
23 Although I did push you a little because there are times I
24 hear similar arguments with similar requests, but I will
25 grant your request.

1 MR. HUFFMAN: Thank you, Your Honor.

2 I believe we have an order.

3 MR. BARBER: And we need to set a return date, then.

4 THE COURT CLERK: 12/5 (inaudible).

5 MR. HUFFMAN: 12/5.

6 THE COURT: Are we doing this -- are you requesting that
7 he be sent or just in jail?

8 MR. HUFFMAN: I'm -- it's marked at Western State
9 Hospital, Your Honor.

10 THE COURT: Okay.

11 (Unless specifically noted, all testimony given by the defendant
12 is through the interpreter.)

13 THE DEFENDANT: Could I ask the judge a question?

14 MR. HUFFMAN: I would prefer not, and I advise you not to.

15 THE COURT: Okay.

16 MR. BARBER: Do we need to continue the trial date, as
17 well, just because it's from (inaudible)?

18 THE COURT CLERK: (Inaudible).

19 THE COURT: Thank you.

20 All right. I have granted your request. I have signed
21 all the agreed orders.

22 MR. HUFFMAN: Thank you, Your Honor.

23 MR. BARBER: Thank you, Your Honor.

24 (Conclusion of November 7, 2008 proceedings.)

25

1 DECEMBER 12, 2008 PROCEEDINGS

2
3 MR. BARBER: Your Honor, this is the matter of State of
4 Washington v. Juan Eras-Duque, Cause No. 08-C-04054-9,
5 Seattle.

6 I'm Hugh Barber for the State. The defendant is present
7 with counsel, Carey Huffman, and being assisted by a
8 previously certified and permanently sworn Spanish
9 interpreter.

10 THE INTERPRETER: Susana Stettri-Sawrey.

11 MR. BARBER: Your Honor, this matter has been stayed
12 pending an eval -- or determination of competency. An
13 evaluation was completed by Western State Hospital, dated
14 November 24th, 2008. And it's my understanding that defense
15 counsel now wants to seek a private evaluation.

16 THE COURT: Is that correct?

17 MR. HUFFMAN: That is correct, Your Honor.

18 THE COURT: All right.

19 MR. HUFFMAN: It is our intention to contest the
20 evaluation. At this point we are seeking our own expert.
21 In order to do that, I would ask for a date, perhaps between
22 four and six weeks out, and then I would set a hearing date
23 with notice to the State upon an -- excuse me, an expected
24 completion date of my expert's report.

25 THE COURT: Okay. And you under- -- your client -- or you

1 understand that speedy is tolled during this period of time?

2 MR. HUFFMAN: I do. Yes, Your Honor.

3 THE COURT: All right. We'll do that.

4 So today is December 12 --

5 MR. HUFFMAN: December 12th, Your Honor.

6 THE COURT: -- (inaudible). Sorry. I can't see. It's
7 the 12th. So about four weeks. We would put this --

8 MR. HUFFMAN: I would ask for January 20th, if that would
9 be acceptable to the Court?

10 THE COURT: Sure.

11 MR. HUFFMAN: And return to this calendar at this time,
12 Your Honor?

13 THE COURT: Yes.

14 MR. HUFFMAN: Thank you.

15 THE INTERPRETER: (Inaudible).

16 THE COURT: He has a question.

17 MR. HUFFMAN: Yes, Your Honor. And before he addresses
18 the Court, I'm going to advise Mr. Eras-Duque that it's not
19 in his best interest to address the Court. We have had
20 numerous conversations, and I believe that it is likely
21 he'll say something that will wind up damaging his case
22 rather than assisting it.

23 THE COURT: All right.

24 (Unless specifically noted, all testimony given by the defendant
25 is through the interpreter.)

1 THE DEFENDANT: I ask for two minutes of your time,
2 please.

3 THE COURT: I can listen to what you have to say, but I
4 think you should follow your attorney's advice, because he
5 is concerned about protecting your legal interests and what
6 you say deals with the substance of your -- the substance of
7 your case. He's correct, it could damage your legal
8 interests.

9 THE DEFENDANT: I understand. But I want to say something
10 that I have to say.

11 THE COURT: Okay.

12 THE DEFENDANT: In the first place, they already have the
13 person in prison who is responsible for this crime I'm
14 accused of. Before he was sentenced, he stated in court
15 that he and his friend are the only people responsible for
16 this crime. Besides this, I have been here in jail for
17 eight months and my attorney always tells me that he and his
18 (inaudible) and with my witnesses, and Santos Castillo
19 (phonetic), who's the person who's in prison.

20 THE COURT: All right. I don't know anything about this.
21 Your attorney is really watching out for your best interest
22 and you have to trust him, so --

23 THE DEFENDANT: But three trials have been canceled
24 already for me.

25 THE COURT: Well, actually, you haven't had a trial yet

1 because they're not sure if you're competent enough to stand
2 trial. My understanding is that Western probably found
3 you --

4 MR. HUFFMAN: I'm sorry, Your Honor?

5 THE COURT: Western found him competent?

6 MR. HUFFMAN: Western proposes the evaluation opinion that
7 he is competent.

8 THE COURT: Right.

9 MR. HUFFMAN: I disagree with that.

10 THE COURT: I understand.

11 And so your attorney thinks you're not competent, and he
12 wants to have an expert evaluate your ability to understand
13 the charge against you and whether or not you can assist
14 counsel. That's the competency standard and he has a duty
15 to do that.

16 So I think we're all done here today.

17 MR. HUFFMAN: Yes, Your Honor. Thank you.

18 MR. BARBER: Thank you, Your Honor.

19 THE COURT: Thank you.

20 Thank you, sir.

21 (Conclusion of December 12, 2008 proceedings.)

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FEBRUARY 19, 2009 PROCEEDINGS

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THE COURT CLERK: The next matter will be Juan Eras-Duque.

MS. MILLER: Your Honor, next on the calendar is State of Washington v. Juan Eras-Duque, Cause No. 08-1-04054-9, Seattle.

Jennifer Miller for the State of Washington. Carey Huffman for the defendant. We are also joined by Madam Interpreter. I'll have her state her name and qualifications for the record.

THE INTERPRETER: Susana Stettri-Sawrey, Spanish certified court interpreter (inaudible) practice in King County Superior Court.

THE COURT: Thank you.

MS. MILLER: Your Honor -- oh, go ahead.

MR. HUFFMAN: Can I have just one moment, Your Honor? I wanted to convey something to my client that the prosecutor and I spoke about this morning.

THE COURT: Okay.

MS. MILLER: And Your Honor, the defendant -- this is a case that Hugh Barber originally had that I inherited. And the defendant -- there was an issue of competency raised and so he went and was evaluated. And I believe this is his scheduled return on competency evaluation date, and so the Court should have --

1 THE COURT: Lynn, do you have this report?

2 THE COURT CLERK: I looked and I don't see one.

3 THE COURT: Do you have it?

4 MR. HUFFMAN: I would, Your Honor.

5 THE COURT: Because I didn't get it yesterday.

6 MR. HUFFMAN: Oh, you did get it yesterday?

7 THE COURT: I did not.

8 MR. HUFFMAN: Oh, you did not. Okay. I'm sorry. The
9 file was rather thick and --

10 MS. MILLER: In any event, while he's looking for that,
11 I'll go ahead and update the Court.

12 THE COURT: Okay.

13 MS. MILLER: So the defendant came back from the
14 competency, and previous offers that were submitted by the
15 State are no longer available to him. And we are now in the
16 process of preparing for trial and so we need to set the
17 trial date. There were six days left in speedy trial before
18 he was sent -- or can you go ahead and tell (inaudible).

19 MR. HUFFMAN: Good morning, Your Honor. Carey Huffman for
20 the Defenders --

21 THE COURT: I'm assuming the outcome of the report was
22 that he was found competent?

23 MS. MILLER: That's correct, Your Honor.

24 MR. HUFFMAN: It is true, Your Honor.

25 I'm looking for a copy of it now. It might still be in my

1 office. But if I do find it, I will present it to the
2 clerk.

3 Your Honor, to provide information for the Court, we were
4 here on November 7th when the presiding judge at that point
5 accepted the competency question and referred him for a
6 competency evaluation. There were six days prior to trial
7 at that point. Not six days prior to expiration. There
8 were 37 days remaining prior to expiration.

9 The prosecutor and I had worked on this case extensively
10 with numerous negotiations and counteroffers by the defense.
11 And the counteroffers had been continuing all the way up to
12 shortly before that November 7th date. And the State had
13 been working with us in providing new offers.

14 And it was during the week prior to the November 7th date
15 that I had conversations with my client, including both with
16 multiple interpreters, a Spanish-speaking attorney from my
17 office. At one point I brought in my supervisor. And it
18 was the decision of the supervisor to question the
19 competency and hire our own expert.

20 And so we had set this matter for a competency of -- for a
21 further competency return date so that my expert could be
22 hired. We've hired that expert. He has evaluated the
23 client. I am prepared at this time to agree to the finding
24 of competency, so we are not seeking a competency hearing.

25 I -- I do not have that order. It's my understanding that

1 the State does not have their order with them at this time,
2 but I will be happy to sign it as soon as it's provided to
3 me. I don't think we can do that right now.

4 So for the record, Your Honor, I would be willing to sign
5 a motion that agrees that Mr. Eras-Duque is competent to
6 stand trial.

7 The question now is what trial date do we select.
8 Mr. Barber and I had been discussing this matter all the way
9 up to November 7th, and the understanding was that I could
10 not have any of those offers to present to my client, hadn't
11 interviewed any of their victims or started that process.

12 So we have four victims to the exact alleged crime, as
13 well as a father and two sons who were witnesses to the
14 finding of the gun that is connected to this crime and
15 serves as the bulk of the time of the enhancements.

16 Mr. Barber and I had always anticipated that we would
17 continue the case, with permission of the Court, of course,
18 had Mr. Eras-Duque not accepted the offer. The difficulty
19 was that the competency issue was severely limiting the
20 ability to communicate the offer and have that offer
21 understood.

22 So there is -- there are, pardon me, 37 days remaining.
23 The expiration date would be March 27. I have proposed, and
24 the prosecutor has no objection, to a trial date of March
25 23rd, with an omnibus of November -- I wrote November -- oh,

1 THE COURT: All right. But I will use the trial date and
2 the omnibus date proposed.

3 THE DEFENDANT: I don't want my attorney anymore because
4 he's not doing anything for me.

5 THE COURT: Your request for a new attorney is denied.

6 And I did read a letter that you had sent to Judge Carey,
7 and I had it translated. And it makes basically that same
8 point, but the request is denied.

9 MR. HUFFMAN: Thank you, Your Honor.

10 THE COURT: Mr. Huffman is your lawyer.

11 THE DEFENDANT: I agree.

12 MS. MILLER: And Your Honor, we'll make sure the Court
13 gets a copy of the report finding him competent.

14 MR. HUFFMAN: Along with the order agreeing to the
15 competency, Your Honor.

16 THE COURT: Okay. Thank you.

17 MS. MILLER: Thank you.

18 MR. HUFFMAN: Thank you, Your Honor.

19 THE DEFENDANT: Is that all?

20 THE COURT: That's everything, yes. Thank you.

21 (Conclusion of February 19, 2009 proceedings.)

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FEBRUARY 20, 2009 PROCEEDINGS

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THE BAILIFF: Next matter will be Eras-Duque.

MS. MILLER: And Your Honor, next on the calendar is State of Washington v. Juan Eras-Duque, 08-C-04054-9, Seattle. Jennifer Miller for the State of Washington. Carey Huffman present on behalf of the defendant.

We were here before this Court yesterday and we promised the Court that we'd get you a copy of the report and a signed-off order. The State brought the order and a copy of the report this morning.

Defense counsel has raised an issue with regard to sealing. And it's my understanding that the State's position now is that we would prefer to not have these documents sealed so -- on behalf of my office.

THE COURT: I understand that is your office position.

I will grant the order sealing.

MR. HUFFMAN: Thank you, Your Honor.

THE COURT: Because I think mental health status is private.

MS. MILLER: Absolutely.

MR. HUFFMAN: Thank you.

(Conclusion of February 20, 2009 proceedings.)

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MARCH 23, 2009 PROCEEDINGS

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MS. MILLER: -- -4054-9, Seattle. Jennifer Miller for the State of Washington. Carey Huffman present on behalf of the defendant.

We're also joined by Madam Interpreter. I'll have her state her name and qualifications for the record.

THE INTERPRETER: For the record, Amy Andrews, Washington State court-certified Spanish interpreter, permanently sworn.

MS. MILLER: Your Honor, we are on the trial calendar for today on 1:30 standby. I had been sent out to Judge McCarthy on another trial, which I anticipate will take through probably Thursday morning.

There is one witness --

THE COURT: Is Judge -- I thought Judge McCarthy was -- he's here today?

MS. MILLER: He's not available today. But that trial will be done --

THE COURT: Okay.

MS. MILLER: Well, we're doing jury selection tomorrow morning. I'm putting a witness on tomorrow afternoon. The remainder of my witnesses should be on Wednesday. We hope to do closing by Thursday morning. With that in mind, this case, potentially, could get sent out for Thursday.

1 I do have one witness issue that was brought to my
2 attention. Sergeant Nash, from the Issaquah Police
3 Department, is not available. He leaves the 27th of this
4 month, out of state, for a preplanned vacation. He will be
5 gone until April 18th.

6 Because of --

7 THE COURT: I'm sorry, April?

8 MS. MILLER: Until April 18th. Because of his
9 availability and when my other trial will get done, I would
10 respectfully ask this Court to continue this case to April
11 15th or 16th, with the understanding that I would start jury
12 selection, hopefully get to opening statement on this case.

13 I would indicate for the Court, I do have another case set
14 for trial on the 30th that this Court has been trying to
15 prioritize in terms of a trial date, which is older than
16 this case, and that case should take at least a week to a
17 week and a half to try.

18 THE COURT: Thank you.

19 Mr. Huffman, any objection to continuing the trial to
20 April 15th?

21 MR. HUFFMAN: Your Honor, I understand the State's
22 position; however, it's my understanding when speaking with
23 my client, Mr. Eras-Duque --

24 THE COURT: Excuse me.

25 Counsel, excuse me, it is too noisy in the courtroom.

1 Thank you.

2 MR. HUFFMAN: Your Honor, speaking again, I understand
3 from speaking with my client, Mr. Eras-Duque, that he is
4 opposed to any continuances. I did not get a chance to
5 explain this particular request, as he was called out prior
6 to my being able to meet with him in the back room.

7 But Mr. Eras-Duque -- if I might have a moment.

8 MS. MILLER: And Your Honor, I will have one other thing
9 to put on the record regarding the continuance.

10 MR. HUFFMAN: Yes, Your Honor, he does wish to object to
11 that.

12 MS. MILLER: One other issue, Your Honor, I did receive
13 the request from defense counsel to facilitate four officer
14 interviews and three civilian interviews of the three
15 primary witnesses. I have met with the witnesses. They
16 require a Spanish interpreter. I just received this
17 request, I believe, last week. I'm more than happy to
18 facilitate these interviews, but my interview times are all
19 filled up.

20 I was here yesterday doing interviews. I have interviews
21 set every night for the next two weeks. I have so far been
22 able to set up two of those interviews on the lunch hour, on
23 days that I'm in trial, for this Wednesday and Thursday. I
24 have yet to be able to set up the rest of those interviews.

25 So even were the Court to find that we needed to go to

1 trial without this officer, although he's a material witness
2 and he's a person that located the defendant, I still can't
3 facilitate defense interviews requested by defense counsel.
4 He needs to effectively represent his client in the amount
5 of time that we have.

6 I can get it done in the next two weeks, but it's going to
7 be at odd hours for me.

8 MR. HUFFMAN: Your Honor, I don't disagree with what the
9 State has said. Just to explain the defense's position: It
10 was my investigator's understanding from earlier that the
11 complaining witnesses would not request the prosecutor's
12 presence. She had actually spoken with them, set up
13 tentative appointments, and then upon recontacting them to
14 solidify those appointments, some of the witnesses hung up
15 on her and others just refused to accept or return her
16 calls.

17 So we didn't anticipate needing the prosecutor's presence.
18 We regretfully do, and we contacted her as soon as we could.
19 We understand the State's position for interview slots.
20 There's another attorney from my office who is using all the
21 other ones.

22 THE COURT: Thank you.

23 Sir, is there something you wish to say?

24 MR. HUFFMAN: And I'm sorry, I do this every time, it
25 annoys Mr. Eras-Duque.

1 THE DEFENDANT: It doesn't harm me at all at this moment.
2 It's independent of that.

3 THE COURT: How long is your letter, sir?

4 THE DEFENDANT: Oh, it's just a full page. The rest of it
5 is just -- the other part, the back, is just five or six
6 lines.

7 THE COURT: I will read the letter right now, but I -- I
8 may have to make a decision about --

9 MR. HUFFMAN: May I ask --

10 THE COURT: -- turning it over.

11 MR. HUFFMAN: I do apologize about interrupting the Court,
12 but before it actually reads the letter and I lose my
13 opportunity, I would ask to be allowed to make a motion to
14 redact that letter if it contains anything sensitive or --

15 THE COURT: Yes --

16 MR. HUFFMAN: Thank you, Your Honor.

17 THE COURT: -- I will do that.

18 So Mr. Eras-Duque, what are you asking the Court to do? I
19 think Mr. Huffman should see this letter.

20 MS. MILLER: May I see it, as well?

21 THE COURT: Let Mr. Huffman review it. There's --

22 THE DEFENDANT: Okay. I think that if he -- okay, I think
23 that counting this one --

24 THE COURT: Just what do you want the Court to do?

25 THE DEFENDANT: -- this is now three trials. I was

1 prepared to go to trial today. I'm prepared for trial.
2 Because -- because now it's been three trials that have been
3 (inaudible).

4 THE COURT: What are you asking me to do, sir?

5 THE DEFENDANT: For you to tell me what can be done for me
6 because it's been a long time now.

7 THE COURT: The only thing that can be done is that I have
8 to continue your trial, because the prosecutor who was
9 assigned to this case is not available to try it. She is in
10 other cases that are older. And the witness -- one of the
11 key witnesses in your case is not available until the week
12 of April 13th. So I am going to have to continue your trial
13 to the week of April 13th.

14 THE DEFENDANT: Okay. But if -- if she postpones it, you
15 have to bring my -- my -- the person who's -- put him on
16 trial. His name is --

17 MR. HUFFMAN: Your Honor, I -- I would just ask that at
18 this point --

19 (Inaudible colloquy)

20 MR. HUFFMAN: -- information that is confidential, that is
21 privileged, and might negatively affect his representation.

22 THE COURT: Sir, the Court does not make decisions about
23 which witnesses are going to be called. The State and the
24 defense attorney make those decisions. And they make those
25 decisions based on two things: on the facts that have been

1 given to them from the witnesses and from others, and on the
2 basis of their experience and their judgment as attorneys.

3 There may be witnesses who you think are important to your
4 case and are going to help you, but the lawyer knows the
5 witness will only hurt you in your case. In that situation,
6 the lawyer's judgment is what controls.

7 THE DEFENDANT: Okay. My attorney doesn't want to bring
8 him because he knows that --

9 MR. HUFFMAN: Your Honor, I'm sorry (inaudible) --
10 (Inaudible colloquy)

11 MR. HUFFMAN: If I could simply interrupt and ask Mr. --
12 Mr. Eras-Duque not to speak out loud.

13 THE COURT: I will grant the motion for a continuance.
14 The trial will be continued to April 15 in the
15 administration of justice.

16 MR. HUFFMAN: Again, Mr. Eras-Duque, I am seriously -- I
17 am seriously asking that you not speak out in public. If
18 you wish, then you could write a letter to the Court with
19 everything that you want in it. And the Court has read that
20 letter.

21 THE DEFENDANT: I don't want any more -- I don't want you
22 anymore.

23 THE COURT: So what are you saying, sir?

24 THE DEFENDANT: I don't want this attorney anymore.

25 THE COURT: What are you saying?

1 THE DEFENDANT: Okay. If the trial isn't today, then I
2 don't want this attorney to represent me anymore. He is not
3 trying to help me. He's trying to have me found guilty.

4 THE COURT: Sir, I think, perhaps you don't understand the
5 American legal system. Your attorney is a very good
6 attorney and has worked very hard on your case. He is
7 making recommendations to you that are based on his
8 understanding of the facts and his understanding of the law.

9 If you are asking me to discharge this attorney and assign
10 another attorney, your case will be delayed at least two to
11 three more months. Is that what you wish?

12 THE DEFENDANT: Yes, that's what I want. Yes, I want
13 that, please.

14 THE COURT: We'll set this over to -- how long will it
15 take, Mr. Huffman, to advise OPD?

16 MR. HUFFMAN: Your Honor, they request that we advise them
17 on the day the Court makes the decision, and then we bring
18 the case back two to three days later. They said they can
19 have an attorney present. If we could do it on Thursday, I
20 think, that would allow all parties to be present.

21 MS. MILLER: Your Honor, I'd be delighted to come back
22 Thursday at 8:30 a.m. I would request that the State get a
23 copy of the letter that was presented to the Court after the
24 Court and defense counsel have a chance to review it. And I
25 have not had the opportunity to review it.

1 MR. HUFFMAN: Your Honor, for purposes of the record, I
2 don't disagree with the State. She has not seen the letter.
3 I request that she wait until I read it. And I believe that
4 was the Court's position as well.

5 My position, Your Honor, is there are statements in here
6 that directly affect Mr. Eras-Duque's possible defense, and
7 I made a motion requesting redaction of that matter which
8 (inaudible) privilege.

9 THE COURT: Mr. Huffman, could you mark the areas you
10 think should be redacted.

11 MR. HUFFMAN: Allow me to do that now?

12 THE COURT: Yes, please.

13 And this case setting will be set over to (inaudible) of
14 the trial. This matter will be set over until Wednesday
15 morning on the 8:30 calendar.

16 MR. HUFFMAN: Did the Court (inaudible)?

17 THE COURT: They need more than two days. Thursday
18 morning at 8:30. And the trial, in the meantime, is
19 continued to April 15th. And the new attorney will come on
20 Thursday morning. I will request that the trial be delayed
21 further.

22 MR. HUFFMAN: May I mark this at the side, Your Honor?

23 THE COURT: Yes.

24 MR. HUFFMAN: Thank you.

25 MS. MILLER: And I've prepared an order (inaudible).

1 THE COURT: Thank you.

2 MS. MILLER: And Mr. Huffman, you'll get this to OPD ASAP?

3 MR. HUFFMAN: I will.

4 THE COURT: I believe Mr. Eras-Duque can be excused; is
5 that correct?

6 MS. MILLER: Yes, Your Honor. Thank you.

7 THE COURT: Thank you, sir. You're excused.

8 THE DEFENDANT: Okay.

9 THE INTERPRETER: And can he keep the letters?

10 MR. HUFFMAN: For Mr. Eras-Duque, as long as Your Honor --

11 THE COURT: Yes, they're all for the court.

12 I've asked him to mark out the portions that he thinks are
13 sensitive, and then I will give it to the prosecutor
14 redacted, then I will file it in the court file redacted.

15 Thank you, sir. You're excused.

16 MR. HUFFMAN: Thank you.

17 THE DEFENDANT: Could I have a copy of the continuance?

18 MS. MILLER: So Your Honor, I'll (inaudible) two
19 interviews that I set for this week. (Inaudible).

20 MR. HUFFMAN: Your Honor, are you continuing the case on
21 both matters because of the unavailability of the officer
22 and the interviews that need to be done?

23 THE COURT: I am, yes. It's in the interest of justice.

24 MS. MILLER: Thank you, Your Honor.

25 THE DEFENDANT: I need a copy of the continuance.

1 THE COURT: Thank you.

2 THE DEFENDANT: Am I going to get a copy?

3 THE COURT: I'm going to have to recess. I'll be back.

4 And (inaudible). Okay.

5 The Court will be at recess for a few minutes.

6 THE BAILIFF: Please rise.

7 (Conclusion of March 23, 2009 proceedings.)

8

9 MARCH 26, 2009 PROCEEDINGS

10

11 MS. MILLER: Your Honor, this is State of Washington v.
12 Juan Eras-Duque, the cause number is 08-1-04054-9, Seattle.

13 Jennifer Miller for the State of Washington. Deb Wilson
14 present, along with the defendant. Here also joined by
15 Madam Interpreter. I'll have her state her name and her
16 qualifications for the record.

17 THE INTERPRETER: For the record, Amy Andrews, Washington
18 State court-certified Spanish interpreter, permanently sworn
19 (inaudible).

20 THE COURT: Thank you.

21 MS. MILLER: Your Honor, we were before the court earlier
22 this week and Mr. Eras-Duque expressed to Judge Armstrong
23 dissatisfaction with his counsel, Carey Huffman. This case
24 was set over to today for confirmation of new counsel after
25 the Court granted his motion to release Mr. Huffman as

1 counsel.

2 Ms. Wilson was appointed as counsel today at the
3 confirmation hearing. I believe she would also like to make
4 a request that the trial date currently set for 4/15/09 be
5 continued to May 28th, '09 with an omnibus of May 8th of
6 '09, expiration of June 29th, '09.

7 I would indicate that the victims in this case are all
8 Spanish-speaking. I was in the process of setting up
9 interviews and facilitating them with the aid of a Spanish
10 interpreter for Mr. Huffman. I would have to do the same
11 for Ms. Wilson. And there are also five law enforcement
12 officers that I would likely need to facilitate their
13 interviews on this case as well. They were at the smaller
14 agency and that's their practice.

15 THE COURT: Okay. Anything you want to add?

16 MS. WILSON: Your Honor, I just got this basically empty
17 file yesterday. I don't have any of the discovery or
18 anything of that nature yet, so I'll need to get that.

19 Mr. Eras-Duque has graciously signed a release so that I
20 can get that information hopefully from The Defender
21 Association as soon as possible.

22 I also spoke to him about continuing his trial date. I
23 know he has some concerns because he feels as though he's
24 been waiting a long time. I believe he's been in custody
25 since October; however, I explained to him I just simply

1 can't -- I don't even have discovery. There's no way I can
2 be ready and effectively represent him on April 15th. And
3 so he has agreed to allow me to continue his trial until the
4 end of May, and indicated that he understood and that that
5 would be okay with him. Although the Court may want to
6 inquire further.

7 THE COURT: All right.

8 MS. WILSON: The other issue is that I noticed, when I was
9 looking yesterday at the court documents, that a lot of them
10 are sealed. And so I would ask if the Court would sign an
11 order allowing me to look at the sealed documents, some of
12 the evaluations and so forth that's on file, that's sealed
13 with the Court. And if the Court would be willing to do
14 that, I can write up an order on --

15 THE COURT: Sure, I'll do that. I would think you could
16 get them from Mr. Huffman, too. But if it will make it
17 quicker, I'll be happy to do that.

18 MS. MILLER: Okay. So the date I think that we were
19 proposing is -- Counsel said is May 28th of '09.

20 THE COURT: All right. I will sign an order continuing
21 omnibus until May 8th, trial date May 28th, expiration's
22 June 27th, not the 29th.

23 So Mr. Eras-Duque, I -- I'm sure you wish it were going to
24 be sooner, but my guess is that Judge Armstrong talked to
25 you about the fact that substituting counsel would

1 necessarily result in a delay, so this sounds like it ought
2 to be realistic, though.

3 Thank you.

4 MS. WILSON: Thank you very much, Your Honor.

5 MS. MILLER: And Your Honor, may I be excused?

6 THE COURT: (No audible reply).

7 MS. MILLER: Thank you.

8 THE COURT: Thank you. And I'm going to ask the
9 interpreter to sign off on this as well.

10 MS. WILSON: Oh, sorry about that.

11 So I'm writing down your new date. Your new trial date is
12 May 28th. Your new omnibus hearing, which is like a status
13 hearing, is May 8th. I'm going to try and get your
14 information hopefully by next week, and then I'll come up
15 and talk to you about your case and I can talk to you about
16 what's going on. Does that work?

17 THE DEFENDANT: Si.

18 MS. WILSON: And that's for you to keep.

19 And Your Honor, I can step to the side and fill out that
20 other order and just hand it up when (inaudible).

21 THE COURT: Thank you.

22 MS. WILSON: Thank you.

23 (Conclusion of March 26, 2009 proceedings.)

24

25 /////

1 this morning, which two of the witnesses forgot about, so we
2 reset those interviews. However, in the meantime, an issue
3 has come up. I'll let Ms. Wilson explain that to the Court.

4 MS. WILSON: Your Honor, earlier this week, Tuesday
5 afternoon, I was told that I'm going to be rotating out of
6 felonies into municipal court starting on Monday. Kevin
7 McCabe is going to be taking over my caseload. He's coming
8 back from leave. You know, obviously, we'll still be in the
9 same office. We can consult about the cases and so forth;
10 however, it will be Mr. McCabe that will be representing
11 Mr. Eras-Duque at trial.

12 I think Mr. Eras-Duque's a little concerned about this and
13 understandably so; however, I assured him Mr. McCabe has
14 been an attorney for many years, is very experienced and
15 will be up to speed pretty quickly on this.

16 And as unfortunate as it was that the interviews didn't
17 work out, on the flip side, at least Mr. McCabe will be able
18 to do those interviews himself.

19 MS. MILLER: And we do have those set for next Friday and
20 the following Thursday and we have the interpreter
21 scheduled.

22 THE COURT: Okay.

23 MS. MILLER: So out (inaudible) four interviews this
24 really is a pretty straightforward case and we should be
25 able to prepare for trial relatively quickly.

1 THE COURT: And the trial date is May 28th?

2 MS. WILSON: It's May 28th. And my proposal was -- and I
3 know the Court doesn't normally (inaudible) omnibus, but
4 because Mr. McCabe is coming onto the case Monday, just in
5 case there's some glaring issue or some sort of (inaudible)
6 something that he has, I would propose in this instance to
7 make an exception and move omnibus until Friday.

8 THE COURT: I think that's appropriate. So we'll set the
9 omnibus over one week. And Mr. McCabe will be here for you
10 for that hearing.

11 (Unless specifically noted, all testimony given by the defendant
12 is through the interpreter.)

13 THE DEFENDANT: I told them this trial will be the last
14 one because there's been six already. And they --

15 THE COURT: We all agree with you.

16 THE DEFENDANT: -- (inaudible).

17 THE COURT: Thank you.

18 MS. MILLER: Thank you very much, Your Honor.

19 MS. WILSON: And just to make sure, Mr. Eras-Duque's trial
20 date remains May 28th?

21 THE COURT: Yes, it does.

22 Thank you.

23 MS. MILLER: Thank you, Your Honor.

24 MS. WILSON: Thank you.

25 (Conclusion of May 8, 2009 proceedings.)

1

2

MAY 15, 2009 PROCEEDINGS

3

4

MS. MILLER: -- Juan Eras-Duque, cause number is

5

08-C-04054-9, Seattle.

6

We're joined by Madam Interpreter. I'll have her state

7

her name and qualifications for the record.

8

THE INTERPRETER: Dierdre Morano, Washington

9

State-certified court interpreter, permanently sworn.

10

THE COURT: Thank you.

11

MS. MILLER: Your Honor, we were before the Court last

12

week. Deb Wilson indicated new counsel will be taking over

13

the case and he has. We met this morning for an interview,

14

which fell through, and we are still actively preparing the

15

case for trial. There are multiple interviews that we need

16

to do.

17

In addition, I was informed by defense counsel today that

18

he would like to transport the co-defendant, who had

19

previously pled guilty and is serving time in prison, as a

20

witness for the defense in this case. I will need to have a

21

chance to interview him. We're not sure exactly how long

22

his transport will take.

23

So defense counsel has prepared a Transport of Witness

24

from DOC order. We are asking to have -- defense counsel's

25

asking to have the trial date continued to 6/4/09. We would

1 ask to come back for omnibus May 29th, '09. Hopefully by
2 that point in time the co-defendant, Mr. Castillo, will have
3 been sent here and I will have the chance to interview him.

4 MR. MCCABE: And Your Honor --

5 THE COURT: Mr. McCabe, you're ACA, right?

6 MR. MCCABE: Yes, Your Honor. I'm ACA.

7 THE COURT: Okay. So you're just taking over for Deb
8 Wilson?

9 MR. MCCABE: I am just taking over the case for
10 Ms. Wil- -- from Ms. Wilson. And the co-defendant had -- in
11 his factual statement on his plea had exonerated
12 Mr. Eras-Duque. I would not be effective without bringing
13 him here.

14 My investigator, Ms. Witherspoon, contacted the Department
15 of Corrections. They indicated that we would have to have
16 an order signed by Your Honor and that the court would have
17 to fax it to Shelton. And then it would be (inaudible).
18 Now, you know, if -- if the Court is more comfortable, we
19 can fax the order to Shelton, but they indicated that the
20 procedure that they follow is that the court faxes the
21 order.

22 THE COURT: That's fine. We'll fax the order.

23 MR. MCCABE: Okay.

24 THE COURT: Do we have the fax number in Shelton?

25 (Unless specifically noted, all testimony given by the defendant

1 is through the interpreter.)

2 THE DEFENDANT: Okay. Can I say something?

3 MR. MCCABE: Hold on --

4 THE COURT: Just a minute, please.

5 Do we have the fax number for Shelton?

6 MR. MCCABE: No. But I can certainly --

7 THE COURT: If you could let us know.

8 MR. MCCABE: I can certainly get it this afternoon.

9 THE COURT: Okay.

10 MR. MCCABE: And (inaudible) --

11 THE COURT: Just send us an e-mail.

12 MR. MCCABE: -- to the courts.

13 THE COURT: Armstrong.court or --

14 MR. MCCABE: Yes, Armstrong dot --

15 THE DEFENDANT: Okay. Madam Judge --

16 THE COURT: Yes, sir.

17 THE DEFENDANT: -- I have -- I wrote a motion that I'd
18 like to present. And I'd like (inaudible) here in the trial
19 in court -- in the court. I would like it to be read for
20 the record out loud. Here it is.

21 THE COURT: Sir, I -- we don't have time to do that this
22 morning.

23 THE DEFENDANT: But I want to. If I could at least leave
24 it for you.

25 MR. MCCABE: Mr. Eras-Duque, I can certainly -- when we

1 have a trial court, I can certainly file a motion on your
2 behalf.

3 THE DEFENDANT: No, I want to present this here in court.

4 THE COURT: Well, we don't do motions on this calendar.
5 We don't have time.

6 Do you want us to schedule a criminal motion for you so
7 that you can read that?

8 THE DEFENDANT: Okay. I think what we can do is make
9 copies of this.

10 THE COURT: It's in Spanish or English?

11 THE DEFENDANT: It's in English.

12 THE COURT: Oh, it's in English. Okay, that would be
13 fine. You can just leave it with us. We'll make copies for
14 the lawyers.

15 MR. MCCABE: Could I have an opportunity to review it
16 first?

17 THE DEFENDANT: No, I have a copy for you.

18 THE COURT: Oh, you have copies for the lawyers?

19 MR. MCCABE: I just wanted to make sure that --

20 THE DEFENDANT: I have copies for you.

21 MR. MCCABE: I just want to take a look at (inaudible) --

22 THE COURT: We've had this issue before with him.

23 MR. MCCABE: I'm sorry, Your Honor?

24 THE COURT: He's very headstrong about filing what he
25 wants to have filed even though it may tend to incriminate

1 him. We've had this issue and problem before.

2 THE DEFENDANT: I have -- I have a copy for my attorney,
3 and I also have one for my prosecutor, if she needs one.

4 MR. MCCABE: Thank you, Your Honor.

5 Thank you, Mr. Eras-Duque.

6 So this is for me and (inaudible) --

7 THE DEFENDANT: And if the prosecutor wants one, I
8 (inaudible).

9 MR. MCCABE: And Your Honor, lost -- lost in the
10 conversation here, this is a defense motion to extend trial
11 by one week.

12 THE COURT: Yes.

13 MR. MCCABE: Okay. And I think -- I think my client has
14 agreed to this continuance. I spoke with him in back and he
15 understands that we need the continuance in order to
16 transport Mr. Castillo.

17 Is that right, Mr. Eras-Duque?

18 THE DEFENDANT: No, I'm not going to sign any more papers.

19 THE COURT: In the administration of justice, I will
20 continue your trial date.

21 MR. MCCABE: Thank you, Your Honor.

22 THE DEFENDANT: Very well.

23 THE COURT: Ms. (Inaudible), this is signed?

24 MS. MILLER: So Your Honor, we have -- I have it May 29th,
25 expiration is 7/4.

1 THE DEFENDANT: I'd also like to say that I can't come to
2 trial with an attorney where there's only two weeks left
3 until my trial.

4 THE COURT: Sir, you don't have a choice.

5 THE DEFENDANT: Okay. I just wanted to let you know that.

6 THE COURT: Okay.

7 THE DEFENDANT: Because sometimes I'm, you know, between a
8 rock and a hard place. And I don't know --

9 THE COURT: That's kind of where we are right now.

10 THE DEFENDANT: We've made several changes and I really --

11 THE COURT: Thank you, sir.

12 MR. MCCABE: Thank you, Your Honor.

13 THE DEFENDANT: Thank you. Have a good day.

14 MR. MCCABE: Thank you, Counsel.

15 (Conclusion of May 15, 2009 proceedings.)

16

17 MAY 29, 2009 PROCEEDINGS

18

19 THE COURT: Good morning.

20 MS. MILLER: Good morning, Your Honor.

21 And Your Honor, first on the calendar is State of
22 Washington v. Juan --

23 THE COURT: Counsel, I need it to be considerably quieter
24 in here, please.

25 MS. MILLER: State of Washington v. Juan Eras-Duque. The

1 cause number is 08-1-04054-9, Seattle.

2 Jennifer Miller for the State of Washington. Kevin McCabe
3 present on behalf of the defendant. We're also joined by
4 Madam Interpreter. I'll have her state her name and
5 qualifications for the record.

6 THE INTERPRETER: Susana Stettri-Sawrey, Spanish certified
7 court interpreter.

8 THE COURT: Thank you.

9 MS. MILLER: Your Honor, Defendant is charged with --

10 THE COURT: Counsel, we've got an interpreter and nobody
11 can hear anybody other than you all.

12 MS. MILLER: Your Honor, the defendant is charged with one
13 count of robbery in the first degree. We have a trial date
14 of next Thursday, 6/4 of 2009.

15 The State has facilitated several interviews in this case.
16 We do have two outstanding. They are set for 7:30 a.m. on
17 Tuesday. Defense counsel gave (inaudible) suppression
18 hearing. We would respond to that and we'll do it at trial.
19 The parties have prepared omnibus paperwork on this case.

20 The defendant also filed his own motion to dismiss for
21 violation of speedy trial, which we assume will be addressed
22 at the trial court as well.

23 I would indicate for the Court and Counsel's information
24 that I do have multiple other cases on the calendar on
25 Monday. So our goal is to start on Thursday.

1 The one issue is that the co-defendant, who already pled
2 and was sentenced, is being transported back, and the State
3 needs one day before trial to meet and talk with him outside
4 of trial hours. He has not been transported back. We've
5 checked multiple times. The transport order was filled out
6 by defense counsel in this case about two weeks ago, so
7 we're still waiting to get him back here.

8 THE COURT: All right.

9 MR. MCCABE: And I guess I -- Kevin McCabe for Mr. Juan
10 Eras-Duque. I guess the only concern that I really have at
11 this point, Your Honor, is that the transport of the
12 co-defendant from the -- from McNeil Island is facilitated
13 through the court, because the DOC mandated that it be
14 facilitated through the court. In other words, the Court
15 issued the order, the Court also faxed the order. So I was
16 hoping to be able to verify this morning that the order was
17 faxed because the fella is not here.

18 Now potentially they have until midnight. The order
19 read -- I drafted it and it read: "Transport no later than
20 the 29th." So you know, I may be coming in for an 8:30 to
21 address that next week.

22 THE COURT: Well, let me -- you know, I don't have any
23 idea and Judge Armstrong's bailiff is not here today and
24 presumably she would know.

25 MR. MCCABE: She was the one who faxed it with the fax

1 telephone number for the DOC.

2 THE COURT: Yeah. I mean, the only thing I can suggest is
3 that you or somebody call McNeil and see if they've received
4 the order. And if they haven't, I'll sign another one and
5 we'll try and get it down there today.

6 I don't -- I don't know where to begin to start combing
7 through Judge Armstrong's bailiff's stuff and I'm not
8 inclined to do it, so --

9 MR. MCCABE: I understand, Your Honor. I just noted that
10 it potentially was a problem. I --

11 THE COURT: Sure. I don't know. And so I guess my
12 suggestion is you go at it the other way. And if they
13 haven't got it, then bring it back and we'll take another
14 run at it.

15 MR. MCCABE: Okay. Thank you, Your Honor.

16 (Unless specifically noted, all testimony given by the defendant
17 is through the interpreter.)

18 THE DEFENDANT: Okay. Just a moment. (Inaudible) today
19 on the 28th you said that that was my last trial, that there
20 would be no more continuance. With this one, it's number
21 seven. Seven trials already. And they haven't brought me
22 for any. I'm ready for trial since August of last year and
23 they haven't brought me.

24 THE COURT: All right. Well, I haven't continued anything
25 today.

1 THE DEFENDANT: Well, the other judge has. I don't
2 remember her name (inaudible) --

3 THE COURT: Well, what we've done today is confirm that
4 the case will be ready to go to trial on Thursday. You have
5 filed a motion to dismiss. That will be addressed by the
6 trial court. The -- and Ms. Miller has told all of us that
7 she has several other cases on the trial calendar. If she
8 gets sent out on something else before Thursday and is still
9 in trial, I don't know of any way to make her try two cases
10 at once. But barring that, you're ready to go.

11 THE DEFENDANT: Yes, I'm very ready.

12 THE COURT: Okay.

13 THE DEFENDANT: But when it comes to the trial date, every
14 time they bring me, there's another day, another trial.

15 THE COURT: Well, let's see what happens, okay?

16 MS. MILLER: Thank you, Your Honor.

17 MR. MCCABE: Thank you, Your Honor.

18 THE DEFENDANT: If they take some time, they have to have
19 time for me, for my trial.

20 THE COURT: Okay. Thank you.

21 THE DEFENDANT: That's why they (inaudible) --

22 MS. MILLER: Thank you, Your Honor.

23 THE DEFENDANT: Gracias.

24 THE COURT: Thank you.

25 MR. MCCABE: Thank you.

1 THE DEFENDANT: Have a good day.

2 (Conclusion of May 29, 2009 proceedings.)

3

4 JUNE 4, 2009 PROCEEDINGS

5

6 MS. MILLER: Your Honor, this is State of Washington v.
7 Juan Eras-Duque. The cause number is 08-C-04054-9, Seattle.

8 Jennifer Miller for the State of Washington. Kevin McCabe
9 present on behalf of the defendant. We are also joined by
10 Madam Interpreter. I'll have her state her name and
11 qualifications for the record.

12 THE INTERPRETER: Susana Stettri-Sawrey, Spanish certified
13 court interpreter.

14 THE COURT: Please raise your right hand.

15 Do you solemnly swear or affirm that you will truthfully
16 interpret these proceedings from English to Spanish to the
17 best of your ability?

18 THE INTERPRETER: I do, Your Honor.

19 THE COURT: Thank you.

20 MS. MILLER: Your Honor, this is a trial that is currently
21 on the trial calendar, and I am in trial, in front of Judge
22 Rogers on a case. It was supposed to resolve, but the trial
23 should go probably through Tuesday of next week. With that
24 being said, I'm still in the unfortunate position of having
25 to ask for a continuance in this case. I am -- it's very

1 rare that I ask for one, but I think that this case requires
2 one, in terms of it being in the best interest of justice.

3 I believe defense counsel will not be joining in this
4 motion, but I will explain the reasons for why I think it is
5 necessary. This is a --

6 THE COURT: And what's the current trial date?

7 MS. MILLER: Pardon?

8 THE COURT: What's the current trial date?

9 MS. MILLER: It's today. I mean, it's on the trial
10 calendar behind the current trial that I'm in.

11 THE COURT: Okay.

12 MS. MILLER: This is a case that I inherited from another
13 deputy. Defense counsel's actually the third defense
14 attorney on the case. At omnibus, I received notice of
15 general denial, as the other two defense attorneys had told
16 me, and then ID.

17 I received a summary yesterday from defense counsel about
18 what the co-defendant, who pled guilty to two counts of
19 robbery, will be testifying to and it's not information
20 that's in any of the discovery. And I have not had the
21 opportunity to have an extensive conversation with the
22 co-defendant. He was brought here from prison. He was --
23 the request order, as you remember, transport order, was
24 made several weeks ago. He just got in over the weekend. I
25 have been having my paralegal attempt to facilitate --

1 THE INTERPRETER: The interpreter is having trouble
2 hearing.

3 MS. MILLER: I've been having my paralegal attempt to
4 facilitate an interview with his prior defense attorney, an
5 interpreter and myself. I have that set for noon today.
6 Even that being said, I will have to get it transcribed.
7 This completely changes the case for me as a prosecutor, and
8 I would be remiss if I do not take the time to prepare
9 appropriately and adequately.

10 Basically, the co-defendant potentially raises there being
11 a third person that was involved in this robbery. I don't
12 have the first and last name of this person. They were
13 never charged. This raises some large issues for me.

14 In addition, I also did get notice from defense counsel of
15 roughly a half dozen witnesses that would be testifying on
16 behalf of the defendant. He did get me those dates of birth
17 yesterday. I need to run criminal history checks on all
18 those people. I need to do brief interviews with all those
19 people.

20 Long story short, I am gone for training on the 17th, 18th
21 and 19th. I don't think that two days is going to be enough
22 time to transcribe what I expect will be at least an
23 hour-long interview with the co-defendant. So although I
24 would say we could put it on for the 15th, I would then be
25 having to ask the trial court to recess the 17th and 18th.

1 So my preference would be, unfortunately, to ask for the
2 22nd. I realize that is much longer than the Court would
3 like to continue this case. I'm very anxious to get it
4 resolved via trial. I just feel that these issues are big
5 enough that I need to invest the time to prepare.

6 THE COURT: Well, your current trial's going to finish on
7 the 9th, and then I'm sure you have other trials stacked up,
8 right?

9 MS. MILLER: Actually, I -- because I was going to
10 training the 17th, 18th, 19th, this was the only other trial
11 that I had set. I'm making a motion to accelerate one other
12 trial that I would like to get done in the meantime, but
13 I -- I don't envision that I -- I would be able to complete
14 this and that trial before going to the training. That's
15 the concern.

16 THE COURT: You're asking for the 22nd?

17 MS. MILLER: That's correct, Your Honor. And this case
18 would be my top priority case on the 22nd.

19 THE COURT: I would think it's the oldest case because the
20 defendant has been in custody for some time.

21 MS. MILLER: That's correct, Your Honor.

22 THE COURT: Okay. Mr. McCabe?

23 MR. MCCABE: Your Honor, I guess the first thing that I'd
24 like to do is note Mr. Eras-Duque's objection for the record
25 on 3.3 and Sixth Amendment grounds. The Court has received

1 the previous brief and motion from Mr. Eras-Duque personally
2 on the case.

3 I'd like to clarify that I did speak with Ms. Miller prior
4 to omnibus about the roughly half dozen -- I think there are
5 actually five witnesses, and it did not appear that it was
6 going to be a problem at that point in time. It is,
7 however, true that I did not give her the names of those
8 witnesses until this past Sunday. And it's also true that I
9 didn't get the dates of birth of those witnesses until
10 yesterday.

11 Everyone in this case speaks Spanish. I've been trying to
12 be as diligent as possible in speaking with my client
13 through Spanish interpreters and speaking with the recently
14 arrived co-defendant through a Spanish interpreter. And
15 again, when I'm trying to do witness interviews with the
16 prosecutor's office through Spanish interpreters which have
17 not worked out as either side would have liked. And there
18 were several times when those interviews failed to occur, I
19 think. No, maybe four times those interviews failed to
20 occur. The most recent and vital interview took place just
21 before court this morning.

22 I really -- Mr. Eras-Duque, in addition to the legal
23 grounds stated -- Mr. Eras-Duque has been in jail for over a
24 year on this. I had hoped that we could get it out sooner
25 than the 22nd. I understand Counsel's concerns. But I

1 would hope that we could get it out sooner than the 22nd.

2 THE COURT: It's a question of judicial efficiency, too.
3 If we send it out the 15th and then it recesses for two
4 days, that's a problem for the Court, so I think we should
5 send it out the 22nd. I'm continuing the trial to the 22nd
6 in the administration of justice.

7 But I will let Angie know that it needs to go out on the
8 22nd.

9 MS. MILLER: It will, Your Honor. And like I said, we
10 just finished the last -- well, like defense counsel said,
11 we just finished our last interview this morning. I would
12 be going to the jail for the -- at 11:00, actually, today to
13 meet with the co-defendant, the interpreter and his prior
14 counsel.

15 THE COURT: You know, I remember reading Mr. Eras-Duque's
16 letter, the second one, or the motion which was in English.
17 (Unless specifically noted, all testimony given by the defendant
18 is through the interpreter.)

19 THE DEFENDANT: Your Honor, (inaudible) --

20 THE COURT: I don't remember -- I don't remember a
21 reference to a third person in the motion.

22 MS. MILLER: That's correct, Your Honor.

23 THE COURT: Okay.

24 MR. MCCABE: Actually, I'm not sure that --

25 MS. MILLER: He does not agree, so I'll just put --

1 MR. MCCABE: If we could pause for just a moment.

2 THE COURT: I mean, my recollection doesn't really matter.

3 THE DEFENDANT: I have some copies here if you want to see
4 them.

5 MR. MCCABE: And Your Honor, I just -- for the record, I
6 just want to indicate that that person is mentioned on page
7 1 (inaudible).

8 THE COURT: Okay. Thank you.

9 MS. MILLER: Thank you, Your Honor.

10 MR. MCCABE: Thank you.

11 (Conclusion of June 4, 2009 proceedings.)

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C E R T I F I C A T E

State of Washington)
)
County of Snohomish)

I, the Undersigned, Under My Commission As a Notary
Public in and For the State of Washington, Do Hereby Certify
That the Foregoing Recorded Statements, Hearings and/or
Interviews Were Transcribed Under My Direction As a
Transcriptionist; and That the Transcript is True and
Accurate to the Best of My Knowledge and Ability; That I Am
Not a Relative Or Employee of Any Attorney Or Counsel
Employed By the Parties Hereto, Nor Financially Interested
in Its Outcome.

In Witness Whereof, I Have Hereunto Set My Hand and Seal
This of 2010.

Notary Public in and For
the State of Washington,
residing At Everett.
My Commission Expires 2-28-14

FILED
KING COUNTY, WASHINGTON

MAY 21 2008

CRIMINAL PRESIDING

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON
ESTADO DE WASHINGTON

Plaintiff,
Demandante,

vs.

JUAN ERAS-DUQUE
AKA JUAN DUQUE ERAS

Defendant.
Acusado(a).

In Custody Out of Custody
 Encarcelado No encarcelado

CCN 1854943

NO. 08C040549-SEA

NOTICE OF CASE SCHEDULING
HEARING DATE - SEA
AVISO DE FECHA DE
AUDIENCIA PARA
PROGRAMACIÓN DEL CASO

CLERK'S ACTION REQUIRED (NTSCH)
SE REQUIERE ACCIÓN DE LA
SECRETARÍA

You have been arraigned on this matter. Your Case Scheduling Hearing at which the trial date shall be set has been set for 2 Jun 2008 at 1:00 p.m.

A Ud. se le han instituido cargos en este asunto. La Audiencia para programación del caso para Ud., en la cual se asignará la fecha del juicio, se ha fijado para el 2 de junio, 2008 a las 13 horas (1 p.m.).

The Case Scheduling Hearing will be held in Courtroom E-1201, King County Courthouse, 516 Third Avenue, Seattle, Washington. **YOU MUST BE PRESENT OR A WARRANT WILL BE ISSUED FOR YOUR ARREST AND YOUR FAILURE TO APPEAR MAY RESULT IN ADDITIONAL CRIMINAL CHARGES BEING FILED.**

La Audiencia para Programación del Caso tendrá lugar en la Sala E-1201, Tribunal del condado de King, 516 Third Avenue, Seattle, Washington. **UD. DEBE ESTAR PRESENTE; DE LO CONTRARIO, SE EMITIRÁ UNA ORDEN DE ARRESTO CONTRA UD. Y EL NO COMPARECER PUEDE RESULTAR EN QUE SE REGISTREN CARGOS PENALES ADICIONALES EN CONTRA DE UD.**

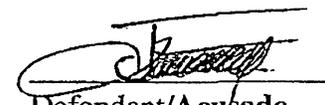
IMPORTANT NOTICE
ADVERTENCIA IMPORTANTE

You should have an attorney when you appear in court for your Case Scheduling Hearing. **IF YOU DO NOT HAVE AN ATTORNEY OR CANNOT AFFORD ONE, YOU MUST IMMEDIATELY CONTACT THE KING COUNTY PUBLIC DEFENSE PROGRAM, 123 - 3rd. Avenue South, 4th Floor, 3rd. and Yesler, Seattle, Washington, (206) 296-7662.**

Ud. debe tener abogado(a) cuando comparezca ante el tribunal para la Audiencia para Programación del caso. SI UD. NO TIENE ABOGADO(A), O NO PUEDE COSTEARSE LOS GASTOS, DEBE PONERSE EN COMUNICACIÓN INMEDIATAMENTE CON EL PUBLIC DEFENSE PROGRAM DEL CONDADO DE KING, 123 - 3ª AVENIDA SUR 4º PISO, 3ª Y YESLER, SEATTLE, WASHINGTON, (206) 296-7662.

I acknowledge receiving copy of this notice.
Acuso recibo de este aviso.

Date/Fecha: 5 21/MAYO/2008


Defendant/Acusado

I am fluent in the Spanish language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Domino el idioma español y le traducido este documento completo al acusado del inglés a ese idioma. Certifico bajo pena de perjurio según las leyes del estado de Washington que lo anterior es verídico y correcto.

Date/Fecha: _____

Interpreter/Intérprete

FILED

2008 MAY 21 PM 3:05

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Juan Eras-Duque

Defendant,

No. 08 C040549SEA

ORDER PROHIBITING CONTACT

THIS MATTER having come on before the undersigned judge of the above-entitled court, and the court having considered the records and files herein and being fully advised in the premises; now, therefore,

IT IS HEREBY ORDERED that the defendant shall have no contact, directly, or indirectly in person, in writing, or by phone, personally or through another person, with Santos Castillo,
Mana Armenta, Silvestre Vasquez-Vasquez, Juan
Hernandez-Aguilar, Beatriz Rivera, Todd Hildebrand
until the trial of this cause is concluded.

DONE IN OPEN COURT this 21 day of MAY, 2008.

JUDGE

Presented by:

Elizabeth Abbott
Deputy Prosecuting Attorney Z3944

Copy Received:

[Signature]
Defendant

[Signature]
Read in entirety by
Interpreten

ORDER PROHIBITING CONTACT
Revised 4/01

[Stamp]
Daniel T. Satterberg
Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000

FILED

2008 MAY 21 PM 3:05

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

JUAN ERAS-DUQUE
AKA JUAN DUQUE ERAS,

Defendant.

No. 08-C-04054-9 SEA

VIENNA CONVENTION AND
BILATERAL TREATY
NOTIFICATION,
ACKNOWLEDGEMENT AND
WAIVER OR REQUEST

Pursuant to Article 36(1)(b) of the Vienna Convention on Consular Relations, if you are a non-U.S. citizen who is being arrested or detained, you are entitled to have your country's consular representatives here in the United States notified of your situation. A consular official from your country may be able to help you to obtain legal counsel, and may contact your family and visit you in detention, among other things. If you want your country's consular officials notified, you may request this notification now, or at any time in the future.

In addition, the United States has entered into treaties that require notification to a consular representative of a treaty country if one of their citizens has been arrested or detained. If you are a foreign national of any of the following countries, the King County Prosecuting Attorney's Office is prepared to notify your country's consular officials as soon as possible. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel, and may contact your family and visit you in detention, among other things.

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| Algeria | Antigua and Barbuda | Armenia |
| Azerbaijan | Bahamas, The | Barbados |
| Belarus | Belize | Brunei |
| Bulgaria | China (not R.O.C.) | Costa Rica |
| Cyprus | Czech Republic | Dominica |
| Fiji | Gambia, The | Georgia |
| Ghana | Granada | Guyana |



VIENNA CONVENTION AND BILATERAL
TREATY NOTIFICATION,
ACKNOWLEDGEMENT AND WAIVER OR
REQUEST - 1

Daniel T. Satterberg, Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000, FAX (206) 296-0955

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| Hong Kong | Hungary | Jamaica |
| Kazakhstan | Kiribati | Kuwait |
| Kyrgyzstan | Malaysia | Malta |
| Mauritius | Moldova | Mongolia |
| Nigeria | Philippines | Poland |
| Romania | Russia | Saint Kitts and Nevis |
| Saint Lucia | Saint Vincent/Grenadines | Seychelles |
| Sierra Leone | Singapore | Slovakia |
| Tajikistan | Tanzania | Tonga |
| Trinidad and Tobago | Tunisia | Turkmenistan |
| Tuvalu | Ukraine | United Kingdom |
| U.S.S.R. | Uzbekistan | Zambia |
| Zimbabwe | | |

Defendant's Acknowledgement and Waiver of Immediate Consular Notification

I acknowledge the above notification and understand it. I do not wish to provide citizenship information and I waive any right to consular notification at this time. I understand that my refusal to provide information will release United States authorities from their notification obligations under the Vienna Convention or bilateral treaties. If I change my mind and wish to have a consulate representative notified, I will request my defense attorney to notify the King County Prosecuting Attorney's Office or, if I am pro se, I will ask the Court to notify the King County Prosecuting Attorney's Office.

Date: 5/21/08 declined to sign
DEFENDANT

Defendant's Acknowledgement and Request for Immediate Consular Notification

I acknowledge the above notification and understand it. I choose not to waive my right to notification and I ask that you notify my country, _____, of my arrest or detention.

Date: _____ _____
DEFENDANT

ORIGINAL COURT MINUTES

PAGE #:102

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CASE SCHEDULING CALENDAR CALENDAR DATE: 06/02/2008

JUDGE: CHERYL B. CAREY
COURT CLERK: LYNN HARVEY

CASE NO: 08-1-04054-9 SEA
DEFENDANT: ERAS-DUQUE, JUAN
TRUE NAME:
CCN: 1854943 DPA:
EXP: 07-20-08/08-19-08 ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS
ARR DATE: 05/21/2008
LOC: 4S10LA17
INT: SPANISH
COMMENCE DATE:
TRIAL SET EXP:
MOTION JUDGE #: HON. 000
AFFIDAVIT:

Not Recorded Court Reporter: _____
Audio Tape: DR E-1201 Start Time: _____ End Time: _____
____ Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____
____ Agreed continuance to 6-16-08 (HCNTU). **ENT'D.**
____ State's motion for issuance of bench warrant - Granted/Denied. Bail is set at
\$ _____ (MTHRG)
____ State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).
____ Deft's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).
____ Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).
 Stricken. Pled Guilty (HSTKIC).
 Order is signed.

FILED

2008 JUN -3 AM 9:57

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON, COUNTY OF KING

STATE OF WASHINGTON, Plaintiff,	No.: <u>08-C-040549 SEA</u>
vs. <u>TERAS-DUQUE, SUAN</u> Defendant	SCHEDULING ORDER- TRIAL AND OTHER HEARINGS - WAIVER
<input checked="" type="checkbox"/> In custody <input type="checkbox"/> Out of custody	(ORCNT; ORH; ORSTD; WVSPDT) (Clerk's Action Required)

The following court dates are set based on a commencement date of 6-16-08

a) Case Scheduling Hearing: 6-17-08 at 1 p.m. in courtroom E1201

b) Omnibus Hearing: _____ in custody - 8:30 a.m. in courtroom E1201
Out of custody - 10:00 a.m. in courtroom _____

c) Trial date: _____ at 9 a.m. Trial call is the judicial day preceding the trial date, in E1201 at 3:15 p.m. Monday - Thursday and 2:00 p.m. on Friday. If counsel does not appear at trial call, the court will presume that the case is ready for trial.

The expiration date is 8-15-08

Plaintiff Defendant moves to continue case setting hearing because ongoing negotiations

DATED this 2nd day of June, 2008

[Signature]
Deputy Prosecutor - WSBA No. 28289

[Signature]
Judge

[Signature]
Attorney for Defendant WSBA No. 397152

[Signature]
Defendant

Waiver: I understand that I have the right pursuant to Criminal Rule 3.3 to a trial within 60 days of the commencement date if I am in jail on this case, or 90 days of the commencement date if I am not in jail on this case. I am voluntarily and knowingly giving up this right for a specific period of time to allow my attorney to negotiate with the prosecuting attorney and/or to investigate and/or prepare my case. I agree that the new commencement date is 6-16-08 and that the expiration date is 8-15-08. I have read and discussed this waiver with the defendant and believe that the defendant fully understands it.

[Signature]
Attorney for Defendant

I am fluent in the Spanish language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

[Signature]
Interpreter

[Signature]
Defendant the attorney's explanation

King County, Washington



ORIGINAL COURT MINUTES

PAGE #: 92

ENT'D.

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CASE SCHEDULING CALENDAR CALENDAR DATE: 06/16/2008

JUDGE: **CHERYL B. CAREY**

COURT CLERK: **LYNN HATKEY**

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN
TRUE NAME:
CCN: 1854943 DPA:
EXP: 08-15-08 ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS
ARR DATE: 05/21/2008
LOC: 4S10LA17
INT: SPANISH
COMMENCE DATE: 06-16-08
TRIAL SET EXP:
MOTION JUDGE #: HON. 000
AFFIDAVIT:

 Not Recorded

Court Reporter: _____

Audio Tape: DR E-1201

Start Time: _____ End Time: _____

 Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

 / Agreed continuance to 6-18-08 (HCNTU).

 State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

 State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

 Deft's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

 Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).

 Stricken. Pled Guilty (HSTKIC).

 Order is signed.

ORIGINAL COURT MINUTES

PAGE #: 80

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CASE SCHEDULING CALENDAR CALENDAR DATE: 06/18/2008

JUDGE: ANDREA DARVAS

COURT CLERK:

LYNN HARKET

ENT'D.

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 08-15-08

DPA:

ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA17

INT: SPANISH

COMMENCE DATE: 06-16-08

TRIAL SET EXP:

MOTION JUDGE #: HON. 000

AFFIDAVIT:

 Not Recorded

Court Reporter:

Audio Tape: DR E-1201

Start Time: _____ End Time: _____

 Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

 Agreed continuance to 6-23-08 (HCNTU).

 State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

 State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

 Deft's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

 Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).

 Stricken. Pled Guilty (HSTKIC).

 Order is signed.

ORIGINAL COURT MINUTES

PAGE #: 76

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CASE SCHEDULING CALENDAR

CALENDAR DATE: 06/23/2008

JUDGE: **CHERYL B. CAREY**

COURT CLERK:

LYNN HARKEY

ENT'D

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

DPA:

EXP: 08-15-08

ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA17

INT: SPANISH

COMMENCE DATE: 06-16-08

TRIAL SET EXP:

MOTION JUDGE #: HON. 000

AFFIDAVIT:

Not Recorded

Court Reporter: _____

Audio Tape: DR E-1201

Start Time: _____ End Time: _____

____ Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

____ Agreed continuance to 6-26-08 (HCNTU).

____ State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

____ State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

____ Deff's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

____ Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).

Stricken. Pled Guilty (HSTKIC).

Order is signed.

FILED

2008 JUN 24 AM 9:43

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON, COUNTY OF KING

STATE OF WASHINGTON, Plaintiff,	No.: <u>08-C-040549 SEA</u>
<u>ERAS - DUQUE, JUAN</u> vs. Defendant	SCHEDULING ORDER- TRIAL AND OTHER HEARINGS - WAIVER
<input checked="" type="checkbox"/> In custody <input type="checkbox"/> Out of custody	(ORCNT; ORSTD; WVSPDT) (Clerk's Action Required)

The following court dates are set based on a commencement date of 6-26-08.

a) Case Scheduling Hearing: 6-26 at 1:00 p.m. in courtroom E1201

b) Omnibus Hearing: _____ in custody - 8:30 a.m. in courtroom E1201
Out of custody- 9:30 a. m. in courtroom _____

c) Trial date: _____ at 9 a.m. Agencies, private attorneys and pro se will receive assignment and standby status by e-mail or telephone by 3:00 p.m. the judicial day prior to the trial date. If no response is received from litigants, the court will presume that the case is ready for trial.

The expiration date is 8-25-08.

Plaintiff Defendant moves to continue case setting hearing because of new offer to be considered.

DATED this 23rd day of June, 2008.
[Signature]
Deputy Prosecutor - WSBA No. 28284

[Signature]
Judge
[Signature]
Attorney for Defendant WSBA No. 59,152
[Signature]
Defendant

Waiver: I understand that I have the right pursuant to Criminal Rule 3.3 to a trial within 60 days of the commencement date if I am in jail on this case, or 90 days of the commencement date if I am not in jail on this case. I am voluntarily and knowingly giving up this right for a specific period of time to allow my attorney to negotiate with the prosecuting attorney and/or to investigate and/or prepare my case. I agree that the new commencement date is 6-26-08 and that the expiration date is 8-25-08. I have read and discussed this waiver with the defendant and believe that the defendant fully understands it.

[Signature]
Attorney for Defendant

[Signature]
Defendant

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____, Interpreter King County, Washington

ORIGINAL COURT MINUTES

PAGE #: 85

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CASE SCHEDULING CALENDAR

CALENDAR DATE: 06/26/2008

JUDGE: PALMER ROBINSON

COURT CLERK:

LYNN HARKEY

ENT'D.

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

DPA:

EXP: 08-25-08

ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA17

INT: SPANISH

COMMENCE DATE: 06-26-08

TRIAL SET EXP:

MOTION JUDGE #: HON. 000

AFFIDAVIT:

Not Recorded

Court Reporter:

Audio Tape: DR E-1201

Start Time: _____ End Time: _____

____ Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

____ Agreed continuance to 6-30-08 (HCNTU).

____ State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

____ State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

____ Deft's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

____ Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).

____ Stricken. Pled Guilty (HSTKIC).

____ Order is signed.

ORIGINAL COURT MINUTES

PAGE #: 58

ENT'D

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CASE SCHEDULING CALENDAR CALENDAR DATE: 06/30/2008

JUDGE: **CHERYL B. CAREY**

COURT CLERK: **LYNN HARKEY**

CASE NO: 08-1-04054-9 SEA
DEFENDANT: ERAS-DUQUE, JUAN
TRUE NAME:
CCN: 1854943 DPA:
EXP: 08-25-08 ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS
ARR DATE: 05/21/2008
LOC: 4S10LA17
INT: SPANISH
COMMENCE DATE: 06-26-08
TRIAL SET EXP:
MOTION JUDGE #: HON. 000
AFFIDAVIT:

 Not Recorded Court Reporter: _____

Audio Tape: DR E-1201 Start Time: _____ End Time: _____

 Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

 Agreed continuance to 7-7-08 (HCNTU).

 State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

 State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

 Deft's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

 Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).

 Stricken. Pled Guilty (HSTKIC).

 Order is signed.

FILED
2008 JUL -2 AM 9:45
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON, COUNTY OF KING

STATE OF WASHINGTON, Plaintiff, <u>ERAS^{XS} - DUQUE, JUAN</u> Defendant <input checked="" type="checkbox"/> In custody <input type="checkbox"/> Out of custody	No.: <u>08-C-01054-9 SEA</u> SCHEDULING ORDER- TRIAL AND OTHER HEARINGS - WAIVER (ORCNT; ORSTD; WVSPDT) (Clerk's Action Required)
---	--

The following court dates are set based on a commencement date of 7-7-08

- a) Case Scheduling Hearing: 7-7-08 at 1:00 p.m. in courtroom E1201
- b) Omnibus Hearing: _____ in custody - 8:30 a.m. in courtroom E1201
Out of custody- 9:30 a. m. in courtroom _____
- c) Trial date: _____ at 9 a.m. Agencies, private attorneys and pro se will receive assignment and standby status by e-mail or telephone by 3:00 p.m. the judicial day prior to the trial date. If no response is received from litigants, the court will presume that the case is ready for trial.

The expiration date is 9/4/08

Plaintiff Defendant moves to continue case setting hearing because considering offer

DATED this 30 day of June, 2008.

Deputy Prosecutor WSBA No. 31600

[Signature]
Judge
Attorney for Defendant WSBA No. 39152
[Signature]
Defendant

Waiver: I understand that I have the right pursuant to Criminal Rule 3.3 to a trial within 60 days of the commencement date if I am in jail on this case, or 90 days of the commencement date if I am not in jail on this case. I am voluntarily and knowingly giving up this right for a specific period of time to allow my attorney to negotiate with the prosecuting attorney and/or to investigate and/or prepare my case. I agree that the new commencement date is _____ and that the expiration date is _____. I have read and discussed this waiver with the defendant and believe that the defendant fully understands it.

Attorney for Defendant
[Signature]

Defendant
[Signature] the waiver attorney's explanation

I am fluent in the Spanish language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

[Signature] Interpreter

King County, Washington

ORIGINAL COURT MINUTES

PAGE #: 59

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CASE SCHEDULING CALENDAR CALENDAR DATE: 07/07/2008

JUDGE: JEFFREY RAMSDELL

COURT CLERK: LYNN HARKEY

ENT'D.

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN
TRUE NAME:
CCN: 1854943 DPA:
EXP: 09-04-08 ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS
ARR DATE: 05/21/2008
LOC: 4S10LA17
INT: SPANISH
COMMENCE DATE: 07-07-08
TRIAL SET EXP:
MOTION JUDGE #: HON. 000
AFFIDAVIT:

 Not Recorded Court Reporter:

Audio Tape: DR E-1201 Start Time: _____ End Time: _____

_____ Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

_____ Agreed continuance to 7-14-08 (HCNTU).

_____ State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

_____ State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

_____ Deff's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

_____ Referred to Plea Judge (AST). _____ Transferred to Drug Court (HSTKIC).

 Stricken. Pled Guilty (HSTKIC).

 Order is signed.

FILED

2008 JUL 15 AM 10:33

KING COUNTY
SUPERIOR COURT
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON, COUNTY OF KING

STATE OF WASHINGTON,
Plaintiff,

vs.
Juan Eras Duque
Defendant

In custody Out of custody

No.: 08-C-04054-9 SEA

SCHEDULING ORDER- TRIAL AND OTHER
HEARINGS - WAIVER

(ORCNT; ORSTD; WVSPDT) (Clerk's Action Required)

The following court dates are set based on a commencement date of 8-7-08

a) Case Scheduling Hearing: 8-7-08 at 1:00 p.m. in courtroom E1201

b) Omnibus Hearing: _____ in custody - 8:30 a.m. in courtroom E1201
Out of custody- 9:30 a. m. in courtroom _____

c) Trial date: _____ at 9 a.m. Agencies, private attorneys and pro se will receive assignment and standby status by e-mail or telephone by 3:00 p.m. the judicial day prior to the trial date. If no response is received from litigants, the court will presume that the case is ready for trial.

The expiration date is 10-2-08

Plaintiff Defendant moves to continue case setting hearing because D. Hiring
new attorney

DATED this 14th day of July, 2008.

[Signature]
Deputy Prosecutor WSBA No. 28289

[Signature]
Judge
Attorney for Defendant WSBA No. 29152

[Signature]
Defendant

Waiver: I understand that I have the right pursuant to Criminal Rule 3.3 to a trial within 60 days of the commencement date if I am in jail on this case, or 90 days of the commencement date if I am not in jail on this case. I am voluntarily and knowingly giving up this right for a specific period of time to allow my attorney to negotiate with the prosecuting attorney and/or to investigate and/or prepare my case. I agree that the new commencement date is 8-4-08 and that the expiration date is 10-2-08. I have read and discussed this waiver with the defendant and believe that the defendant fully understands it.

[Signature] 391152
Attorney for Defendant

[Signature]
Defendant

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____, Interpreter King County, Washington



ORIGINAL COURT MINUTES

PAGE #: 41

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CASE SCHEDULING CALENDAR CALENDAR DATE: 08/04/2008

JUDGE: CHERYL B. GAREY

COURT CLERK: LYNN HARKEY

ENT'D.

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

DPA:

EXP: 10-02-08

ATD:

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA17

INT: SPANISH

COMMENCE DATE: 08-04-08

TRIAL SET EXP:

MOTION JUDGE #: HON. 000

AFFIDAVIT:

Not Recorded

Court Reporter: _____

Audio Tape: DR E-1201

Start Time: _____ End Time: _____

Scheduling Conference held (STAHRG). Omnibus Date: _____ Trial Date: _____

Agreed continuance to 8:508 (HCNTU).

State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

Deft's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

Referred to Plea Judge (AST). Transferred to Drug Court (HSTKIC).

Stricken. Pled Guilty (HSTKIC).

Order is signed.

ORIGINAL COURT MINUTES

PAGE #: 36

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CASE SCHEDULING CALENDAR

CALENDAR DATE: 08/05/2008

JUDGE:

CHERYL B. CAREY

COURT CLERK:

LYNN HARKEY

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 10-02-08

ALBERTO

DPA:

ATD:

*E BECILEZ
@ STUFFMAN / MONTANO*

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROB1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA17

INT: SPANISH

COMMENCE DATE: 08-04-08

TRIAL SET EXP:

MOTION JUDGE #: HON. 000

AFFIDAVIT:

S. STEPH SOWNEY

Not Recorded

Court Reporter: _____

Audio Tape: DR E-1201

Start Time: 2:45 End Time: _____

Scheduling Conference held (STAHRG). Omnibus Date: 10-19-08 Trial Date: 10-1-08

Agreed continuance to _____ (HCNTU).

State's motion for issuance of bench warrant - Granted/Denied. Bail is set at \$ _____ (MTHRG)

State's motion to dismiss this cause - Granted (DSMHRG) / Denied (MTHRG).

Def't's motion to quash outstanding bench warrant - Granted/Denied (MTHRG).

Referred to Plea Judge (AST). Transferred to Drug Court (HSTKIC).

Stricken. Pled Guilty (HSTKIC).

Order is signed.

AUG 05 2008

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

Juan Duque Eras

Defendant.

No. *08-C-04054-9 SEA*

OMNIBUS APPLICATION OF
PROSECUTING ATTORNEY AS TO
DEFENDANT

1. The State of Washington makes the following discovery motions:
 - a. Defendant to state the general nature of defendant's defense.
 - b. Defendant to state whether there is any claim of incompetence to stand trial or change plea.
 - c. Defendant to state whether or not defendant will rely on an alibi and, if so, to furnish a list of defendant's alibi witnesses and their addresses.
 - d. Defendant to state whether or not defendant will rely on a defense of insanity or diminished capacity at the time of the offense.
 - (1) If so, defendant to supply the name(s) of defendant's witness(es) on the issue(s) of insanity or diminished capacity, both lay and professional, whom the defense may call to testify.
 - (2) If so, defendant to permit the prosecution to inspect and copy all medical and other professional reports from any witness(es) whom the defense may call as well as any materials and reports of others which were reviewed by those witness(es).
 - (3) Defendant will also state whether or not defendant will submit to a psychiatric examination by a doctor selected by the prosecution.
 - e. Defendant to furnish results of scientific test, experiments, or comparisons and the names of persons who conducted the tests.
 - f. Defendant to provide in writing discovery of: names, addresses, phone numbers, written summaries of testimony, and written statement(s) or each and every person whom the defense may call to testify.

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g. Defendant to permit the prosecution to inspect physical or documentary evidence which may be offered by the defense.

2. The State of Washington makes these additional applications or motions (check if requested):

a. Defendant to be fingerprinted.

b. Defendant to permit taking samples of:

blood; hair;

saliva; _____

c. Defendant to provide handwriting exemplar.

d. Defendant to try on articles of clothing.

e. Defendant to submit to physical external inspection of defendant's body.

f. Defendant to appear in a line-up.

g. Defendant to speak for a voice identification by witnesses.

h. Defendant to be photographed.

i. For the court to schedule a CrR 3.5 hearing.

j. The State will move to amend the information to add Firearm
Enhancements

k. _____

3. The State of Washington gives the following notice:

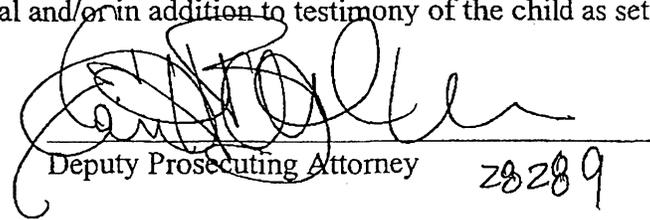
a. **ALL PRIOR PLEA NEGOTIATIONS AND OFFERS ARE CANCELLED BY THE DEFENDANT'S DECISION TO SET A TRIAL DATE IN THIS MATTER.** Further, a plea agreement is only accepted by a guilty plea and may be withdrawn at any time prior to entry of a guilty plea.

b. If the defendant testifies at trial, the State may offer evidence of prior convictions as disclosed in the State's discovery. If additional criminal convictions are found, the State will advise defendant of such convictions and may offer such convictions at trial.

c. Pursuant to RCW 9A.44.120, the State of Washington intends to offer at trial the hearsay statements of _____

made to _____
in lieu of testimony of the child at trial and/or in addition to testimony of the child as set forth in discovery.

DATED: August 5, 2008


Deputy Prosecuting Attorney 28289

White Copy: Court
Canary Copy: Defense
Pink Copy: Prosecutor

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Beatriz Rivera

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with POSTED) in King County, Washington on the 4 day of SEPT., 2008.

SHERIFF'S FEE:

Service \$ 25.00
Travel \$ 29.00
Total \$ 54.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By Mand Arntsen

\$731.00

FILED

2008 SEP 11 AM 11:35

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Juan A. Hernandez-Aguilar

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon, by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with Fessed) in King County, Washington on the 4 day of SEP, 2008.

SHERIFF'S FEE:

Service \$ 25
Travel \$ 28
Total \$ 53

Susan L. Rahr, Sheriff
King County Sheriff's Office

By [Signature]

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Chris Wilson

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with FSSAQUANT PD) in King County, Washington on the 4 day of SEPT., 2008.

SHERIFF'S FEE:

Service \$ 20.00
Travel \$ 23.00
Total \$ 43.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By Mund Arndt

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Dustin Huberdeau, #185

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with ISSAQUAH PD) in King County, Washington on the 4 day of SEPT, 2008.

SHERIFF'S FEE:

Service \$ 25.00
Travel \$ 23.00
Total \$ 48.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By [Signature]

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.
JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Ryan Raulerson, #178

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with ISSARVATH PD) in King County, Washington on the 4 day of SEPT., 2008.

SHERIFF'S FEE:

Service \$ 25.00
Travel \$ 23.00
Total \$ 48.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By M. Frank

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Sergeant Bob Porter, #118

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with ESSAQUAH PD) in King County, Washington on the 4 day of SEPT, 2008.

SHERIFF'S FEE:

Service	\$	<u>25.00</u>
Travel	\$	<u>23.00</u>
Total	\$	<u>48.00</u>

Susan L. Rahr, Sheriff
King County Sheriff's Office

By M. J. [Signature]

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Brett Lange, #187

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with FSSAQUATH PD) in King County, Washington on the 4 day of SEPT, 2008.

SHERIFF'S FEE:

Service	\$	<u>25.00</u>
Travel	\$	<u>23.00</u>
Total	\$	<u>48.00</u>

Susan L. Rahr, Sheriff
King County Sheriff's Office

By M. Arnold

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Silvestre Vazquez-Vazquez

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with POSTED) in King County, Washington on the 4 day of SEPT, 2008.

SHERIFF'S FEE:

Service \$ 20.00
Travel \$ 23.00
Total \$ 43.00

Susan L Rahr, Sheriff
King County Sheriff's Office

By M. J. [Signature]

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Tim Hildebrand

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with POSTED) in King County, Washington on the 4 day of SEPT., 2008.

SHERIFF'S FEE:

Service \$ 25.00
Travel \$ 23.00
Total \$ 48.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By Muel [Signature]

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON

Plaintiff,

vs.

JUAN ERAS-DUQUE

Defendant.

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Detective John Linder

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with ISSAQUAH PD) in King County, Washington on the 4 day of SEPT., 2008.

SHERIFF'S FEE:

Service \$ 25.00
Travel \$ 23.00
Total \$ 48.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By [Signature]

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.
JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Sergeant Kevin Nash, #119

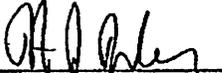
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with ISSAQUAH PD) in King County, Washington on the 4 day of SEPT, 2008.

SHERIFF'S FEE:

Service \$ 25.00
Travel \$ 23.00
Total \$ 48.00

Susan L. Rahr, Sheriff
King County Sheriff's Office

By M. Frank

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Christian Munoz, #176

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with FSSAQUA PD) in King County, Washington on the 4 day of SEPT., 2008.

SHERIFF'S FEE:

Service	\$	<u>25.00</u>
Travel	\$	<u>23.00</u>
Total	\$	<u>48.00</u>

Susan L. Rahr, Sheriff
King County Sheriff's Office

By M. Rahr

FILED

2008 SEP 11 AM 11:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON

Plaintiff,

vs.

JUAN ERAS-DUQUE

Defendant.

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Darrin Benko, #169

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 1st day of October, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: September 2, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with ISSAQUAH PD) in King County, Washington on the 4 day of SEPT, 2008.

SHERIFF'S FEE:

Service	\$	<u>25.00</u>
Travel	\$	<u>23.00</u>
Total	\$	<u>48.00</u>

Susan L. Rahr, Sheriff
King County Sheriff's Office

By M. Frank

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 09/19/2008
10:26 A.M.

JUDGE: 92

CHERYL B. CAREY

BAILLIFF:

COURT CLERK:

COURT REPORTER

LYNN HARKEY

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 10-15-08

DPA: KING COUNTY, PROSECUTING ATTY

ATD: HUFFMAN, CAREY L

2064473900

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA17

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

ENT'D.

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO 9-26-08
GRANTED / DENIED ORDER SIGNED

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE _____

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY (MTHRG)

MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (MTHRG)

TRIAL DATE CONTINUED TO: _____ EXPIRATION DATE TO: _____

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). _____ ORDER IS SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED .

ORDER IS SIGNED

Not Recorded

AUDIO TAPE: DR E-1201 or _____ START TIME: _____ END TIME: _____

VIDEO TAPE: _____ START TIME: _____ END TIME: _____

FILED
KING COUNTY, WASHINGTON

SEP 19 2008

CRIMINAL PRESIDING

ENT'D.

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

04054-9

STATE OF WASHINGTON Plaintiff,

NO. 08-C-04054 SEA

vs.

STIPULATED ORDER TO CONTINUE
OMNIBUS HEARING
(ORCOMH)

JUAN ERAS-DUQUE
Defendant.

The parties having stipulated that the omnibus hearing be continued to 9-26-08
at 8:30 AM.

IT IS HEREBY ORDERED that the omnibus hearing is continued to 9/26/08

DATED: 9-19-08

[Signature]
Deputy Prosecuting Attorney

[Signature]
JUDGE

[Signature]
Attorney for the Defendant 31245
JOHN W. EWERS

Stipulated Order to Continue Omnibus Hearing
9/6/06

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 09/26/2008

9:56 A.M.

JUDGE: 92

BAILIFF:

CHERYL B. CAREY

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 10-15-08

P. HENRIK

DPA: KING COUNTY, PROSECUTING ATTY

ATD: HUFFMAN, CAREY L

2064473900

H. BARBER

P. HENRIK

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA01

INT: SPANISH

A. HENRIK

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO
GRANTED / DENIED ORDER SIGNED

103108

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY (MTHRG)

MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (MTHRG)

TRIAL DATE CONTINUED TO: *11-13-08* EXPIRATION DATE TO: *12-13-08*

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). ORDER IS SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED.

ORDER IS SIGNED

Not Recorded

AUDIO TAPE: DR E-1201 or

START TIME: *101343*

END TIME:

VIDEO TAPE:

START TIME:

END TIME:

FILED
KING COUNTY, WASHINGTON

SEP 26 2008

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
Plaintiff,)
v.)
ERAS-DUQUE, SUAN)
Defendant.)
CCN)

NO. 08-C-04054-9 SEA
ORDER CONTINUING TRIAL
(ORCTD)
(Clerk's Action Required)

40H

This matter came before the court for consideration of a motion for continuance brought by
 plaintiff defendant the court. It is hereby

ORDERED that the trial, currently set for 10-1-08 is continued to
11-13-08 *upon agreement of the parties [CrR 3.3(f)(1)] or required in the
administration of justice [CrR 3.3(f)(2)] for the following reason:

plaintiff's counsel in trial; defense counsel in trial; other: further investigation
leading to possible resolution

It is further ORDERED:

Omnibus hearing date is 10-31-08
 Expiration date is 12-3-09

DONE IN OPEN COURT this 20th day of September, 2008

[Signature]
JUDGE

Approved for entry:

[Signature] 20420
Deputy Prosecuting Attorney WSBA No.

[Signature] 39152
Attorney for Defendant WSBA No.

I agree to the continuance:

Defendant [signature required only for agreed continuance]

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Interpreter
Trial Continuance
(Effective 1 September 2003)

FILED
2008 OCT 16 PM 3:46
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.
JUAN ERAS-DUQUE

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Detective John Linder

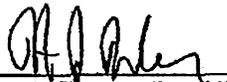
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K Johnson

FILED
2008 OCT 16 PM 3:46
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Sergeant Bob Porter, #118

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K Johnson

FILED

2008 OCT 16 PM 3:46

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

) Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Dustin Huberdeau, #185

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K Johnson

FILED

2008 OCT 16 PM 3:46

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
Sergeant Kevin Nash, #119

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K Johnson

FILED

2008 OCT 16 PM 3:46

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Chris Wilson

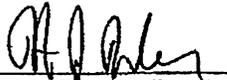
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 6 day of Oct, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K Johnson

FILED

2008 OCT 16 PM 3:46

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
Officer Brett Lange, #187

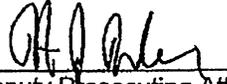
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of oct, 2008.

SHERIFF'S FEE:
Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office
By K. Johnson

FILED
 2008 OCT 16 PM 3:46
 KING COUNTY
 SUPERIOR COURT CLERK
 SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA
 No: 08-C-04054-9 SEA
 Charge: Robbery 1° (x3)

TO:
 Officer Christian Munoz, #176

NOTICE: Upon Receipt of this Subpoena, Immediately Call 206-296-9528
 Paralegal: Kristie Johnson:
 Kristie.Johnson@kingcounty.gov
 Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
 Crime Lab #:
 Tox. Lab #:
 MEDICAL
 Patient:
 Patient #:
 Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


 Deputy Prosecuting Attorney, # 91002
 Attorney(s) for the Plaintiff, State of Washington
 W554, King County Courthouse, 516 3rd Avenue
 Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
 Service \$ _____
 Travel \$ _____
 Total \$ _____

Susan L. Rahr, Sheriff
 King County Sheriff's Office
 By K. Johnson

FILED
2008 OCT 16 PM 3:46

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
Officer Darrin Benko, #169

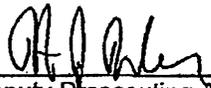
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K. Johnson

FILED
 2008 OCT 16 PM 3:46
 KING COUNTY
 SUPERIOR COURT CLERK
 SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA
 No: 08-C-04054-9 SEA
 Charge: Robbery 1° (x3)

TO:
 Tim Hildebrand

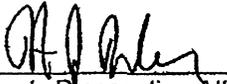
NOTICE: Upon Receipt of this Subpoena, Immediately Call 206-296-9528

Paralegal: Kristie Johnson:
 Kristie.Johnson@kingcounty.gov
 Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
 Crime Lab #:
 Tox. Lab #:
 MEDICAL
 Patient:
 Patient #:
 Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


 Deputy Prosecuting Attorney, # 91002
 Attorney(s) for the Plaintiff, State of Washington
 W554, King County Courthouse, 516 3rd Avenue
 Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
 Service \$ _____
 Travel \$ _____
 Total \$ _____

Susan L. Rahr, Sheriff
 King County Sheriff's Office
 By K. Johnson

FILED

2008 OCT 16 PM 3:46

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
Detective Todd Johnson

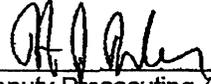
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office
By K. Johnson

FILED
*2008 OCT 16 PM 3:46
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Silvestre Vazquez-Vazquez

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K Johnson

FILED
2008 OCT 16 PM 3:46
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Juan A. Hernandez-Aguilar

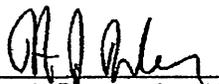
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By K. Johnson

FILED
 2008 OCT 16 PM 3:46
 KING COUNTY
 SUPERIOR COURT CLERK
 SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
 Beatriz Rivera

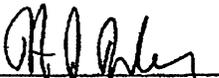
NOTICE: Upon Receipt of this Subpoena, Immediately Call 206-296-9528

Paralegal: Kristie Johnson:
 Kristie.Johnson@kingcounty.gov
 Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
 Crime Lab #:
 Tox. Lab #:
 MEDICAL
 Patient:
 Patient #:
 Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


 Deputy Prosecuting Attorney, # 91002
 Attorney(s) for the Plaintiff, State of Washington
 W554, King County Courthouse, 516 3rd Avenue
 Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
 Service \$ _____
 Travel \$ _____
 Total \$ _____

Susan L. Rahr, Sheriff
 King County Sheriff's Office
 By K. Johnson

FILED
 2008 OCT 16 PM 3:46
 KING COUNTY
 SUPERIOR COURT CLERK
 SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
 Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
 Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
 Maria del Rosario Armenta

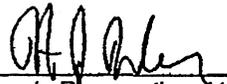
NOTICE: Upon Receipt of this Subpoena, Immediately Call 206-296-9528

Paralegal: Kristie Johnson:
 Kristie.Johnson@kingcounty.gov
 Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
 Crime Lab #:
 Tox. Lab #:
 MEDICAL
 Patient:
 Patient #:
 Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 15, 2008


 Deputy Prosecuting Attorney, # 91002
 Attorney(s) for the Plaintiff, State of Washington
 W554, King County Courthouse, 516 3rd Avenue
 Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 16 day of Oct, 2008.

SHERIFF'S FEE:
 Service \$ _____
 Travel \$ _____
 Total \$ _____

Susan L. Rahr, Sheriff
 King County Sheriff's Office
 By K Johnson

FILED

2008 OCT 28 PM 3:20

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Officer Brett Lange

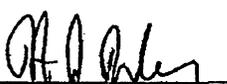
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9528**

Paralegal: Kristie Johnson:
Kristie.Johnson@kingcounty.gov
Deputy Prosecutor: Hugh J. Barber

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 13th day of November, 2008, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: October 28, 2008

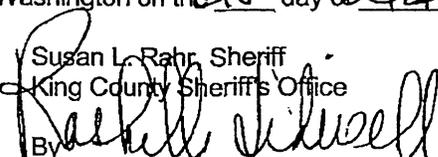

Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 28th day of October, 2008.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office
By 

FILED
KING COUNTY, WASHINGTON

OCT 31 2008

CRIMINAL PRESIDING

ENT'D.

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON Plaintiff,

NO. 08-1-04054-9 SEA

vs.

STIPULATED ORDER TO CONTINUE
OMNIBUS HEARING
(ORCOMH)
(Clerk's Action Required)

Eras-Duque, Juan
Defendant.

The parties having stipulated that the omnibus hearing be continued to 11/7/08

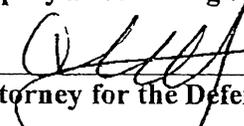
IT IS HEREBY ORDERED that the omnibus hearing is continued to 11/7/08 @ 8:30

DATED: 10/31/08



JUDGE

 20420
Deputy Prosecuting Attorney, WSBA # _____


Attorney for the Defendant, WSBA # 39,152

Stipulated Order to Continue Omnibus Hearing
10/2/06

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 10/31/2008

8:28 A.M.

JUDGE: 92

Catherine Shaffer

BAILIFF:

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

DPA: KING COUNTY, PROSECUTING ATTY

ATD: HUFFMAN, CAREY L

2064473900

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA13

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

ENT'D.

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO

GRANTED / DENIED ORDER SIGNED

11-708

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED

BAIL SET AT ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF

GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.

SENTENCING DATE TO BE SET.

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY

(MTHRG)

MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (MTHRG)

TRIAL DATE CONTINUED TO: EXPIRATION DATE TO:

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). ORDER IS SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED .

ORDER IS SIGNED

Not Recorded

AUDIO TAPE: DR E-1201 or

START TIME: END TIME:

VIDEO TAPE:

START TIME: END TIME:

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 11/07/2008

7:27 A.M.

JUDGE: 92

CHERYL B. CAREY

BAILIFF:

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

PUTSON

DPA: KING COUNTY, PROSECUTING ATTY

ATD: HUFFMAN, CAREY L

2064473900

H HARBER / PUTSON

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA13

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

*DEF'S MOTION FOR
PRETRIAL COMPETENCY
EVALUATION - GRANTED
JUDICIAL SIGNATURE*

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO
GRANTED / DENIED ORDER SIGNED

125 08 (RETURN JHE)

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE _____

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY
(MTHRG)

MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (MTHRG)

TRIAL DATE CONTINUED TO: _____ EXPIRATION DATE TO: _____

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). _____ ORDER IS SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED .

ORDER IS SIGNED

Not Recorded

AUDIO TAPE: DR E-1201 or

START TIME: *104617* END TIME: _____

VIDEO TAPE: _____

START TIME: _____ END TIME: _____

FILED
KING COUNTY, WASHINGTON

NOV 07 2008

CRIMINAL PRESIDING

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON Plaintiff,

NO. 08/04054 95A

vs.
JUAN ERAS DUQUE
Defendant.

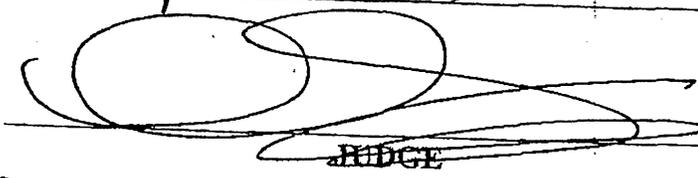
STIPULATED ORDER TO CONTINUE
OMNIBUS HEARING
(ORCOMH)

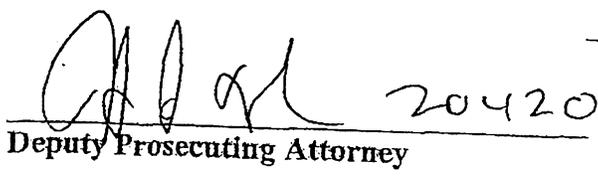
The parties having stipulated that the omnibus hearing be continued to 12/5/08

IT IS HEREBY ORDERED that the omnibus hearing is continued to 12-5-08

(COMPEENCY PENDING)

DATED: 11-7-08


JUDGE


20420
Deputy Prosecuting Attorney

Attorney for the Defendant

Stipulated Order to Continue Omnibus Hearing
9/6/06

FILED

2008 NOV 10 AM 9:34

KING COUNTY SUPERIOR COURT OF WASHINGTON FOR KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

STATE OF WASHINGTON,

3 CERTIFIED COPY TO WARRANTS NOV 10 2008

Plaintiff,

CAUSE NO. 08-C-04054-9 SEA

vs.

Juan Eras-Duque

ORDER FOR PRETRIAL
COMPETENCY EVALUATION BY
WESTERN STATE HOSPITAL

Defendant.

THIS MATTER coming on in open court upon the motion of the defense, and there being reason to doubt the defendant's fitness to proceed, and the court being in all things duly advised; the plaintiff being represented by the undersigned Deputy Prosecuting Attorney; the Defendant is present and being represented by undersigned counsel; now, therefore,

THE COURT FINDS the defendant is in need of forensic mental health evaluation for the items listed below; and

IT IS HEREBY ORDERED, under the authority of RCW 10.77.060, that the defendant, who is charged with the crime(s) of Rob 1^o x 3 be evaluated by an expert of the staff of Western State Hospital, who are designated by the Secretary of the Department of Social and Health Services, including both a psychiatrist and a psychologist, if necessary. The examination may include psychological and medical tests, and voluntary treatment if conducted inpatient at Western State Hospital, and shall be completed as specified below:

PLACE OF EXAMINATION

[] A.(1) KING COUNTY JAIL. The examination shall take place in the King County Jail. If the expert determines that the examination should take place or be completed at Western State Hospital, the expert shall notify the parties in writing, and defendant shall be transported to

ORDER FOR EXAMINATION BY
WESTERN STATE HOSPITAL

Office Name
Office Address
Office Phone #
Office Fax #



Western State Hospital, and at the end of such period of examination and testing, return the defendant to the custody of the King County Jail. The report is to be submitted to this court in writing as soon as practical following the receipt of all of **(a.) this order, (b.) the charging documents and (c.) the prosecutor's discovery** by Western State Hospital, unless the court grants further time. If the defendant is transferred to another detention or correctional facility or a treatment facility under RCW 71.05, the jail &/or the parties are to immediately inform Western State Hospital at 253-761-7565 and the facility is ordered to make the defendant available for the purposes of this evaluation order. If the defendant is released from jail prior to the examination, the defendant shall contact the staff at Western State Hospital at (253) 761-7565 within the next working day following his/her release from jail to schedule an appointment for examination at Western State Hospital or an agreed facility.

A.(2) OUT OF CUSTODY. As the defendant is not currently in custody, the defendant shall contact the staff at Western State Hospital at (253) 761-7565 within the next working day following the date of this order to schedule and arrange an appointment for examination at Western State Hospital or an agreed facility. If the defense attorney requests to be present, Western State Hospital staff shall give defendant's counsel reasonable notice of the time and place of the evaluation. If the defendant is committed to a treatment facility before the evaluation, the facility is ordered to make the defendant available for the purposes of this evaluation order. The examination shall occur, and the report be submitted to this court, as soon as practical following the receipt of all of **(a.) the order, (b.) the charging documents and (c.) the prosecutor's discovery** by Western State Hospital, unless the court grants further time. A new order must be entered to authorize inpatient examination if necessary to complete the evaluation.

A.(3) INPATIENT at WESTERN STATE HOSPITAL. The examination is to occur at Western State Hospital and the defendant is hereby committed to the care of the Division of Social and Health Services for up to fifteen days from the date of admission to the hospital and the hospital's receipt of all of **(a.) the order, (b.) the charging documents and (c.) the prosecutor's discovery**. Following the examination the defendant is to be returned to the King County Jail for further proceedings in this matter. The initial or final report shall be furnished to

the court in not less than twenty-four hours preceding the transfer of the defendant back to jail, unless further time is granted by the court.

King County Department of Adult and Juvenile Detention shall transport the defendant to Western State Hospital as soon as possible for the purposes set forth above, and at the end of such period of examination and/or testing return the defendant to the custody of the King County Jail to be held pending further proceedings against the defendant.

EXAMINER REQUIREMENTS:

B(1). DEVELOPMENTAL DISABILITIES PROFESSIONAL: The court has been advised by a party to the proceedings that the defendant may be developmentally disabled and hereby orders that one of the expert(s) qualify as a Developmental Disabilities Professional.

B(2). INTERPRETER REQUIRED: The parties have determined that the defendant requires the assistance of a qualified interpreter of the Spanish language, to be arranged by Western State Hospital.

B(3). NUMBER OF EXAMINERS: The parties stipulate that the in-jail examination may be performed by only one examiner, for purposes of expediting the proceedings waiving the RCW 10.77.060(1) requirement of two examiners for this in-jail examination only.

REPORT REQUIREMENTS:

The staff of Western State Hospital shall file the report with the undersigned court, and provide copies to the Prosecuting Attorney, the Defense Counsel and others as designated in RCW 10.77.060 and 10.77.065. The report of the evaluation shall include the following pursuant to RCW 10.77.060:

- C(1). A description of the nature of the examination;
- C(2). A diagnosis of the defendant's mental condition;
- C(3). COMPETENCY: an opinion as to the defendant's capacity to understand the Proceedings and to assist in defendant's own defense; If the report concludes the defendant is

incompetent to proceed, an opinion whether psychotropic medications are necessary and appropriate to restore the defendant's competency;

C(6). An opinion as to whether the defendant is a substantial danger to other persons or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons, as required by RCW 10.77.060(3);

C(7). An opinion as to whether the defendant should be evaluated by a County Designated Mental Health Professional under RCW 71.05.

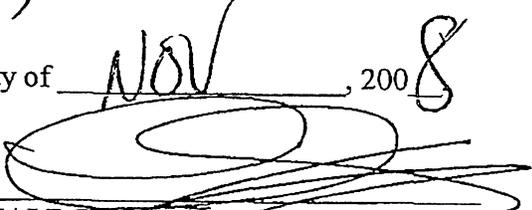
RECORDS:

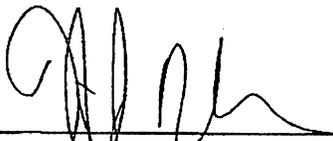
D.(1) In accordance with RCW 10.77.060 (1)(a) the staff of Western State Hospital is granted access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant for the purpose of conducting the examination.

This action is stayed during this examination period and until this court enters an order finding the defendant to be competent to proceed. The next hearing date is scheduled for:

12/5/08 (COMING)

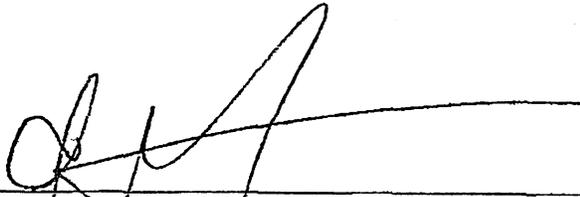
DONE IN OPEN COURT this 7 day of NOV, 2008


~~RONALD KESSLER, JUDGE~~
Cheryl Carey


Deputy Prosecuting Attorney

PRINT NAME: Hugh Barber WSBA No. 20420

PHONE NUMBER: 206 296-8994 FAX Number _____



Attorney for defendant

PRINT NAME:

CAROL HOFFMAN

WSBA No.

39,152

PHONE NUMBER:

206 447-3900

FAX Number _____

ORIGINAL COURT MINUTES

PAGE #: 24

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE: 11/13/2008

JUDGE: HELEN L. HALPERI

COURT CLERK: LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

DPA: KING COUNTY, PROSECUTING ATT

ATD: HUFFMAN, CAREY L

2064473900

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA13

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

MOTION JUDGE #: HON. 092

AFFIDAVIT:

ENT'D.

ACTION:

HOLD TO _____

5-DAY EXTENSION TO _____

CONT - CONTINUED TO 12-8-08

60/90 WAIVER TO 12-13-08

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
WESTERN STATE HOSPITAL

W27-19 • 9601 Steilacoom Blvd SW • Tacoma WA 98498-7213 • (253) 582-8900

November 24, 2008

FILED
08 DEC -1 PM 2:15
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

FORENSIC PSYCHOLOGICAL REPORT

RE: STATE OF WASHINGTON
vs.
JUAN ERAS-DUQUE

CAUSE NO: 08-C-04054-9 SEA
WSH NO: 388678
DOB: 10/27/71

The forensic evaluation reflected in this report was conducted pursuant to court order under the authority of RCW 10.77.060. This report was released only to the court, its officers and to others designated in statute and is intended for their use only. Any other use or distribution of this document is not authorized by the undersigned.

NATURE OF EXAMINATION

Reason for Referral

According to a King County Superior Court order dated 11/07/08; the above named defendant was committed to Western State Hospital for an evaluation to aid the Court in determining whether the defendant is competent to stand trial or in need of psychiatric treatment in order to restore his trial competency. The order also indicated that a Spanish interpreter was required. As is mandated by RCW 10.77.060, this report also will address the defendant's mental condition, dangerousness to others, likelihood of committing further criminal acts, and any further need for evaluation under RCW 71.05.

Mr. Eras-Duque is charged with three counts of Robbery in the First Degree, which allegedly occurred on or about 5/03/08. According to the Certification for Determination of Probable Cause, the alleged offenses occurred as follows:

On 5/03/08 Issaquah Police Officers responded to the El Abuelo convenience store in Issaquah due to reports of an armed robbery in progress. Dispatch advised that two subjects had displayed silver handguns and fled onto Front Street North. Law enforcement was in the area and observed two subjects walking northbound that matched the descriptions of the suspects provided by witnesses. The suspects, Juan Eras-Duque and Santos Castillo, were taken into custody and were positively identified by witnesses as being the subjects involved in the robbery. According to witnesses, the suspects entered the El Abuelo convenience store and demanded money from the register and other items from customers and staff. When the suspects were detained they denied being involved in the robbery and both stated that they did not know anything about a gun. Both suspects were described as being very intoxicated, as officers could smell intoxicants emanating from their breath and their eyes were glossy and red. Mr. Eras-Duque was transported to the



Issaquah Jail, then was taken to Harborview Medical Center due to his complaints of neck and back pain and shortness of breath. He was medically cleared and was returned to jail.

Database

Mr. Eras-Duque was admitted to the Center for Forensic Services at Western State Hospital on 11/14/08. He was placed on ward F1 to undergo psychological, psychiatric, psychosocial, and physical examinations, including 24-hour clinical observations. Information from the following sources was considered in preparing this report:

1. Initial intake interview on 11/14/08.
2. Forensic interview on 11/21/08.
3. Discovery materials, including the Certification for Determination of Probable Cause, the Issaquah Police Report and supplemental reports, witness statements, and property records.
4. Records from Harborview Medical Center, Seattle, Washington.
5. Records from the King County Jail, Seattle, Washington.
6. Washington State Patrol WATCH criminal history record.
7. Prosecutor's Understanding of Defendant's Criminal History form.

This comprehensive evaluation and report was completed by the undersigned taking into consideration all of the examinations, consultation, and findings of the entire evaluation team.

Notification

Prior to each interview, Mr. Eras-Duque was informed of the non-confidential nature of the evaluation, the purpose of the evaluation, and parties who would receive a copy of the forensic report. He was informed that he could request to have his attorney present and that he could decline to answer questions. He also was advised that recommendations concerning further assessment or treatment could be made to the Court and that the undersigned's role was not to provide therapeutic services but rather was solely an evaluative role by court order. Mr. Eras-Duque stated that he understood this notification and agreed to participate in the evaluation.

DIAGNOSTIC INFORMATION

Relevant Clinical History

The following information is based on Mr. Eras-Duque's self-report, and thus is limited by the veracity of the defendant's statements.

Mr. Eras-Duque was born in Acapulco, Mexico, and has lived in the United States for 23 years. He currently lives in Kent with his mother and sisters. He is divorced and has two children, a six or seven year old girl who lives with her mother, and an 11-year-old son, whom he has custody of. He reported that his family is healthy and he denied any family history of mental illness or drug or alcohol abuse. Mr. Eras-Duque completed eight years of education and stopped attending because his family was impoverished. He noted that his father was not present in the home. Mr. Eras-Duque worked as a cashier at a 7-11 store for six years. He also has done construction and electrical work and makes extra money singing in a band. In 2005 he suffered an injury at work

when he was carrying a trash can full of rocks, slipped, and the can rolled over him. He fell and hit his head and lost consciousness, perhaps for 10 or 15 minutes. An MRI was conducted, which indicated that his vertebral disks were not broken, but were "stuck closer together and some fluid came out." Two disks were scratched. He noted that since the accident he has experienced dizziness and headaches daily, which his doctor told him might be permanent. He also believed that he may have spoken English better prior to the accident. Following the accident Mr. Eras-Duque had difficulty working due to pain and difficulty bending down. He currently is working with a lawyer who is aiding him with a claim with the Department of Labor and Industries. He also has undergone physical therapy to help with his injuries. He denied any other major medical problems.

Mr. Eras-Duque typically drinks two beers before a meal and two beers after eating. He denied drinking to intoxication. He reported that he does not use any illicit drugs. He also reported that he has never been psychiatrically hospitalized or diagnosed with a mental disorder. He denied suicide attempts or intentional self-injury. He does not take psychiatric medications and is not involved in any outpatient mental health treatment. He also denied any history of violence, describing himself as a "nice, respectful person."

Other Records Reviewed/Collateral Information

Records from Harborview Medical Center indicated that Mr. Eras-Duque was admitted at 12:10 a.m. on 5/04/08 with reports that he had become agitated during booking then was unresponsive when he was placed in a jail cell. When medics arrived he "began thrashing" and his heart rate was elevated. He was treated with Valium for tachycardia and agitation. Upon arrival to the hospital Mr. Eras-Duque was initially unresponsive then awakened and reported that he had a back problem for which he needed medication. He then became agitated and began thrashing in his bed, reporting that it felt like he was "drowning." This resolved with administration of Valium. Mr. Eras-Duque's laboratory tests were positive for benzodiazepines only. Diagnoses included acute toxic encephalopathy and sinus tachycardia. He was considered to be in satisfactory condition at the time of his discharge back to jail.

Records from the King County Jail indicated that Mr. Eras-Duque received a rule out diagnosis of Alcohol Withdrawal upon admission, as well as Generalized Anxiety Disorder and Alcohol Abuse. He was not evaluated for psychiatric medications and none were prescribed. No behavioral concerns were listed.

Course of Hospitalization

Mr. Eras-Duque adjusted rapidly to ward rules and routines. He ate and slept regularly and was cooperative with peers and staff. He was not prescribed any psychotropic medications.

Mental Status Examination

Mr. Eras-Duque is a 37-year-old man of Mexican decent whose appearance is consistent with his chronological age. He appeared well groomed and ambulated without any apparent difficulty. Mr. Eras-Duque appeared calm and was cooperative with the interview procedure. He maintained appropriate eye contact and spoke at an average rate and volume in a clear and coherent manner. He utilized the services of a Spanish interpreter most of the time. On occasion

he spoke in English, and it appeared that he had a fairly good command of the English language. He exhibited broad affect and described his mood as "a little sad," as he was used to being with his family. He denied thoughts of harm toward himself or others. Mr. Eras-Duque reported that he had some difficulty sleeping as the result of neck and back pain. He reported no problems with his appetite or energy level. He was oriented to person, place, and time. His thought processes were organized, goal-directed, and reality-based. He denied psychotic symptoms, including hallucinations, paranoia, or ideas of reference. He made no statements suggesting delusional beliefs. Mr. Eras-Duque was familiar with recent world events. He was able to think in an abstract manner. His intellectual functioning was estimated to be within the average range based on his vocabulary and fund of knowledge. There were no evident impairments of his attention, concentration, or memory. Based on his behavior and responses to hypothetical situations, his judgment and insight were considered intact.

Diagnostic Impressions

Juan Eras-Duque is a 37-year-old man with no known psychiatric history. He has reported suffering back and neck injuries with loss of consciousness during a work accident in November of 2005. Since that time he has experienced back and neck pain as well as dizziness and headaches. There were no signs of cognitive impairments during this evaluation period and he is not currently exhibiting or reporting psychiatric symptoms. Mr. Eras-Duque reports a history of alcohol use which he does not view as problematic; however, there are indications from police reports that he was heavily intoxicated at the time of his arrest. Therefore, Alcohol Abuse remains a diagnostic consideration.

Based upon clinical interview data, record review, and consultation with ward F1 clinical staff, I offer the following diagnostic impressions of Mr. Eras-Duque at this time:

- Axis I: Rule out Alcohol Abuse
- Axis II: Deferred
- Axis III: History of back and neck injury (2005)

COMPETENCY

Mr. Eras-Duque was aware that he had been charged with Robbery in the First Degree for allegedly robbing a store. He reported that he had been offered a deal reducing his charge to second degree Robbery if he pled guilty, which would reduce his sentence from 41 months to 21 months. Mr. Eras-Duque was familiar with basic legal concepts and plea options. He spoke at length about his innocence and his desire to plead not guilty to the charges against him. He was aware that this would likely result in a trial. He also reported that another individual had been convicted of the crime and had told the judge that Mr. Eras-Duque was not involved. Mr. Eras-Duque was able to provide information that might be relevant in his defense and he was capable of speaking in a clear and rational manner about his legal situation. He expressed frustration toward his attorney for what he perceived as delaying his case and encouraging him to plead

guilty, yet there were no indications that his concerns were related to paranoia or delusional thinking. Mr. Eras-Duque did appear to appreciate his legal peril and he was clearly motivated toward self-defense. He was able to communicate in a rational manner and was able to provide relevant information related to his case. He reported that he was awaiting his next court hearing on December 5th and hoped that he would finally be allowed to speak to the judge. Mr. Eras-Duque demonstrated the ability to maintain appropriate behavior and was aware of behavioral expectations within a courtroom setting. He did not report any psychiatric problems and did not exhibit signs of a mental disorder. Therefore, I believe that Mr. Eras-Duque currently possesses the capacity to understand the nature of the charges against him and to assist his counsel in his own defense.

DANGEROUSNESS

This opinion regarding dangerousness was court-ordered and conducted within the scope of RCW 10.77.060 regarding pre-trial mental health evaluations. An opinion is to be made as to whether the defendant presents a substantial danger to others or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control of the court or other persons or institutions.

Cautionary Note: Given the present level of risk assessment technology and frequently incomplete historical data, mental health professionals can best assist the court in making pre-trial dangerousness assessments by identifying the presence of known risk factors and providing a clinical formulation of how these factors affect a defendant. This assessment does rely considerably on Mr. Eras-Duque's self-report, and this sets an upper limit on the reliability of any opinions rendered.

Mr. Eras-Duque's Washington State Patrol WATCH criminal history record lists no convictions. The Prosecutor's Understanding of Defendant's Criminal History form listed no adult or juvenile convictions.

Current practice in violence risk assessment involves the consideration of factors frequently associated with future violence. The HCR-20 is an instrument that organizes such known risk factors, dividing them into three categories: Historical, Clinical, and Risk Management. Not all portions of the HCR-20 could be completed for the evaluation; for example, the Hare Psychopathy Checklist-Revised was not completed. Therefore the HCR-20 was not formally completed and scored, but was used as a guideline for identifying known risk factors.

Historical Risk Factors are relatively stable elements of the individual's life and are unlikely to change. In Mr. Eras-Duque's case, *Historical Risk Factors that may have been present include:* substance abuse problems. Clinical Risk Factors describe the individual's current mental state and are considered to be more changeable or amenable to treatment. Mr. Eras-Duque did not demonstrate evidence of any Clinical Risk Factors. Finally, Risk Management Factors are those that are likely to influence the individual in the future, and are also considered to be changeable. Mr. Eras-Duque possessed the following Risk Management Factor: exposure to destabilizers.

Factors that currently mitigate Mr. Eras-Duque's risk of future dangerousness or criminal behavior include: no known history of criminal convictions, stable mental status, and the presence of family support.

Based upon Mr. Eras-Duque's documented criminal history, information obtained through interviews and treatment, and a review of risk factors, it is my professional opinion that he currently presents a low to moderate risk for future danger to others and for committing future criminal acts jeopardizing public safety and security.

DMHP Evaluation

An opinion is required as to whether the defendant should undergo a RCW 71.05 civil commitment evaluation by a designated mental health professional. This opinion is based solely upon the above evaluation under RCW 10.77.060. Other reasons may exist to require a civil commitment evaluation, which fall within the scope of other standards outside the purview of this evaluation.

In response to my direct question, Mr. Eras-Duque denied imminent intent to harm himself or others. Nothing in his recent behavior would suggest that he was less than sincere in this denial. He has not been a violent behavioral management problem for our ward staff and is not exhibiting signs of a mental disorder at this time. I do not consider Mr. Eras-Duque an imminent risk to himself or others and have no reason to recommend that the Court detain him or otherwise order him evaluated by a Designated Mental Health Professional for possible civil commitment under RCW 71.05.

This evaluation is completed upon submission of this report. If I may be of further assistance to the Court in this matter, please feel free to contact me.



Lori K. Thiemann, Ph.D.
Licensed Psychologist
Center for Forensic Services
Western State Hospital
(253) 879-7931

LT/mes

Cc: Chief Criminal Judge, King County Superior Court
Hugh Barber, DPA
Carey Huffman, Attorney for Defendant
Kathryn Hall, M.D. Jail
Mike Leake, CDMHP

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 12/05/2008

9:09 A.M.

JUDGE: 92

BAILIFF:

CHERYL B. CANEY

COURT CLERK:

COURT REPORTER

LYNN HARKET

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

DPA: KING COUNTY, PROSECUTING ATTY

ATD: HUFFMAN, CAREY L

2064473900

ENT'D.

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO 12/2/08
GRANTED / DENIED ORDER SIGNED

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE _____

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

Not Recorded

AUDIO TAPE: DR E-1201 or

START TIME: _____ END TIME: _____

VIDEO TAPE: _____

START TIME: _____ END TIME: _____

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY
(MTHRG)

MOTION TO CONTINUE TRIAL DATE: GRANTED / DENIED (MTHRG)

TRIAL DATE CONTINUED TO: _____ EXPIRATION DATE TO: _____

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG) _____ ORDER IS
SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED .

ORDER IS SIGNED

FILED
KING COUNTY, WASHINGTON

DEC 05 2008

CRIMINAL PRESIDING

ENT'D.

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON Plaintiff,

NO. 08-C-04054-9 SEA

vs.

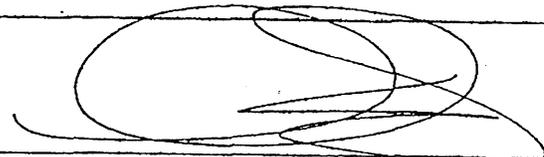
STIPULATED ORDER TO CONTINUE
OMNIBUS HEARING
(ORCOMH)

Juan Paez-Duque
Defendant.

The parties having stipulated that the omnibus hearing be continued to determine
if the Defense will hire its own expert and
contest competency

IT IS HEREBY ORDERED that the omnibus hearing is continued to 12/12/08 @ 2:30

DATED: 12/5/08



JUDGE

[Signature] 20920
Deputy Prosecuting Attorney

[Signature]
Attorney for the Defendant

Stipulated Order to Continue Omnibus Hearing
9/6/06

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 12/12/2008

8:16 A.M.

JUDGE: *Bulu Specter*

BAILIFF:

COURT CLERK: **ANNE C. SMART**

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN *present*

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

DPA: KING COUNTY, PROSECUTING ATTY *Hugh Bulu present*

ATD: HUFFMAN, CAREY L

2064473900

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

*No trial date set.
pending competency
evaluation*

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO 1-20-09 on *Chief Criminal Calendar*
GRANTED / DENIED ORDER SIGNED

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE _____

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED. SENTENCING DATE TO BE SET.

Not Recorded

AUDIO TAPE: DR E-1201 or *Digital recording*
VIDEO TAPE: _____

START TIME: 10:22:30 END TIME: 10:26:58
START TIME: _____ END TIME: _____

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY

(MTHRG)

MOTION TO CONTINUE TRIAL DATE - GRANTED / DENIED (MTHRG)

TRIAL DATE CONTINUED TO: _____ EXPIRATION DATE TO: _____

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). _____ ORDER SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED.

ORDER IS SIGNED

SCOMIS CODE MTHRG TCNTU HCNTU

JUDGE SHARON ARMSTRONG
BAILIFF MAILIA ROTH
CLERK LYNN HARKEY
Digital Recording DR E1201

DEPT 29
DATE: 01/20/09

Start: NOT RECORDED PAGE 1 OF 1

KING COUNTY CAUSE NO: 08 1040549 SET

STATE OF WASHINGTON VS JUAN ERAS. DUQUE

Appearances:

DPA NOT PRESENT present

Defendant () present (X) not present with counsel NO

Interpreter present

COMPANENY RETURN MINUTE ENTRY

Defendants motion to reduce bond. Denied. Granted, bond set at

On: Basic CCAP Enhanced CCAP EHD Basic EHD Enhanced WER

States / Defendants motion to continue trial date. Denied / Granted.

Omnibus date: Trial date Expiration date:

CONTINUED TO 1-26-09

Order is signed.

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT
CRIMINAL TRIAL CALENDAR CALENDAR DATE: 1-28-09

JUDGE: SHARON S. ARMSTRONG

COURT CLERK: LYNN HARKEY COURT REPORTER

DEFENDANT: ERAS-
TRUE NAME: DUQUE,
CCN: UAN
EXP:
CASE NO: 081040549
SEA
DPA:
ATD:

CO-DEFENDANTS:

CHARGE:
ARR DATE:
LOC:
INT:
ORIGINAL TRIAL DATE:
TRIAL LENGTH:
TRIAL SET EXP:
MOTION JUDGE #:
AFFIDAVIT:

ENT'D.

ACTION:
HOLD TO 1-29-09

5-DAY EXTENSION TO

CONT - CONTINUED TO

60/90 WAIVER TO

ASSIGNED TO JUDGE

PLEA - SENT TO

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED

ORIGINAL COURT MINUTES

PAGE #: 10

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE: 01/29/2009

JUDGE: SHARON ARMSTRONG

COURT CLERK: PATTY NOBLE

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

DPA: KING COUNTY, PROSECUTING ATT

ATD: HUFFMAN, CAREY L

2064473900

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

MOTION JUDGE #: HON. 092

AFFIDAVIT:

ACTION:

HOLD TO _____

2-20-09

5-DAY EXTENSION TO _____

CONT - CONTINUED TO _____

60/90 WAIVER TO _____

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED

SCOMIS CODE ✓ MTHRG ___ TCNTU ___ HCNTU

JUDGE SHARON ARMSTRONG
BAILIFF MALIA POTTS
CLERK LYNN HARKEY
Digital Recording DR E1201

DEPT 4
DATE: 02/17/09

Start: 0432L

PAGE 1 OF 1

KING COUNTY CAUSE NO:

08C040549 SEA

STATE OF WASHINGTON VS

JUDY ERAS - DUQUE

Appearances:

DPA JENNIFER MILLER present

Defendant () present () not present with counsel CARLEY HUFFMAN

Interpreter _____ present

MINUTE ENTRY

Defendants motion to reduce bond. Denied. Granted, bond set at _____

On: Basic CCAP Enhanced CCAP EHD Basic EHD Enhanced WER

States / Defendants motion to continue trial date. Denied / Granted.

Omnibus date: _____ Trial date _____ Expiration date: _____

ORDER SIGNED STAMPS DOCUMENT

APPROVED FINDINGS OF FACT, CONCLUSIONS OF LAW

AND ORDER RE DEF'S COMPETENCY SIGNED OFF

Order is signed.

THE RECORD TODAY, FROM RECORDED HEADLINE OF 2/19/09

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JAN 23 2009

Office of the Public Defender

FILED

2009 FEB 18 PM 3:50

CLERK'S OFFICE
SUPERIOR COURT CLERK
SEATTLE, WA.

ORIGINAL

RUSH

**IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY**

STATE OF WASHINGTON,)

Plaintiff)

v.)

JUAN ERAS-DUQUE Defendant)

No. 08-C-04054-9 SEA

**MOTION AND ORDER TO SEAL
DOCUMENTS, CrR 3.1(f)**

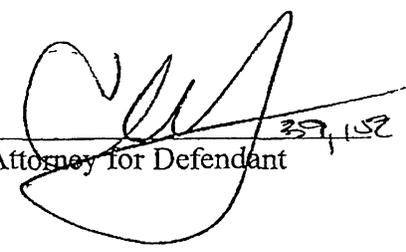
(ORSD)

CLERK'S ACTION REQUIRED

MOTION

Defendant, appearing *ex parte*, moves that the documents referenced below be placed under court seal. The grounds for this motion are that these records are confidential, privileged and governed by rules of confidentiality for attorney work product, CrR 3.1(f).

DATED this 23rd day of January, 2007.



Attorney for Defendant

FINDINGS: The court finds that said documents, pursuant to CrR 3.1(f), are protected by the attorney-client and work product privileges, and are not subject to disclosure to the state or to the public. Now, therefore, it is hereby

ORIGINAL

1 ORDERED that the following documents be placed under court seal, that said documents
2 only be used by the court for purposes of the defense motion to authorize expert services at
3 public expense, and that said documents shall not otherwise be disclosed to the public or the state
4 absent further order of the court.

4 Declaration of Defense Attorney in Support of Request for Expert Services at Public
5 Expense Dated: January 23, 2009

6 ~~Order Appointing Independent Expert or Professional Person Directing Payment to be~~
7 ~~Reimbursed by DSHS~~ Dated: ~~January 23, 2009~~

8 Order Authorizing Expert Services at Public Expense Dated: January 23, 2009

9 SO ORDERED this 13 day of Feb, 2009.

11 Sharon A. Armstrong
12 JUDGE

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FILED
KING COUNTY, WASHINGTON

FEB 19 2009

CRIMINAL PRESIDING

IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

JUAN ERAS DUQUE

Defendant.

Case No. 081040549 SEA

ORDER DENYING DEF'S
MOTION TO DISCHARGE COUNSEL

Plaintiff Defendant moves the court for an order TO DISCHARGE
COUNSEL -

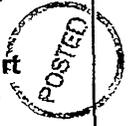
_____ ; now, therefore, it is hereby
ORDERED MOTION IS DENIED

DATED this 19 day of Feb, 2009.

Sharon S. Armstrong
SHARON S. ARMSTRONG,
JUDGE

ORIGINAL

King County Superior Court
King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9113



FILED
KING COUNTY, WASHINGTON

FEB 19 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
Plaintiff,)
v.)
Era A. Dugue, Juan)
Defendant.)
CCN)

NO. 08-1-04054-9 SEA
ORDER CONTINUING TRIAL
(ORCTD)
(Clerk's Action Required)

This matter came before the court for consideration of a motion for continuance brought by
 plaintiff defendant the court. It is hereby

ORDERED that the trial, currently set for 11-13-08 is continued to
3-23-09 *upon agreement of the parties [CrR 3.3(f)(1)] or required in the
administration of justice [CrR 3.3(f)(2)] for the following reason:
 plaintiff's counsel in trial; defense counsel in trial; other: _____

It is further ORDERED:

Omnibus hearing date is 3-13-09
 Expiration date is 3-27-09

DONE IN OPEN COURT this 19 day of February, 2009

Sharon J. Armstrong
JUDGE

Approved for entry:

[Signature]
Deputy Prosecuting Attorney WSPA No. 31602

[Signature]
Attorney for Defendant WSPA No. 39152

I agree to the continuance:

* Defendant [signature required only for agreed continuance]

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Interpreter
King County, Washington
Trial Continuance
(Effective 1 September 2003)

ORIGINAL

SCOMIS CODE MTHRG TCNTU HCNTU

JUDGE SHARON ARMSTRONG DEPT 29
BAILIFF MALIA ROTH DATE: 02/19/09
CLERK LYNN HARKEY
Digital Recording DR E1201 Start: 84320 PAGE 1 OF 1

KING COUNTY CAUSE NO: 08104054 9 SEA

STATE OF WASHINGTON VS JUAN ERAS DUQUE

Appearances:

DPA JENNIFER MILLER present

Defendant () present () not present with counsel CAPEY HUFFMAN

Interpreter SUSANA STETRO SAUREY present

MINUTE ENTRY

Defendants motion to reduce bond. Denied. Granted, bond set at _____

On: Basic CCAP Enhanced CCAP EHD Basic EHD Enhanced WER

States / Defendants motion to continue trial date. Denied / Granted.

Omnibus date: 3-13-09 Trial date 3-23-09 Expiration date: 3-27-09

BY STIPULATION OF COUNSEL AND AGREEMENT OF

THE COURT, DEF IS FOUND COMPETENT.

FINDINGS OF FACT CONCLUSIONS OF LAW &

ORDER AND ORDER SEALING DOCUMENT TO

BE PRESENTED.

Order is signed.

ORIGINAL COURT MINUTES

PAGE #: 4

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE: 02/20/2009

JUDGE: SHARON S. ARMSTRONG

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 12-13-08

DPA: KING COUNTY, PROSECUTING ATT

ATD: HUFFMAN, CAREY L

2064473900

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

MOTION JUDGE #: HON. 092

AFFIDAVIT:

ACTION:

HOLD TO _____

5-DAY EXTENSION TO _____

CONT - CONTINUED TO _____

60/90 WAIVER TO _____

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED

ENT'D.

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THE HONORABLE SHARON S. ARMSTRONG

FILED
KING COUNTY, WASHINGTON

FEB 20 2009

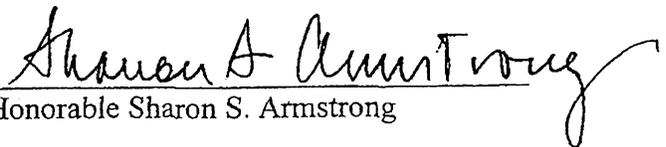
CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON	)	NO. 08-C-04054-9 SEA
)	
Plaintiff,	)	ORDER TO FILE
)	
v.)	
)	
ERAS-DUQUE, JUAN	)	CLERK'S ACTION REQUIRED
Defendant.)	

IT IS HEREBY ORDERED that the attached document shall be added to the court file.

DATED this 19TH Day of February, 2009.


Honorable Sharon S. Armstrong

ORIGINAL

No. 2

04-1-11969-0

But To date I have not been taken to Trial on August 16, 2008, I signed To go to Trial. And my Trial was to be October 1. And it was to end October 15, 2008, Now my Lawyer only keeps asking for more continuances "or" more time in court in order he says to send me To a mental treatment at Washington State Hospital.

He already sent me To this Hospital for 15 days on November 17 But at the Hospital they returned me on November 26, and they told me That I don't need any kind of mental treatment. That I am very well mentally. Madam Judge you told My lawyer at the last hearing That we had on November 7. That this was the last continuance, That you were giving him, and That later at the next hearing. Which was December 5, 2008, that day I had to be released. Or. Taken to Trial, But my Lawyer refused to Take me To the hearing. He just changed the hearing to December 12, 2008. But since that day it was no longer the same Judge that day he took me To court, But he only told Madam Judge that he wanted more time To send me, again To Washington State Hospital. and he took another 45 days But I was not taken, my next hearing, was on Tuesday, January 20, 2009 again I did not have a hearing. And To Date I have not been taken to Trial nor to a hearing. My trial was starting -4- months ago, Aside from not committing any crime I am going to be deported To mexico and in mexico I have no family my whole family my mom, my Brothers and Sisters my wife and my Children all live Here in the US

JUAN ERAS DUQUE—CAUSE NO. 08-C-04054-9SEA-

No. 3

Aside from all this that is happening to me I am in Medical treatment Due to a work Accident. where I fractured 4 four spinal column disks. And also. A nerve That goes To my brain was injured. For this Reason labor and industries had me in treatment Before I was Arrested

For this Reason my family and I are very --

Worried, [REDACTED] I am very seriously ill and I was told Here that they cannot give me this kind of treatment Because it is a special treatment. For this Reason I am asking [REDACTED]

[REDACTED] to be given my freedom. as Soon as Possible In Order to Continue with my treatment,

This is my labor and industries Lawyer's telephone number So that you Can confirm that I am really ill?

(253) 383-8770

Thank you very much my dear and esteemed Judge for hearing my pleas?

Sincerely?

[Signature]

[There is an upside down stamp halfway down the left margin of the first page reading in English, "RECEIVED

Jan 29 2009

SHARON ARMSTRONG

SUPERIOR COURT JUDGE]

Translator's note: There are many spelling and punctuation errors in the original document.

This letter was translated to English by Amy Andrews, Washington State Certified Court Interpreter on February 2, 2009.

FILED
KING COUNTY, WASHINGTON

FEB 20 2009

CRIMINAL PRESIDING

IN THE SUPERIOR COURT OF WASHINGTON STATE FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff/Petitioner

v.

JUAN ERAS - DUQUE

Defendant/Respondent

Cause No. 08-C-04054-9 SEA

ORDER TO SEAL
(ORSF) / (ORSD)

(Clerk's Action Required)

FINDINGS:

The Court having reviewed the applicant's motion and declaration to seal specific documents or this file, and pursuant to applicable case law and court rules, finds compelling circumstances to grant the order exist as follows:

The defendant wrote a letter concerning his case to then Chief Criminal Judge Cheryl Corey. Portions of the letter involved privileged attorney/client communications and admissions. Disclosure of this information would cause irreparable harm. There are compelling reasons to seal the original letter and file a redacted version.

NOW THEREFORE IT IS HEREBY ORDERED THAT:

The Clerk of the Court shall seal the following document(s) in this cause:
(List the title, sub number and filed date if available)

letter dated 1-21-09 from Juan Eras - Duque to Judge Cheryl Corey, in Spanish with English translation

or

The Clerk of the Court shall seal the file.

ORIGINAL

Access to the sealed document(s) or file is limited to the following persons (not their designees), who are authorized to review the file or documents without further court order:

- Petitioner/Plaintiff Respondent/Defendant
- Pet / Plaintiff Attorney of record Respondent / Def Attorney of record
- By Court order only

Other persons specifically named here:

Access to the sealed record is available only in the Clerk's Office.

In the event of an application for the opening of the sealed document or file, a hearing shall be noted and notice shall be given or attempted to the following persons in addition to the parties, or their counsel if represented:

Carey Huffman
TDA

DATED this 19th day of Feb, 2009.

Sharon A. Acunzio
 JUDGE/COURT COMMISSIONER

Presented by:

Approved for Entry:

Printed Name: _____
 Attorney For: _____
 Bar No.: _____
 Address: _____

 Phone: _____

Printed Name: _____
 Attorney For: _____
 Bar No.: _____
 Address: _____

 Phone: _____

FILED
KING COUNTY, WASHINGTON

FEB 20 2009

CRIMINAL PRESIDING

IN THE SUPERIOR COURT OF WASHINGTON STATE FOR KING COUNTY

State of Washington
Plaintiff/Petitioner)
v.)
Juan Eras-Dugue
Defendant/Respondent)

Cause No. 08/04054 9 SEA

ORDER TO SEAL
(ORSF) / (ORSF)
(Clerk's Action Required)

FINDINGS:

The Court having reviewed the applicant's motion and declaration to seal specific documents or this file, and pursuant to applicable case law and court rules, finds compelling circumstances to grant the order exist as follows:

PURSUANT TO RCW 10.77.210

NOW THEREFORE IT IS HEREBY ORDERED THAT:

The Clerk of the Court shall seal the following document(s) in this cause:

(List the title, sub number and filed date if available)

Western State Hospital, Forensic Psych-Rep., 11-24-08 Dr. L. Thieman

or

The Clerk of the Court shall seal the file.

ORIGINAL

Access to the sealed document(s) or file is limited to the following persons (not their designees), who are authorized to review the file or documents without further court order:

- Petitioner/Plaintiff Respondent/Defendant
- Pet / Plaintiff Attorney of record Respondent / Def Attorney of record
- By Court order only

Other persons specifically named here:

Access to the sealed record is available only in the Clerk's Office.

In the event of an application for the opening of the sealed document or file, a hearing shall be noted and notice shall be given or attempted to the following persons in addition to the parties, or their counsel if represented:

DATED this 20th day of February, 2009.

Sharon A. Armstrong
 JUDGE/COURT COMMISSIONER

Presented by:

Carey Huffman 39152

Printed Name: Ce

Attorney For: J. Eras-Deque

Bar No.: 039152

Address: 110 3rd Ave Ste 800
Seattle, WA 98104

Phone: 206 447-3980 ext 709

Approved for Entry:

Printed Name: _____

Attorney For: _____

Bar No.: _____

Address: _____

Phone: _____

FILED

2009 FEB 25 AM 10: 08

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
)	
)	No. 08-C-04054-9 SEA
)	
Plaintiff,)	
)	
vs.)	
	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW
JUAN ERAS-DUQUE	)	REGARDING DEFENDANT'S
	)	COMPETENCY
)	
)	
)	

THIS MATTER having come on regularly for hearing on December 5, 2008, on motion of the State of Washington for a determination of defendant's competency; the State being represented by Prosecuting Attorney Dan Satterberg, by and through his deputy, Jenn Miller; the defendant appearing in person and being represented by Carey Huffman; the State, the defendant and defense counsel all speaking in support of a determination of competency; the Court having questioned the defendant and defense counsel, and having read and considered the attached report of Western State Hospital dated November 24, 2008; the Court now makes and enters the following

ORIGINAL

FINDINGS OF FACT AND CONCLUSIONS OF LAW
REGARDING DEFENDANT'S COMPETENCY - 1

Norm Maleng, Prosecuting Attorney
 W554 King County Courthouse
 516 Third Avenue
 Seattle, Washington 98104
 (206) 296-9000
 FAX (206) 296-0955



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FINDINGS OF FACT

I.

The defendant understands the nature of the proceedings against him and is able to effectively assist counsel in the defense of his case.

II.

The defendant has the ability to understand the nature and consequences of a change of plea.

CONCLUSIONS OF LAW

I.

The defendant is competent to stand trial.

II.

The defendant is competent to enter a plea to the charges.

DONE IN OPEN COURT this 19 day of FEBRUARY, 2007.

Sharon A. Armstrong
JUDGE

Presented by:

[Signature]
Deputy Prosecuting Attorney, WSBA #
31600

Copy received; approved as to form:

Agreed by Corey Huffman (GA)
Attorney for Defendant, WSBA #

MAR 17 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF THE STATE OF WASHINGTON COUNTY OF KING

STATE OF WASHINGTON,

Plaintiff,

vs.

Juan Eras-Duque

Defendant

NO. 08-1-04054-9 SEA

ORDER ON OMNIBUS HEARING

Charge: (OOR) ROB 1

Trial Date: 3-23-09

Expiration: 3/27/09

In Custody Out of Custody

An omnibus hearing was held on this date.

1. CrR 3.5:

No custodial statements will be offered in the state's case-in-chief, or in rebuttal. The statements of defendant will be offered in state's rebuttal case only.

The statements referred to in the state's omnibus application will be offered and: May be admitted into evidence without a pretrial hearing, by stipulation of the parties.

A pretrial hearing shall be held

2. CrR 3.6:

No motion to suppress evidence pursuant to CrR 3.6(a) shall be made.

Defendant will move to suppress evidence. Moving party shall comply with CrR 3.6, 8.1 and CR 6. The motion shall be heard, immediately before trial, by the trial judge.

3. CrR 4.7:

Plaintiff has provided the defense with all discovery required by CrR 4.7(a). Defendant has provided the plaintiff with all discovery required by CrR 4.7(b).

Plaintiff shall provide the defense with _____ by _____, 2009.

Defendant shall provide plaintiff with Character witness information by 3-20, 2009.

Witness interviews shall be completed by 3-20, 2009. + Contact & witness summaries No party may impede opposing counsel's investigation of the case, CrR 4.7(h)(1).

The general nature of the defense is Denial.

Discovery orders: _____

4. Plaintiff will move to amend the information to _____. Defense shall be served a copy of the proposed amended information ____ days before the trial date.

5. Motions *in limine* are reserved for the trial court.

6. Proposed jury instructions shall be served and filed when the case is called for trial, CrR 6.15(a).

7. Other motions not specifically referenced in this order shall be noted before the chief criminal judge or criminal motions judge, and shall comply with CrR 8.1, CrR 8.2, CR 6 and CR 7(b) unless expressly agreed by the parties in writing.

8. _____

DONE IN OPEN COURT this 13th day of March, 2009.

Andrew A. [Signature]
JUDGE

Submitted:

[Signature]
DEPUTY PROSECUTING ATTORNEY
WSBA# 31600

[Signature]
ATTORNEY FOR DEFENDANT
WSBA# 39152

I am fluent in the _____ language. I have translated this document for the defendant into that language. I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Date and Place

Interpreter

OMNIBUS HEARING CHECKLIST

Case Name: State v. Eras-Duque
Case No.: 08-C-040579 SRA

Trial Date 3-23-09
Expiration Date 3/23/09

PLEA NEGOTIATIONS COMPLETED

Yes ___ No Plea Possible
Yes ___ No Sent to Plea Calendar this date

DISCOVERY ISSUES ADDRESSED

Provided by: _____

Yes ___ No ___ All documentary discovery (photos/tapes) provided
Yes ___ No Prior convictions of defendant/witness provided
Yes No ___ All medical records, expert reports, lab and test results provided
Yes ___ No All state witnesses have been interviewed and are ready for trial
Yes ___ No All defense witnesses have been interviewed and are ready for trial
Yes No ___ All remaining witnesses interviews have been scheduled for specific dates and times or will be completed by
Yes No ___ All discoverable defenses have been disclosed
Yes ___ No All discovery has been completed

3-20-09

If no: Discovery matters which need court's resolution:
Character witnesses for the defense

TRIAL / READINESS ISSUES

Yes ___ No ___ The information will be amended
Yes ___ No ___ Co-defendant(s) is/are ready for trial

Trial length estimate, including pre-trial motions
Yes No ___ Jury
Yes No ___ CrR 3.5 hearing:
of hours 1 # of witnesses 1
Yes ___ No CrR 3.6 hearing:
of hours _____ # of witnesses _____ -- interview date(s) _____
Briefing schedule _____

OTHER

Yes ___ No ___ Sent to motion calendar

If yes: Motion to be heard no later than: _____
Briefing schedule: _____

If no: Omnibus rescheduled to: _____

DATED: 3/13/09

Anderson A. Almitang
JUDGE
[Signature]
39,152
Defendant's Attorney

[Signature]
Deputy Prosecuting Attorney 3/16/09
SCForm1

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 03/13/2009

9:07 A.M.



JUDGE: 92 SHARON S. ARMSTRONG

BAILIFF:

COURT CLERK:

DANN HANEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 03-27-09

PRESENT

J. MILLER

DPA: KING COUNTY, PROSECUTING ATTY

ATD: HUFFMAN, CAREY L

2064473900

PRESENT

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH AMY ANDREWS

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO _____
GRANTED / DENIED ORDER SIGNED

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE _____

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

NOT RECORDED

AUDIO TAPE: DR E-1201 or START TIME: 1053/6 END TIME: _____

VIDEO TAPE: _____ START TIME: _____ END TIME: _____

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY (MTHRG)

MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (TCNTU or MTHRG)

TRIAL DATE CONTINUED TO: _____ EXPIRATION DATE TO: _____

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). _____ ORDER IS
SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED. (TSTKIC)

ORDER IS SIGNED

FILED

2009 MAR 18 PM 3:20

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Silvestre Vazquez-Vazquez

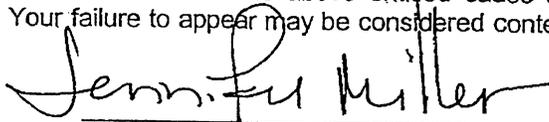
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9459**

Paralegal: Rashelle Tidwell:
rashelle.tidwell@kingcounty.gov
Deputy Prosecutor: Jennifer Miller

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 23rd day of March, 2009, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: March 18, 2009



Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

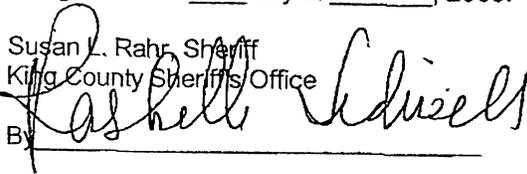
I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 18th day of March, 2009.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office

By _____



FILED

2009 MAR 18 PM 3:20

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)

) Plaintiff,)

vs.)

JUAN ERAS-DUQUE)

Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Juan A. Hernandez-Aguilar

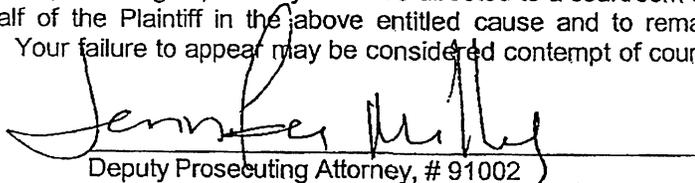
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9459**

Paralegal: Rashelle Tidwell:
rashelle.tidwell@kingcounty.gov
Deputy Prosecutor: Jennifer Miller

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 23rd day of March, 2009, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: March 18, 2009



Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

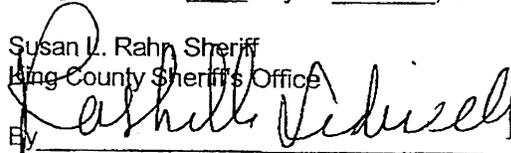
SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with vic man) in King County, Washington on the 18th day of March, 2009.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahn, Sheriff
King County Sheriff's Office



FILED

2009 MAR 18 PM 3:20

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON

Plaintiff,

vs.

JUAN ERAS-DUQUE

Defendant.

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:

Beatriz Rivera

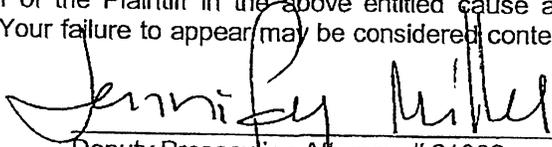
**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9459**

Paralegal: Rashelle Tidwell:
rashelle.tidwell@kingcounty.gov
Deputy Prosecutor: Jennifer Miller

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 23rd day of March, 2009, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: March 18, 2009



Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 18 day of March, 2009.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Raff, Sheriff
King County Sheriff's Office

By Rashelle Tidwell

FILED

2009 MAR 18 PM 3: 20

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON)
)
) Plaintiff,)
 vs.)
 JUAN ERAS-DUQUE)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO:
Maria del Rosario Armenta

**NOTICE: Upon Receipt of this
Subpoena, Immediately Call
206-296-9459**

Paralegal: Rashelle Tidwell:
rashelle.tidwell@kingcounty.gov
Deputy Prosecutor: Jennifer Miller

Police #: 08-5419
Crime Lab #:
Tox. Lab #:
MEDICAL
Patient:
Patient #:
Treatment Date:

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 23rd day of March, 2009, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

Dated: March 18, 2009

Jennifer Miller
Deputy Prosecuting Attorney, # 91002
Attorney(s) for the Plaintiff, State of Washington
W554, King County Courthouse, 516 3rd Avenue
Seattle, Washington 98104

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via mail) in King County, Washington on the 18th day of March 2009.

SHERIFF'S FEE:
Service \$ _____
Travel \$ _____
Total \$ _____

Susan L. Rahr, Sheriff
King County Sheriff's Office
Rashelle Tidwell

MAR 23 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)
Plaintiff,)
v.)
JUAN ERAS-DUQUE)
Defendant.)
CCN)

NO. 08 C040549 SEA
ORDER CONTINUING TRIAL
(ORCTD)
(Clerk's Action Required)

This matter came before the court for consideration of a motion for continuance brought by plaintiff defendant the court. It is hereby

ORDERED that the trial, currently set for 3/23/09 is continued to APRIL 15 09 upon agreement of the parties [CrR 3.3(f)(1)] or required in the administration of justice [CrR 3.3(f)(2)] for the following reason:

plaintiff's counsel in trial; defense counsel in trial; other: state material witness

not available March 27-April 18 '09, state needs to facilitate 7 (seven) interviews per defense request made last week.

It is further ORDERED:

Omnibus hearing date is Completed
 Expiration date is MAY 15 '09

DONE IN OPEN COURT this 23 day of MARCH, 2009.

Sharon A. Aumtong
JUDGE

Approved for entry:

[Signature]
Deputy Prosecuting Attorney WSB# No. 31100

[Signature]
Attorney for Defendant WSB# No. 39152

I agree to the continuance:

* Defendant [signature required only for agreed continuance]

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Interpreter
Trial Continuance
(Effective 1 September 2003)

ORIGINAL

with regard to witness (location)

(w/ regard to interviews over defendant's objection)

MAR 23 2009

CRIMINAL PRESIDING

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IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

JUAN ERAS-DUQUE

Defendant.

Case No. 08 1 040549 SEA

ORDER GRANTING DEF'S
MOTION TO DISCHARGE
COUNSEL

Plaintiff Defendant moves the court for an order TO DISCHARGE
COUNSEL

; now, therefore, it is hereby

ORDERED MOTION IS GRANTED. THE
OFFICE OF PUBLIC DEFENSE SHALL APPOINT
NEW COUNSEL TO REPRESENT THIS DEF ON THIS
CAUSE. CONFIRMATION OF NEW COUNSEL SET
FOR 8:30 AM ON 3-26-09

DATED this 23 day of MARCH, 2009.

Sharon S. Armstrong
SHARON S. ARMSTRONG,
JUDGE

ORIGINAL

SCOMIS CODE MTHRG / TCNTU HCNTU

JUDGE SHARON ARMSTRONG
BAILIFF MALIA ROTH
CLERK LYNN HARKEY
Digital Recording DR E1201

DEPT 29
DATE: 03/23/09

Start: 13004 PAGE 1 OF 1

KING COUNTY CAUSE NO: 08 104054 9 SEA

STATE OF WASHINGTON VS JUAN ERAS BUDUE

Appearances:

DPA JENNIFER MILLER present

Defendant (/) present () not present with counsel CAROL HUFFMAN

Interpreter AMMY ANDREWS present

MINUTE ENTRY

Defendants motion to reduce bond. Denied. Granted, bond set at _____

On: Basic CCAP Enhanced CCAP EHD Basic EHD Enhanced WER

States / Defendants motion to continue trial date. Denied / Granted.

Omnibus date: _____ Trial date 4-15-09 Expiration date: 5-15-09

DEF'S MOTION TO REDACT DEF'S LETTER TO THE COURT
 GRANTED.

DEF'S MOTION TO DISCHARGE - GRANTED... ORDER SIGNED

(THE COURT AND DEFENSE COUNSEL CONFERRED IN CAMERA -

PRIOR TO THIS HEARING THE COURT WILL REQUIRE DEF ATTORNEY

TO PREPARE AN AFFIDAVIT WHICH SHALL BE FILED UNDER SEAL
Order is signed.

Rev 2/22/08

CONFIRMATION OF NEW COURSE SET FOR 3-26-09 AT 8:30AM
IN E1201

ORIGINAL COURT MINUTES

PAGE #: 8

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE: 03/23/2009

JUDGE: SHARON S. ARMSTRONG

COURT CLERK: LYNN HARKEY
COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 03-27-09

DPA: KING COUNTY, PROSECUTING ATT

ATD: HUFFMAN, CAREY L

2064473900

EMTD

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

MOTION JUDGE #: HON. 000

AFFIDAVIT:

ACTION:

HOLD TO _____

3-24-09

5-DAY EXTENSION TO _____

CONT - CONTINUED TO _____

60/90 WAIVER TO _____

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE:

3-24-09

JUDGE:

SHARON S. ARMSTRONG

COURT CLERK:

LYNN HARKEY

COURT REPORTER

ENT'D.

CASE NO:

SEA

DEFENDANT:

TRUE NAME:

CCN:

EXP:

EPAS
DUMQUEI
JUAN

081040549

DPA:

ATD:

CO-DEFENDANTS:

CHARGE:

ARR DATE:

LOC:

INT:

ORIGINAL TRIAL DATE:

TRIAL LENGTH:

TRIAL SET EXP:

MOTION JUDGE #:

AFFIDAVIT:

ACTION:

HOLD TO _____

5-DAY EXTENSION TO _____

CONT - CONTINUED TO 4-15-09

60/90 WAIVER TO 5-15-09

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED

MAR 26 2009

CRIMINAL PRESIDING

IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

Juan Eras-Duque

Defendant.

Case No. 08-C-04054-9 SEA

ORDER releasing sealed documents
to new counsel

Plaintiff Defendant moves the court for an order releasing sealed court
documents in the above-captioned case to newly appointed counsel, Deborah
Wilson, paralegal Risa Collins; now, therefore, it is hereby

ORDERED The following sealed documents shall be released to
Deborah Wilson and Risa Collins: #42: Order for Expert Services; #43:
Declaration of Defense Attorney; #45: Order for Expert Services; #46:
Declaration of Defense Attorney; #53: letter; #55: Medical Report.

DATED this 26 day of MARCH, 2009.



SHARON S. ARMSTRONG,
JUDGE

King County Superior Court
King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9113

SCOMIS CODE MTHRG / TCNTU HCNTU

JUDGE PALMER ROBINSON
BAILIFF CHERYL CUNNINGHAM
CLERK LYNN HARKEY
Digital Recording DR E1201 Start:

DEPT 41
DATE: 03/26/09

PAGE 1 OF 1

KING COUNTY CAUSE NO: 08-1-04054-9 SEA

STATE OF WASHINGTON VS Juan Eras Duque

Appearances:

DPA Jennifer Miller present

Defendant present () not present with counsel Deborah Wilson

Interpreter Amy Andrew S present (NEW)

MINUTE ENTRY

Defendants motion to reduce bond. Denied. Granted, bond set at _____

On: Basic CCAP Enhanced CCAP EHD Basic EHD Enhanced WER

States / Defendants motion to continue trial date. ~~Denied~~ / Granted.

Omnibus date: 5/8/09 Trial date 5/28/09 Expiration date: 6/27/09

Court confirms new Counsel

Order is signed.

FILED
KING COUNTY, WASHINGTON

MAR 26 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

Juan Eras-Maque

Defendant.

CCN

NO. 031040549 SEA
ORDER CONTINUING TRIAL
(ORCTD)
(Clerk's Action Required)

This matter came before the court for consideration of a motion for continuance brought by
 plaintiff defendant the court. It is hereby
ORDERED that the trial, currently set for 4/15/09 is continued to
May 28 '09 *upon agreement of the parties [CrR 3.3(f)(1)] or required in the
administration of justice [CrR 3.3(f)(2)] for the following reason:

plaintiff's counsel in trial; defense counsel in trial; other: new defense
Counsel

It is further ORDERED:

Omnibus hearing date is May 8 09
 Expiration date is June 27 09

DONE IN OPEN COURT this 26 day of March, 2009

[Signature]
JUDGE

Approved for entry:

[Signature] 311000
Deputy Prosecuting Attorney WSBA No.

Deborah Wilson
Attorney for Defendant WSBA No. 34013

I agree to the continuance:

* Defendant [signature required only for agreed continuance]
[Signature]

I am fluent in the Spanish language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

[Signature] King County, Washington
Interpreter

Trial Continuance
(Effective 1 September 2003)

MAR 26 2009

CRIMINAL PRESIDING

IN THE SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

JUAN ERAS-DUQUE

Defendant.

Case No. 081040549 SEA

ORDER re: New Counsel
Appointment

Plaintiff Defendant moves the court for an order appointing new
counsel Deb Wilson to the case

; now, therefore, it is hereby
ORDERED that Deb Wilson (ACA) is substituted
new attorney on this case for the defendant as
his prior motion to fire prior Counsel Carey
Hoffman was granted)

DATED this 26 day of March, 2009


SHARON S. ARMSTRONG,
JUDGE PALMER ROBINSON



King County Superior Court
King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9113

FILED

09 MAR 30 PM 12:37

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON.
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,)
)
Plaintiff,)
)
vs.)
)
Juan Eras-Duque)
)
Defendant.)
)

No. 08-C-04054-9 SEA

NOTICE OF APPEARANCE
REQUEST FOR DISCOVERY
DEMAND FOR SPEEDY TRIAL
DEMAND FOR JOINDER

COMES NOW, the Associated Counsel for the Accused and hereby appears on behalf of the above named Defendant in this cause.

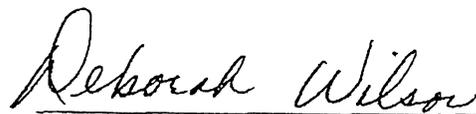
FURTHER, the below named attorney on behalf of the defendant hereby demands that the Prosecuting Attorney provide all material and information mandated by CrR 4.7, including, but not limited to the names, addresses, and phone numbers of all potential witnesses, together with a copy of the arresting officer's notes and all other statements and summaries of expected testimony of witnesses and furnish copies of, or access to, any physical evidence which either now or before trial, shall be within his or her knowledge, possession or ability to access, and which may be relevant to these charges.

FURTHER, the below named attorney requests the Prosecuting Attorney to furnish a Bill of Particulars, and to name the precise statute and subsection under which the Defendant is charged or liable to punishment.

FURTHER, the Defendant demands a speedy trial as prescribed by CrR 3.3 and moves for Joinder of Offenses related to those charged in this cause pursuant to CrR 4.3.

FURTHER, the Defendant demands that the State produce all expert witnesses at trial pursuant to CrR 6.13(b)(3)(iii).

Respectfully submitted on: 3/23/2009

 By: CBK
Deborah L. Wilson WSBA # - 34013
Attorney at Law

Associated Counsel of the Accused
110 Prefontaine Place S., Suite 200, Seattle, WA 98104
(206) 624-8105 TDD (206) 749-4054
FAX (206) 624-9339

THE HONORABLE SHARON S. ARMSTRONG

FILED
KING COUNTY, WASHINGTON

APR 08 2009

CRIMINAL PRESIDING

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON

Plaintiff,

v.

JUAN ERAS-DUQUE

Defendant.

08-C-04054-9 SEA

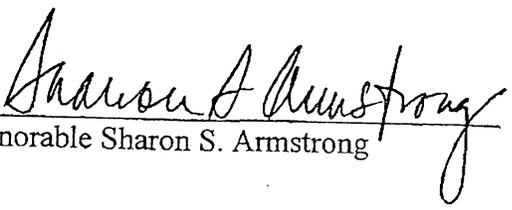
ORDER TO FILE

CLERK'S ACTION REQUIRED

IT IS HEREBY ORDERED that the attached document shall be added to the court file.

Defense counsel's request to seal portions of this document is DENIED.

DATED this 8th DAY OF APRIL, 2009.


Honorable Sharon S. Armstrong

ORIGINAL



YOUR HONOR,

MARCH 23, 2009

I AM PERSONALLY READY TO GO TO TRIAL TODAY. I HAVE BEEN READY & HAVE WANTED TO GO TO TRIAL SINCE I WAS ARRESTED MAY 3, 2008. MY ATTORNEY MR. HUFFMAN HAS NOT SUBPOENAED ANY WITNESS FOR MY TRIAL. ESPECIALLY A MR. SANTOS CASTILLO WHO IS IN MONROE PRISON & IS CONVICTED OF THIS CRIME. I AM CHARGED WITH. WE HAD AN OMNIBUS HEARING ON MARCH 13, 2009 AND MR. HUFFMAN SAID HE WAS READY TO GO TO TRIAL. SINCE THAT DATE HE WAITED TILL THURSDAY MARCH 19, 2009 TO VISIT ME FOR TRIAL PREPARATION. HE HAS NOT DONE ANY PREPARATION FOR MY TRIAL. HE HAS NOT EVEN TALKED TO ME ABOUT HOW WE WILL PROCEED. HE HAS NOT INTERVIEWED ANY WITNESSES AT ALL.

MR. HUFFMAN HAS ONLY PRESSED ME TO TAKE A DEAL THE FEW TIMES WE HAVE MET OVER THE LAST 10½ MONTHS. I HAVE ASKED TO BE BROUGHT TO TRIAL OVER & OVER AGAIN. I HAVE NOT SIGNED ANY WAIVERS OR OTHER PAPERS SINCE AUGUST 15, 2008 WITH AN EXPIRATION OF OCTOBER 15, 2008. MR. HUFFMAN, AT MY PROTEST, HAS SOME-HOW KEPT DELAYING MY TRIAL EVEN WHEN A PREVIOUS JUDGE ORDERED ON NOV 7th THAT HE WOULD GRANT HIS LAST CONTINUANCE TILL DEC. 5th. I SOME-HOW WAS CHANGED TO YAL WHEN I CAME BEFORE YOU ON DEC. 12th 2008. THE DELAYS HAVE CONTINUED TILL NOW. MR. HUFFMAN HAS NOT BEEN HONEST WITH ME AND HAS NOT LISTENED TO ME AT ALL.

HE WANTS ME TO TAKE A DEAL FOR A CRIME I DID NOT DO AND WAS KEPT ME IN JAIL FOR 11 MONTHS BY HIS INEFFECTUAL REPRESENTATION OF ME.

I STRONGLY FEEL MR. HUFFMAN AND THE PROSECUTION HAVE DENIED ME DUE PROCESS OF LAW AND HAVE ILLEGALLY INCARCERATED ME, WITHOUT BRING ME TO TRIAL. PLEASE HELP ME.

I RESPECTIVELY REQUEST THAT YOUR HONOR ORDER THAT THESE CHARGES BE DROPPED AND I BE RELEASED FROM JAIL.

SOME NOTES ABOUT THIS FALSE ALLEGATION:

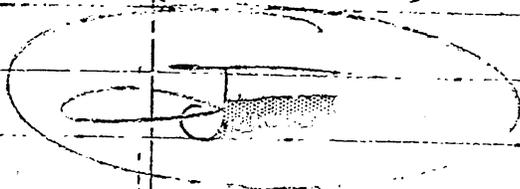
- ① THE STORE OWNERS/WORKERS WILL SAY I DID NOT DO THIS ROBBERY.
- ② SANTOS CASTILLO WILL SAY I KNEW NOTHING OF HIS PLANS TO ROB THE STORE. HE HAS PLED GUILTY TO THIS CRIME AND IS IN PRISON FOR IT.
- ③ MY MISTAKE WAS DOING A FAVOR FOR MY SISTERS RENTER AND GOING WITH HIM TO SHOW HIM THE MEXICAN STORE I HAVE SHOPPED AT FOR OVER 10 YEARS.
- ④ I WALKED INTO THE STORE WITH OVER \$600.00 OF MY OWN MONEY AND SAID "HOLA" TO THE STAFF WORKING THAT DAY.
- ⑤ AFTER SANTOS CASTILLO ROBBED THEM I LEFT THE STORE AWAY FROM THE CAR + TRIED TO CONTACT 911 ON MY CELL PHONE BUT THE BATTERY DIED.

⑥ DOES IT SEEM SLIGHTLY PLAUSIBLE THAT A
STABLE FAMILY MAN WORKING 2 GOOD JOBS,
WHO HAS LIVED IN WASHINGTON FOR 23 YEARS,
WHO HAD OVER \$600.00 IN HIS POCKET,
WHO WAS ON HIS WAY TO SING AT A WEDDING,
WOULD WALK INTO A STORE HE HAS SHOPPED
AT FOR OVER 10 YEARS & SAY "HOLA" AND THEN
ROB THEM!

MR. HUFFMAN HAS TOLD ME THE SAME THING EACH
TIME WE MEET "MR. DUQUE YOU MUST TAKE A PLEA
BARGAIN BECAUSE IF YOU GO TO TRIAL YOU WILL LOSE
& BE PUT IN PRISON FOR LIFE!"

PLEASE HELP ME YOUR HONOR. THESE 11 MONTHS
AWAY FROM MY SON & FAMILY HAS BEEN SO HARD &
A TRAVESTY OF JUSTICE.

SINCERELY,



JUAN ERAS-DUQUE

FILED
KING COUNTY, WASHINGTON

MAY 08 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

STATE OF WASHINGTON Plaintiff,

vs.

Juan Eras-Duque
Defendant.

NO. 08-C-04054-9 SEA

STIPULATED ORDER TO CONTINUE
OMNIBUS HEARING
(ORCOME)

INT'D.

The parties having stipulated that the omnibus hearing be continued to May 15, 2009.

IT IS HEREBY ORDERED that the omnibus hearing is continued to May 15, 2009.
(Trial date remains 5/28/09)

DATED: May 8 '09

Shawn A. Armstrong
JUDGE

[Signature]
Deputy Prosecuting Attorney 31600

Debrah Wilson
Attorney for the Defendant 34013

Stipulated Order to Continue Omnibus Hearing
9/6/06

ORIGINAL COURT MINUTES

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 05/08/2009

9:12 A.M.

JUDGE: 92

SHARON S. ARMSTRONG

BAILIFF:

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 06-27-09

PRESENT

DPA: KING COUNTY, PROSECUTING ATTY

ATD: WILSON, DEBORAH LYNN

2066248105

J Miller

ENTD.

PRESENT

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

GUSIANA STATER SAWLEY

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

MOTION TO CONTINUE OMNIBUS HEARING TO

GRANTED / DENIED ORDER SIGNED

5-15-09

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

NOT RECORDED

AUDIO TAPE: DR E-1201 or

START TIME:

92914

END TIME:

VIDEO TAPE:

START TIME:

END TIME:

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY (MTHRG)

MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (TCNTU or MTHRG)

TRIAL DATE CONTINUED TO: EXPIRATION DATE TO:

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG). ORDER IS
SIGNED.

ORDER STRIKING TRIAL DATE IS SIGNED. (TSTKIC)

ORDER IS SIGNED

FILED
KING COUNTY, WASHINGTON

MAY 15 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,)	
Plaintiff,	)	NO. 08C040549 SEA
v.	)	ORDER CONTINUING TRIAL
<u>ERAS-DUQUE, JUAN</u>	)	(ORCTD)
Defendant.	)	(Clerk's Action Required)
CCN)	

This matter came before the court for consideration of a motion for continuance brought by plaintiff defendant the court. It is hereby

ORDERED that the trial, currently set for 5/28/09 is continued to 6/4/09. Upon agreement of the parties [CrR 3.3(f)(1)] or required in the administration of justice [CrR 3.3(f)(2)] for the following reason:

plaintiff's counsel in trial; defense counsel in trial; other: WITNESS TRANSPORT
(for defense case)

It is further ORDERED:

Omnibus hearing date is May 29 '09
 Expiration date is 7/4/09

DONE IN OPEN COURT this 15 day of May, 2009

Sharon A. Cunningham
JUDGE

Approved for entry:

[Signature]
Deputy Prosecuting Attorney WSBA No. 316002

[Signature]
Attorney for Defendant WSBA No. 28821

I agree to the continuance:

[Signature]
* Defendant [signature required only for agreed continuance]

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Interpreter
Trial Continuance
(Effective 1 September 2003)

ORIGINAL

FILED
KING COUNTY, WASHINGTON

MAY 15 2009

CERTIFIED COPY TO COUNTY JAIL MAY 18 2009

CRIMINAL PRESIDING

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

State of Washington,

Plaintiff,

v.

ERAS-DUQUE, JUAN

Defendant.

No. 08-C-04054-9 SEA

ORDER ON CRIMINAL MOTION

RE: TRANSPORT OF WITNESS
FROM DOC

CLERK'S ACTION REQUIRED

The above-entitled Court, having heard a motion BY THE DEFENSE TO
ORDER THE WASHINGTON STATE DEPARTMENT OF CORRECTIONS
TO TRANSPORT SANTOS P. CASTILLO TO THE KING COUNTY JAIL.

IT IS HEREBY ORDERED: THAT THE WASHINGTON STATE DEPARTMENT
OF CORRECTIONS TRANSPORT SANTOS P. CASTILLO, DOC
320887, CURRENTLY WORKS AT McNEIL ISLAND, TO THE
KING COUNTY JAIL FOR TESTIMONY IN THIS CASE. MR. CASTILLO
IS TO BE TRANSPORTED NOT LATER THAN 5/29/09

Date: 5/15/09

Judge

Sharon A. Armstrong

Deputy Prosecuting Attorney 31600

Attorney for Defendant 28821

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 05/15/2009

8:07 A.M.

JUDGE: SHARON S. ARMSTRONG

BAILIFF:

COURT CLERK: LeAnne Symonds

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 06-27-09

Jennifer Miller

DPA: ~~KING COUNTY, PROSECUTING ATTY~~

ATD: ~~WILSON, DEBORAH LYNN~~

2066248105

Kevin McCabe

ENTD.

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH - Dierdre Morano

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

✓ MOTION TO CONTINUE OMNIBUS HEARING TO 6-4-09
(GRANTED) DENIED ORDER SIGNED

MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

PLEA - SENT TO JUDGE _____

DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

Not Recorded

AUDIO TAPE: DR E-1201 or

Start Time: 91500

End Time: _____

VIDEO TAPE: _____

Start Time: _____

End Time: _____

DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY (MTHRG)

✓ MOTION TO CONTINUE TRIAL DATE (GRANTED) DENIED (TCNTU or MTHRG)

TRIAL DATE CONTINUED TO: 6-4-09 EXPIRATION DATE TO: 7-4-09

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG) _____ ORDER IS SIGNED.

✓ ORDER STRIKING TRIAL DATE IS SIGNED. (TSTKIC)

✓ ORDER IS SIGNED

1 On September 19, 2008 Mr. Huffman finally interviewed Mr. Castillo at
2 the Washington Correction Center in Shelton, Washington. Also present was Deb
3 Scott, an investigator. This date was four (4) months and sixteen (16) days
4 after his arrest, during which period Mr. Duque was in custody. The full
5 transcript of this interview and a follow-up interview on September 26, 2008
6 are available to the Court from Mr. Duque's current Public Defender.

7 It is clear throughout the interview that Mr. Castillo and his friend
8 Miguel did have Mr. Duque show them to the store. Also clear was that at no
9 time did either of them let Mr. Duque know what they were about to do. The
10 questioning of Mr. Castillo was redundant and intense in trying to make sure
11 of the facts. The clear facts were that Mr. Duque was not knowledgeable of
12 Mr. Castillo and Miguel's intentions and did not participate in the robbery.
13 He was a victim.

14 Mr. Huffman eventually told Mr. Duque that he had interviewed Mr.
15 Castillo. He did not show Mr. Duque the transcript of this interview or
16 provide it to him during his approximately five (5) remaining months of
17 representation. Mr. Huffman told Mr. Duque that the results of this interview
18 were not good enough and that Mr. Duque should take a Plea Bargain. Contrary
19 to Mr. Huffman's assertion, a simple reading of the interviews show clearly
20 that Mr. Duque was unaware and not involved in this crime.

21 Mr. Huffman never had the two cashiers interviewed. Mr. Duque was
22 finally tired of the delays. He had been requesting to be brought to trial
23 this whole time and had signed the last SC Form 6 he was going to sign on
24 August 15, 2008, which was set to expire October 15, 2008.

1 This date passed without any communication from Mr. Huffman. On
2 November 7, 2008, Mr. Duque was brought to court with no idea of what was
3 going on. Mr. Huffman, without Mr. Duque's permission, asked the Court to
4 order Mr. Duque to be evaluated for competency at Western State Hospital,
5 hereafter referred to as W.S.H. The Judge went on to say that this would be
6 the last continuance she would allow and set it over until December 5, 2008.

7 Why Mr. Huffman chose this delay tactic with an obviously stable person
8 as Mr. Duque was a mystery to him. Mr. Duque was sent to W.S.H. on November
9 14, 2008 until November 26, 2008 and cooperated in the evaluation at all
10 times. Afterwards, he never heard from Mr. Huffman or was shown any results
11 of his testing.

12 December 5, 2008 passed without any communication from Mr. Huffman. On
13 December 12, 2008 Mr. Duque was brought to court again and faced a new Judge.
14 This Judge, without the full history of the previous delays, granted Mr.
15 Huffman another continuance until January 20, 2009 to have another specialist
16 interview Mr. Duque, ostensibly to double-check the competency evaluation
17 from W.S.H. Mr. Huffman did not consult with Mr. Duque prior to making this
18 request or even explain what he was doing.

19 On January 20, 2009 Mr. Duque was brought to court but Mr. Huffman had
20 not yet scheduled the interview with the second specialist and things were
21 continued until January 26, 2009.

22 Mr. Duque was briefly interviewed later that week by a man who spoke
23 Spanish and asked him two or three questions. Mr. Duque was unaware of the
24 role of this man, but when this man became angry and told Mr. Duque he must
25 take a Plea Bargain and plead Guilty, Mr. Duque asked him if he was the

1 investigator. He said "No, I am a doctor." They talked a few more minutes
2 about the trial/process and Mr. Duque asserted that he wanted to go to trial,
3 that his mind was fine. Mr. Duque asserted that this was all too late and he
4 would not sign the man's form.

5 On January 26, 2009 in Court the case was Set for Trial on March 25,
6 2009 with Omnibus on March 13, 2009. In the interim, Mr. Huffman did not
7 contact Mr. Duque or plan his defense. On March 13, 2009 at the Omnibus
8 hearing, Mr. Huffman told the Court he was ready to proceed to trial. Mr.
9 Duque asked him again if he was bringing Mr. Castillo to court to testify as
10 he had requested. Mr. Huffman said he would have Mr. Castillo subpoenaed.

11 Mr. Duque called Mr. Huffman several times over the next week to
12 prepare for trial with no response. Finally, on March 19, Mr. Huffman came to
13 visit Mr. Duque. Mr. Huffman admitted that he had not interviewed any of Mr.
14 Duque's witnesses, the Prosecutor's witnesses, or subpoenaed Mr. Castillo.
15 Mr. Duque was beside himself with concern for his life and freedom.

16 Mr. Duque wrote a letter to Your Honor and asked for a new Attorney.
17 You read this letter, with much of this information in it, on his Trial date
18 of March 23, 2009. You allowed him to terminate Mr. Huffman's services. A
19 week later, on March 27, 2009 Your Honor appointed Deborah Wilson of the
20 Associated Council for the Accused as his new Counsel. Ms. Wilson and her
21 investigator went right to work. They called the three (3) alleged victims
22 and Ms. Wilson relayed to Mr. Duque that none of them said he was involved in
23 the robbery. Ms. Wilson said things looked good for Mr. Duque. She had set up
24 depositions for these three witnesses with the Prosecutor present for April
25

1 30, 2009 and May 1, 2009. Ms. Wilson also sent Mr. Duque a Redacted copy of
2 the Discovery Materials, which he received on May 6, 2009.

3 Mr. Duque came to the Ominbus hearing two days later on May 8, 2009
4 with a full write-up on his response to the Discovery Materials to give to
5 Ms. Wilson. However, Ms. Wilson informed Mr. Duque that she was moving to
6 another section of her company and was not going to represent him any longer.
7 She stated that another attorney from the firm would be appointed to him in
8 court a week from that date, on May 15, 2009.

9 That date, May 15, 2009 is less than two (2) weeks from his May 28,
10 2009 trial date. More delays are not an option that Mr. Duque wants to
11 consider. Up to this date, May 15, 2009, Mr. Duque has been incarcerated for
12 one (1) year and twelve (12) days, a total of three hundred seventy eight
13 (378) days without being brought to trial.

14 **ARGUMENTS**

15 The Sixth Amendment to the Constitution of the United States of America
16 contains five principals that affect the rights of the Defendant in a
17 Criminal Prosecution: (1) the right to a speedy and public trial; (2) the
18 right to an impartial jury; (3) the right to be informed of the charges; (4)
19 the right to confront and call witnesses; and (5) the right to an attorney.

20 Primarily we will focus on the violation of Mr. Duque's Sixth Amendment
21 rights regarding a speedy and public trial. We assert the Sixth Amendment is
22 applicable to the State through the Due Process Clause of the Fourteenth
23 Amendment, see *IN Re Oliver*, 333 U.S. 257, 273-74 (1948).

24 Every defendant has the right to a speedy trial. The Supreme Court has
25 a four (4) part test to determine whether a defendant's right to a speedy

1 trial has been violated. The factors to be considered are: (1) the length of
2 the delay; (2) the reasons for the delay; (3) whether the defendant has
3 asserted the right; and (4) the prejudice to the defendant because of the
4 delay.

5 The Supreme Court has ruled that the only proper remedy if a
6 defendant's right to a speedy trial has been violated is the outright
7 dismissal of charges.

8 LENGTH OF THE DELAY. The fact is that as of May 15, 2009 Mr. Duque has
9 been held in custody for 378 days. If his trial is continued again he will
10 likely have to add another sixty (60) days at minimum to this time without
11 trial. This is an unconscionable period of time, especially for a person
12 deprived of his freedom in custody with a high bail set. This provision of
13 the Sixth Amendment is an important safeguard to prevent undue and oppressive
14 incarceration prior to trial. There is little doubt that the delay had been
15 long and this opens a need to inquire as to the circumstances of the delay.

16 REASONS FOR DELAY. In this case we have a number of elements that put
17 together have contributed to this undue delay. First was the slow-acting and
18 ineffectual work of Mr. Huffman. This was coupled with his feeling that he
19 knew what was best for Mr. Duque and that he could ignore Mr. Duque's pleas
20 for going to trial. Against Mr. Duque's direction, he pursued a course of
21 stalling and delay that an out of custody client might request. He kept his
22 client in the dark and would not take the time to fully investigate his
23 client's case. Mr. Duque wrote to the Office of Complaint of the Public
24 Defenders' Office two times and detailed his complaints against Mr. ~~Duque~~ ^{HUFFMAN.}
25 Both times, their response was to send Mr. Huffman's supervisor to visit Mr.

1 Duque and pressure him to take a Plea Bargain. Conversely, Ms. Wilson, Mr.
2 Duque's new attorney in a few weeks had a grasp of the case through using an
3 investigator that pointed to Mr. Duque's innocence.

4 Unfortunately Ms. Wilson, through perhaps no fault of her own, is now
5 contributing to the delays by dropping her representation of Mr. Duque.

6 The Prosecutor has almost totally abandoned the duty to bring the
7 Defendant to trial. There has not been any objection to halt Mr. Huffman's
8 needless delays and lack of keeping schedules. The aforementioned facts show
9 a lax effort on the Prosecutor's part to bring this case to trial in the face
10 of the Defendant's requests in Court.

11 The first Judge allowed seven (7) and one half (0.5) months of delays
12 but did order that there would not be any more after December 5, 2008. This
13 date was over seven (7) weeks after the last expiration date of Mr. Duque's
14 last reluctantly signed continuance. Subsequently, the case was reassigned to
15 another Judge and the length of the delay that had already occurred seemed to
16 be lost, without the Court realizing it. Now another five (5) and one half
17 (0.5) months have gone by without guidance from the Bench. The Expiration
18 date was October 15, 2008 and Mr. Duque has been having his objections to
19 further delays noted on forms continuing the case.

20 WHETHER THE DEFENDANT HAS ASSERTED THE RIGHT. Mr. Duque has clearly
21 asserted his right to a speedy trial. He has vocalized this to his attorney
22 Mr. Huffman from the beginning each time Mr. Huffman talked him into signing
23 a form to continue the case. On August 15, 2008 after a heated debate, Mr.
24 Duque signed the continuance form but told Mr. Huffman that it would be the
25

1 last time he signed anything to delay his trial. Mr. Duque has held true to
2 this promise and has asked for the soonest trial each time he could.

3 Upon Ms. Wilson's appointment as new Council, Mr. Duque made it clear
4 that he wanted to go to trial with no more delays.

5 As noted above, Mr. Duque has both in court verbally and in writing
6 asserted his claim to a speedy trial his attorney, the Prosecutor, and the
7 Bench. Mr. Duque sent letters to the Office of Complaints of the Public
8 Defenders' Office, the Bench, and Mexican Counsel, and President Obama
9 stating his problem of not being sent to trial.

10 THE PREJUDICE TO THE DEFENDANT BECAUSE OF THE DELAY. One of the main
11 reasons to limit the long delay to go to trial is that you may impair the
12 ability of the accused to defend himself. The passage of time alone may lead
13 to the loss of witnesses through death or other circumstances.

14 This has happened to Mr. Duque. One of his key witnesses, Mr. Castillo,
15 cooperated with Mr. Huffman in an interview in August 2008, but has refused
16 to speak with Ms. Wilson in April 2009. He has become afraid to talk with
17 anyone and is not coping well in prison.

18 Mr. Duque has the distinct sense that the passage of time is now
19 influencing the willingness of all parties to look at his case for what it
20 is; that is, a case of mistaken identity. All parties have contributed to his
21 situation and he feels they want him to plead guilty or be convicted of
22 something to cover this over.

23 The facts are: Mr. Castillo says that Mr. Duque did not participate in
24 the crime; the two cashiers say Mr. Duque did not do it; the customer says he
25 did not see Mr. Duque rob him or anyone. The Police in Issaquah did not know

1 of Miguel, the second man who participated in the robbery. Their reports
2 clearly show that they did not know of Miguel's involvement and assigned his
3 actions to Mr. Duque.

4 If this case was 30 to 60 days^v old^{it} would be dropped on these facts
5 alone. Now there is no movement in this direction. Mr. Duque has been
6 irreparably harmed by the passing of time in this regard.

7 Therefore, we assert that Mr. Duque's Sixth Amendment Rights have been
8 violated. His case passes the four part test set forth by the Supreme Court.

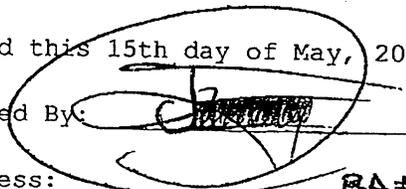
9 The guarantee of a speedy trial is one of the most basic rights granted
10 by our Constitution. It is one of those "fundamental liberties" embodied in
11 the Bill of Rights which the Due Process clause of the Fourteenth Amendment
12 makes applicable to all states.

13 CONCLUSION

14 For the above reasons, a dismissal with prejudice of all charges
15 against the Defendant, Juan Eras-Duque, is the only appropriate remedy.

17 INCLOSURE:
18 CASE SUMMARY

Dated this 15th day of May, 2009

Signed By: 

Address:

BA# 208 017104

500 - 5th AVE

SEATTLE, WA 98104

Superior Court Case Summary

Court: King Co Superior Ct

Case Number: 08-1-04054-9

Sub	Docket Date	Docket Code	Docket Description	Misc Info
-	05-07-2008	ADM01	Case Setting Info	
	05-07-2008	NOTE ACTION	Ccn: 1854943	05-15-2009OH
		ACTION	Exp: 06-27-09	
		ACTION	Loc: 4s10la07	
		ACTION	Int: Spanish	
		ACTION	Commence Date: 08-16-08	
		ACTION	Trial Set Exp: 10-15-08	
		ACTION	Robbery 1 3cts	
	05-07-2008	\$FFA	Filing Fee Assessed	200.00
1	05-07-2008	INFO	Information	
2	05-07-2008	ORW LOCS	Order For Warrant \$100,000 Original Location - Seattle	
3	05-15-2008	NTARD	Not Of Appear And Req For Discovery	
4	05-15-2008	\$SHRTWA	Sheriff's Retrtn On Warrnt Of Arrest	15.50
5	05-21-2008	NTSCH	Notice Of Scheduling	06-02-2008
-	05-21-2008	ARRAIGN JDG0002	Initial Arraignment Judge Cheryl Carey, Dept 2	06-02-2008
	05-21-2008	AUDIO	Audio Log Dr E1201 /9:41:42	
6	05-21-2008	ORNC	No Contact Order	
7	05-21-2008	NT	Notice Re: Vienna Convention	
7A	06-02-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	06-16-2008
8	06-03-2008	ORCNT	Order Of Continuance /sched	06-16-2008
9	06-16-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	06-18-2008
10	06-18-2008	HCNTU JDG0023	Hearing Continued: Unspecified Judge Andrea A. Darvas, Dept 23	06-23-2008
10A	06-23-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	06-26-2008
11	06-24-2008	ORCNT	Order Of Continuance /sched	06-26-2008
12	06-26-2008	HCNTU JDG0041	Hearing Continued: Unspecified Judge Palmer Robinson, Dept 41	06-30-2008
12A	06-30-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	07-07-2008
13	07-02-2008	ORCNT	Order Of Continuance /sched	07-07-2008
13A	07-07-2008	HCNTU JDG0009	Hearing Continued: Unspecified Judge Jeffrey M. Ramsdell Dept 9	07-14-2008
14	07-08-2008	ORCNT	Order Of Continuance /sched	07-14-2008
15	07-14-2008	HCNTU JDG0003	Hearing Continued: Unspecified Judge Julie Spector, Dept 3	08-04-2008
16	07-15-2008	ORCNT	Order Of Continuance /sched	08-04-2008
17	08-04-2008	HCNTU	Hearing Continued: Unspecified	08-05-2008

		JDG0002	Judge Cheryl Carey, Dept 2	
18	08-05-2008	STAHRG JDG0002	Status Conference / Hearing Judge Cheryl Carey, Dept 2	09-19-2008
	08-05-2008	AUDIO	Audio Log Dr E1201/2:14:49	
19	08-05-2008	ORSTD	Order Setting Trial Date	10-01-2008
	08-05-2008	*ORSCS	Set Case Schedule	10-01-2008ST
20	08-05-2008	OMAPA	Omnibus Application Of Pros Atty	
21	09-11-2008	\$RTS	Return Of Service(law Enforce Dept)	731.00
22	09-19-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	09-26-2008
23	09-19-2008	ORCOMH	Order To Continue Omnibus Hrg	09-26-2008
24	09-26-2008	ORCTD	Ord For Continuance Of Trial Date	11-13-2008
25	09-26-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	10-31-2008
	09-26-2008	AUDIO	Audio Log Dr E1201	
26	10-16-2008	RTS	Return Of Service	
27	10-28-2008	RTS	Return Of Service	
28	10-31-2008	ORCOMH	Order To Continue Omnibus Hrg	11-07-2008
29	10-31-2008	HCNTU JDG0011	Hearing Continued: Unspecified Judge Catherine Shaffer, Dept 11	11-07-2008
30	11-07-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	12-05-2008
	11-07-2008	AUDIO	Audio Log Dr E1201	
31	11-07-2008	ORCOMH	Order To Continue Omnibus Hrg Competency Pending	12-05-2008
32	11-10-2008	OREX	Order For Exam /wsh	12-05-2008
33	11-13-2008	TCNTU JDG0031	Trial Continued: Unspecified Judge Helen L. Halpert, Dept 31	12-08-2008
34	12-01-2008	MDR	Medical Report	
35	12-05-2008	HCNTU JDG0002	Hearing Continued: Unspecified Judge Cheryl Carey, Dept 2	12-12-2008
36	12-05-2008	ORCOMH	Order To Continue Omnibus Hrg	12-12-2008
37	12-12-2008	HCNTU JDG0003	Hearing Continued: Unspecified Judge Julie Spector, Dept 3	01-20-2009
	12-12-2008	AUDIO	Audio Log Dr E1201	
38	01-20-2009	HCNTU JDG0029	Hearing Continued: Unspecified Judge Sharon S Armstrong Dept 29	
	01-20-2009	AUDIO	Audio Log Dr E1201	
39	01-28-2009	HOLD JDG0029	Hold Trial Until: Judge Sharon S Armstrong Dept 29	01-29-2009
40	01-29-2009	HOLD JDG0029	Hold Trial Until: Judge Sharon S Armstrong Dept 29	02-20-2009
40A	02-17-2009	MTHRG JDG0029	Motion Hearing Judge Sharon S Armstrong Dept 29	02-19-2009
	02-17-2009	AUDIO	Audio Log Dr E1201 /sealed Per Sub 41	
41	02-18-2009	ORSD JDG0029	Order Sealing Document Sub 42/43 Judge Sharon S Armstrong Dept 29	

42	02-18-2009	ORES	Order For Expert Services /sealed Per Sub 41	
43	02-18-2009	DCLR	Declaration Of Defense Attorney /sealed Per Sub 41	
44	02-18-2009	ORSD	Order Sealing Document Sub 45/46	
45	02-18-2009	ORES	Order For Expert Services /sealed Per Sub 44	
46	02-18-2009	DCLR	Declaration Of Defense Attorney /sealed Per Sub 44	
48	02-19-2009	ORCTD	Ord For Continuance Of Trial Date	03-23-2009
47	02-19-2009	ORDYMT	Ord Deny Mtn Discharge Counsel	
49	02-19-2009	TCNTU JDG0029	Trial Continued: Unspecified Judge Sharon S Armstrong Dept 29	03-23-2009
	02-19-2009	AUDIO	Audio Log Dr E1201	
50	02-20-2009	TCNTU JDG0029	Trial Continued: Unspecified Judge Sharon S Armstrong Dept 29	03-23-2009
51	02-20-2009	OR	Order To File Attached Document	
52	02-20-2009	ORSD	Order Sealing Document Sub 53	
53	02-20-2009	LTR	Letter /sealed Per Sub 52	
54	02-20-2009	ORSD	Order Sealing Document Sub 55	
55	02-20-2009	MDR	Medical Report /sealed Per Sub 54	
56	02-25-2009	FNFCL	Findings Of Fact&conclusions Of Law Re Competency	
	02-25-2009	RTA	Returned To Active	
57	03-13-2009	OOR	Omnibus Order	
58	03-13-2009	OMNHRG JDG0029	Omnibus Hearing Judge Sharon S Armstrong Dept 29	
	03-13-2009	AUDIO	Audio Log Dr E1201	
59	03-18-2009	RTS	Return Of Service	
60	03-23-2009	ORCTD	Ord For Continuance Of Trial Date	04-15-2009
61	03-23-2009	ORATSC	Ord Authoriz Substitution Of Counsl	
62	03-23-2009	TCNTU JDG0029	Trial Continued: Unspecified Judge Sharon S Armstrong Dept 29	04-15-2009
	03-23-2009	AUDIO	Audio Log Dr E1201	
63	03-23-2009	HOLD JDG0029	Hold Trial Until: Judge Sharon S Armstrong Dept 29	03-24-2009
64	03-24-2009	TCNTU JDG0029	Trial Continued: Unspecified Judge Sharon S Armstrong Dept 29	04-15-2009
65	03-26-2009	ORAR	Order Regarding Access To Records	
66	03-26-2009	TCNTU JDG0041	Trial Continued: Unspecified Judge Palmer Robinson, Dept 41	05-28-2009
	03-26-2009	AUDIO	Audio Log Dr E1201	
67	03-26-2009	ORCTD	Ord For Continuance Of Trial Date	05-28-2009TC
68	03-26-2009	ORATSC	Ord Authoriz Substitution Of Counsl	
69	03-30-2009	NTARD	Not Of Appear And Req For Discovery	
70	04-08-2009	AT	Attachment Filed Per Order /letter	

ERAS-DUQUE, JUAN
Custody/Facility: Seattle Correctional Facility
Total Bail Amount: Bail Denied

13

BA: 208017104
Book Date: 05/04/2008 05:00

Charges for this booking

Cause No:
Court: SEATTLE DIST COURT
RCW / ORD: 1299
Release Reason: Investigated and charged
Bail Amount: \$100,000.00
Charge: INVEST ROBBERY

Cause No:
Court:
RCW / ORD: 36.63.180
Release Reason:
Bail Amount: Bail Denied
Charge: IMM HOLD

Cause No: 08C040549
Court: KING COUNTY SUPERIOR COURT
RCW / ORD: 9A.56.200
Release Reason:
Bail Amount: \$100,000.00
Charge: ROB 1 DW OR ASLT

FILED

2009 MAY 26 PM 3:10

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

vs.

JUAN ERAS-DUQUE,

Defendant.

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO: Mr. Santos Castillo

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 4th day of June, 2009, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

NOTICE: Upon receipt of this subpoena, immediately call Rashelle Tidwell at 206-296-9459 or email at Rashelle.Tidwell@kingcounty.gov.

Dated: May 21, 2009

Jennifer Lyn Miller
Jennifer Lyn Miller, W&BA No. 31600
Attorney(s) for the Plaintiff, State of Washington
Violent Crimes Unit
W-554, King County Courthouse
516 Third Avenue
Seattle, Washington 98104-2337

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (leaving a true copy hereof at the place of his/her abode with via fax) in King County, Washington on the 20th day of May, 2009.

SHERIFF'S FEE:

Service \$ _____
Travel \$ _____
Total \$ _____

Fax Mail In-Hand E-Mail

Susan L. Rahr, Sheriff
King County Sheriff's Office
By: *Rashelle Tidwell*
Date: 5/26/09 Initials: RT

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RECEIVED
27 MAY 2009 12 23
DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY WASHINGTON

FILED
09 MAY 27 PM 2:00
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

COPY RECEIVED
MAY 27 2009
CRIMINAL DIVISION
KING COUNTY PROSECUTORS OFFICE

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

State of Washington,	)	Case No.: No. 08-C--04054-9 SEA
)	
Plaintiff,	)	MOTION TO SUPPRESS IDENTIFICATION
)	
vs.)	
)	
Eras-Duque, Juan,)	
)	
Defendant)	

MOTION

Comes now the accused, Juan Eras-Duque, and by and through his attorneys of record, the Associated Counsel for the Accused, moves this Court for an order suppressing in court and out of court identification and the fruits of the poisonous tree. This motion is supported by the Constitution of the State of Washington; article One, sections Three and Seven. This motion is also supported by Constitution of the United States; amendments Four, Five, and Fourteen.

1 detention for identification must be supported by probable cause. *In Re Armed*
2 *Robbery*, 99 Wn.2d at 112.

3 The remedy for an unconstitutional seizure is suppression of evidence.
4 *Ladson*, 138 Wn.2d at 359. This includes suppression of all evidence that
5 is fruit of the poisonous tree. *Ladson*, 138 Wn.2d at 359. The remedy is
6 mandatory in nature. *Ladson*, 138 Wn.2d at 359.

7 **Admission of the In Court or the Out of Court**
8 **Identifications of Mr. Eras-Duque Violates Due**
9 **Process.**

10 Due process of law is violated when an identification procedure is
11 unnecessarily suggestive. *Stovall v. Denno*, 388 U.S. 293, 87 S.Ct. 1967, 18
12 L.Ed.2d 1199 (1967). *Stovall*, 388 U.S. 293. The question is subject to a two-
13 part analysis. First, the Defense has the burden of establishing that the
14 procedure was unnecessarily suggestive. *Stovall*, 388 U.S. 293. Second, the
15 State has the burden of demonstrating that the procedure used does not risk
16 misidentification. *State v. Cefalo*, 396 A.2d 233 (Having utilized an unfair
17 means to establish the defendant's guilt, the State must show that the
18 defendant was not harmed by it's own transgression) (Me.1979). Similar
19 standards apply to both the admission of the original identification and any
20 subsequent in-court identification. *Neil v. Biggers*, 409 U.S. 188, 93 S.Ct
21 375, 34 L.Ed.2d 401 (1972).

22 In *Stovall*, the Court held that a one man lineup in a hospital was
23 impermissibly suggestive. *Stovall*, 388 U.S. 293. Here, without even the
24 exigency of dying victim, the police used a two man lineup to identify two
25 suspects. The persons were handcuffed and lying on the ground. It was clearly
impermissibly suggestive.

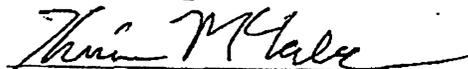
Under the totality of the circumstances, the Defense asserts that the
proper remedy in this case is the exclusion of both the initial

1 identification of Mr. Eras-Duque and any subsequent in-court identification.

2 *Manson v. Braithwaite*, 432 U.S. 98, 97 S.Ct 2243, 53 L.Ed.2d 140 (1977).

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5
6
7 Dated this th 21 day of May, 2009

8 Respectfully Presented By:

9 

10 Kevin McCabe WSBA #28821

11 The Associated Counsel

12 for the Accused

13 110 Prefontaine Pl. S,

14 Suite 200

15 Seattle, WA 98104

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25
The Associated Counsel for the Accused

-4- 110 Prefontaine Pl. S, Suite 200

Seattle, WA 98104

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RECEIVED

27 MAY 2009 12 23

DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY, WASHINGTON

FILED

09 MAY 27 PM 2:02

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

COPY RECEIVED

MAY 27 2009

CRIMINAL DIVISION
KING COUNTY PROSECUTORS OFFICE

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

State of Washington,

Plaintiff,

vs.

Eras-Duque, Juan,

Defendant

) Case No.: No. 08-C--04054-9 SEA
)
) MOTION TO SUPPRESS IDENTIFICATION
)
)
)
)
)
)

MOTION

Comes now the accused, Juan Eras-Duque, and by and through his attorneys of record, the Associated Counsel for the Accused, moves this Court for an order suppressing in court and out of court identification and the fruits of the poisonous tree. This motion is supported by the Constitution of the State of Washington; article One, sections Three and Seven. This motion is also supported by Constitution of the United States; amendments Four, Five, and Fourteen.

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Brief in Support

Statement of Facts

The Defense believes that a hearing on suppression will disclose that Mr. Eras-Duque was forced to participate in an impermissibly suggestive identification procedure. The Defense also believes that a hearing on suppression will disclose that Mr. Eras-Duque was detained for this procedure without probable cause.

Analysis

Mr. Eras-Duque's Detention For Identification
Violated U.S. Constitution, amendment 4 and
Washington Constitution, article One, section 7.

Both the Fourth Amendment to the U.S. Constitution guarantee to the people the right to be free from unreasonable searches and seizures. *In Re Armed Robbery*, 99 Wn.2d 106, 108-109; 659 P.2d 1092 (1983). Similarly, article one, section Seven of the Washington State Constitution protects persons from being disturbed in their private affairs. *In Re Armed Robbery*, 99 Wn.2d at 108-109. It is well established that article One, section Seven has broader protections than the Fourth Amendment. *State v. Ladson*, 138 Wn.2d 343, 348; 979 P.2d 833 (1999).

A warrantless seizure of the person is unreasonable *per se*. *Ladson*, 138 Wn.2d at 348. *State v. Hendrickson*, 129 Wn.2d 61, 70; 917 P.2d 563 (1996). Unless the seizure falls within one of the narrow requirements to the warrant requirement, it is unconstitutional. *In Re Armed Robbery*, 99 Wn.2d at 108. A seizure of the person occurs "Whenever a police officer accosts an individual and restrains his freedom to walk away." *In Re Armed Robbery*, 99 Wn.2d at 109. In order to fall within an exception to the warrant requirement,

1 detention for identification must be supported by probable cause. *In Re Armed*
2 *Robbery*, 99 Wn.2d at 112.

3 The remedy for an unconstitutional seizure is suppression of evidence.
4 *Ladson*, 138 Wn.2d at 359. This includes suppression of all evidence that
5 is fruit of the poisonous tree. *Ladson*, 138 Wn.2d at 359. The remedy is
6 mandatory in nature. *Ladson*, 138 Wn.2d at 359.

7 Admission of the In Court or the Out of Court
8 Identifications of Mr. Eras-Duque Violates Due
9 Process.

10 Due process of law is violated when an identification procedure is
11 unnecessarily suggestive. *Stovall v. Denno*, 388 U.S. 293, 87 S.Ct. 1967, 18
12 L.Ed.2d 1199 (1967). *Stovall*, 388 U.S. 293. The question is subject to a two-
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15 State has the burden of demonstrating that the procedure used does not risk
16 misidentification. *State v. Cefalo*, 396 A.2d 233 (Having utilized an unfair
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23 impermissibly suggestive. *Stovall*, 388 U.S. 293. Here, without even the
24 exigency of dying victim, the police used a two man lineup to identify two
25 suspects. The persons were handcuffed and lying on the ground. It was clearly
impermissibly suggestive.

Under the totality of the circumstances, the Defense asserts that the
proper remedy in this case is the exclusion of both the initial

1 identification of Mr. Eras-Duque and any subsequent in-court identification.

2 *Manson v. Braithwaite*, 432 U.S. 98, 97 S.Ct 2243, 53 L.Ed.2d 140 (1977).

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12 for the Accused
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15 Seattle, WA 98104
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25

The Associated Counsel for the Accused
110 Prefontaine Pl. S, Suite 200
Seattle, WA 98104

SEATTLE COURTHOUSE

KING COUNTY SUPERIOR COURT

OMNIBUS CALENDAR

CALENDAR DATE: 05/29/2009

12:43 A.M.

JUDGE: **PALMER ROBINSON**

BAILIFF:

COURT CLERK: **LeAnne Symonds**

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 07-04-09

J. Miller

DPA: ~~KING COUNTY, PROSECUTING ATTY~~

ATD: ~~WILSON, DEBORAH LYNN~~

2066248105

R. McCabe

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

Suzanna Stettri-Sawrey

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

OMNIBUS HEARING IS HELD. COURT ENTERS OMNIBUS ORDER.

_____ MOTION TO CONTINUE OMNIBUS HEARING TO _____
GRANTED / DENIED ORDER SIGNED

_____ MOTION FOR ISSUANCE OF BENCH WARRANT. GRANTED / DENIED
BAIL SET AT _____ ORDER SIGNED.

_____ STATE'S MOTION TO AMEND INFORMATION. GRANTED / DENIED

_____ PLEA - SENT TO JUDGE _____

_____ DEFENDANT WITHDRAWS PLEA OF NOT GUILTY AND ENTERS PLEA / ALFORD PLEA OF
GUILTY. STATEMENT OF DEFENDANT ON PLEA OF GUILTY IS EXECUTED.
SENTENCING DATE TO BE SET.

_____ Not Recorded

AUDIO TAPE: DR E-1201 or Start Time: 85100 End Time: _____

VIDEO TAPE: _____ Start Time: _____ End Time: _____

_____ DEFENDANT IS ARRAIGNED ON AMENDED INFORMATION AND ENTERS PLEA OF NOT GUILTY (MTHRG)

_____ MOTION TO CONTINUE TRIAL DATE GRANTED / DENIED (TCNPU or MTHRG)

TRIAL DATE CONTINUED TO: _____ EXPIRATION DATE TO: _____

STATE'S MOTION TO DISMISS WITH/WITHOUT PREJUDICE IS GRANTED (DSMHRG) _____ ORDER IS SIGNED.

_____ ORDER STRIKING TRIAL DATE IS SIGNED. (TSTKIC)

_____ ORDER IS SIGNED

MAY 29 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF THE STATE OF WASHINGTON COUNTY OF KING

STATE OF WASHINGTON,

vs.

JUAN ERAS-DUQUE

Plaintiff,

Defendant

NO. 081040549 SEA

ORDER ON OMNIBUS HEARING
(OOR)

Charge: ROBBERY 1°

Trial Date: 6/4/09

Expiration: 7/4/09

In Custody Out of Custody

An omnibus hearing was held on this date.

1. CrR 3.5:

No custodial statements will be offered in the state's case-in-chief, or in rebuttal. The statements of defendant will be offered in state's rebuttal case only.

The statements referred to in the state's omnibus application will be offered and:
May be admitted into evidence without a pretrial hearing, by stipulation of the parties.

A pretrial hearing shall be held.

2. CrR 3.6:

No motion to suppress evidence pursuant to CrR 3.6(a) shall be made.

Defendant will move to suppress evidence. Moving party shall comply with CrR 3.6, 8.1 and CR 6. The motion shall be heard, immediately before trial, by the trial judge.

3. CrR 4.7:

Plaintiff has provided the defense with all discovery required by CrR 4.7(a).
Defendant has provided the plaintiff with all discovery required by CrR 4.7(b).

OMNIBUS HEARING CHECKLIST

Case Name: JUAN ERAS DUAR
Case No: 081040549 SEA

Trial Date 6/4/09
Expiration Date 11.1.11

PLEA NEGOTIATIONS COMPLETED

Yes ___ No Plea Possible
Yes ___ No Sent to Plea Calendar this date

NO witnesses
Interviewed
w/over a year to
do so

DISCOVERY ISSUES ADDRESSED

Yes No ___ All documentary discovery (photos/tapes) provided
Yes No ___ Prior convictions of defendant/witness provided
Yes No ___ All medical records, expert reports, lab and test results provided
Yes ___ No All state witnesses have been interviewed and are ready for trial
Yes ___ No All defense witnesses have been interviewed and are ready for trial
Yes No ___ All remaining witnesses interviews have been scheduled for specific dates and times or will be completed by
Yes No ___ All discoverable defenses have been disclosed
Yes No ___ All discovery has been completed

2 interviews set on June
(if case not transp
by 6/3/09 parties
will require back
trial continuance)

If no: Discovery matters which need court's resolution:
* POTENTIAL TRANSFER ISSUE

TRIAL / READINESS ISSUES

Yes ___ No The information will be amended
~~Yes ___ No ___ Co-defendant(s) is/are ready for trial~~
3-4 Trial length estimate, including pre-trial motions
Yes No ___ Jury
Yes No ___ CrR 3.5 hearing:
of hours 1 # of witnesses 1
Yes No CrR 3.6 hearing:
of hours 2 # of witnesses ___ -- interview date(s) ___
Briefing schedule _____

OTHER

Yes ___ No ___ Sent to motion calendar
If yes: Motion to be heard no later than:
Briefing schedule: _____

If no: Omnibus rescheduled to: _____

DATED: May 29 09

[Signature]
JUDGE

[Signature]
Defendant's Attorney

Deputy Prosecuting Attorney

SCForm1

31600

Plaintiff shall provide the defense with _____ by _____, 2009.

Defendant shall provide plaintiff with _____ by _____, 2009.

Witness interviews shall be completed by June 2, 2009. No party may impede opposing counsel's investigation of the case, CrR 4.7(h)(1).

The general nature of the defense is general denial / ID.

Discovery orders: _____

4. Plaintiff will move to amend the information to n/a. Defense shall be served a copy of the proposed amended information ___ days before the trial date.

5. Motions *in limine* are reserved for the trial court.

6. Proposed jury instructions shall be served and filed when the case is called for trial, CrR 6.15(a).

7. Other motions not specifically referenced in this order shall be noted before the chief criminal judge or criminal motions judge, and shall comply with CrR 8.1, CrR 8.2, CR 6 and CR 7(b) unless expressly agreed by the parties in writing.

8. _____

DONE IN OPEN COURT this 29 day of May, 2009.

[Signature]
JUDGE

Submitted:
[Signature]
DEPUTY PROSECUTING ATTORNEY
WSBA# 31600

[Signature]
ATTORNEY FOR DEFENDANT
WSBA# 28821

I am fluent in the _____ language. I have translated this document for the defendant into that language. I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct.

Date and Place Interpreter

FILED
2009 JUN -2 AM 10:01
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)
)
) Plaintiff,)
 vs.)
)
 JUAN ERAS-DUQUÉ,)
)
) Defendant.)

SUBPOENA

No: 08-C-04054-9 SEA

Charge: Robbery 1° (x3)

TO: Mr. Santos Castillo

You are hereby commanded to be and appear at the Superior Court of the State of Washington in and for King County on the 4th day of June, 2009, or as directed by the Prosecutor's Office, in Room W554, King County Courthouse, 516 Third Avenue, Seattle, Washington, where you will be directed to a courtroom of the Superior Court to give evidence on behalf of the Plaintiff in the above entitled cause and to remain in attendance at said Court until discharged. Your failure to appear may be considered contempt of court and may result in your arrest.

NOTICE: Upon receipt of this subpoena, immediately call Rashelle Tidwell at 206-296-9459 or email him/her at Rashelle.Tidwell@kingcounty.gov.

Dated: June 1, 2009

Jennifer Lyn Miller
Jennifer Lyn Miller, WSBA No. 31600
Attorney(s) for the Plaintiff, State of Washington
Violent Crimes Unit
W-554, King County Courthouse
516 Third Avenue
Seattle, Washington 98104-2337

SHERIFF'S RETURN

I HEREBY CERTIFY that I personally served the above subpoena on each person whose name is encircled hereon by (giving him/her a true copy hereof) (giving a true copy hereof at the place of his/her abode with Via inter-office) in King County, Washington on the 1st day of June, 2009.

SHERIFF'S FEE:
Service \$ _____
Travel \$ _____
Total \$ _____

Rashelle Tidwell
Susan L. Rahr, Sheriff
King County Sheriff's Office
B. *Rashelle Tidwell*
Date: 6/1/09 Initials: RT

Fax _____ Mail In-Hand _____ E-Mail _____

FILED
KING COUNTY, WASHINGTON

JUN 04 2009

CRIMINAL PRESIDING

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,
Plaintiff,
v. Juan Blas-Deque
Defendant.

CCN

NO. 08-C-04054-9 SEA
ORDER CONTINUING TRIAL
(ORCTD)
(Clerk's Action Required)

This matter came before the court for consideration of a motion for continuance brought by plaintiff defendant the court. It is hereby ORDERED that the trial, currently set for currently (6/16/09) is continued to 6/22/09 *Upon agreement of the parties [CrR 3.3(f)(1)] or required in the administration of justice [CrR 3.3(f)(2)] for the following reason:

plaintiff's counsel in trial; defense counsel in trial; other: outstanding interview w/ defendant, transcription

It is further ORDERED:

Omnibus hearing date is N/A
 Expiration date is 7/22/09 7-22-09

DONE IN OPEN COURT this 4 day of June, 2009.

Suzanne A. Armstrong
JUDGE

Approved for entry:

[Signature]
Deputy Prosecuting Attorney WSBA No. 21600

[Signature]
Attorney for Defendant WSBA No. 28825

I agree to the continuance:

does not agree
* Defendant [signature required only for agreed continuance]

I am fluent in the _____ language, and I have translated this entire document for the defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Interpreter
Trial Continuance
(Effective 1 September 2003)

ORIGINAL

SCOMIS CODE MTHRG TCNTU HCNTU

JUDGE SHARON ARMSTRONG
BAILIFF MALIA ROTH
CLERK LYNN HARKEY
Digital Recording DR E1201

DEPT 29
DATE: 06/04/09

Start: 84735 PAGE 1 OF 1

KING COUNTY CAUSE NO: 08 C 040549 SA

STATE OF WASHINGTON VS ULEAN ELAS

Appearances:

DPA JENNIFER MILLER present

Defendant present () not present with counsel KEVIN MCCABE

Interpreter SUSANA STETTY STWLEY present

MINUTE ENTRY

Defendants motion to reduce bond. Denied. Granted, bond set at _____

On: Basic CCAP Enhanced CCAP EHD Basic EHD Enhanced WER

States / Defendants motion to continue trial date. Denied / Granted.

Omnibus date: / Trial date 6-22-09 Expiration date: 7-22-09

Order is signed.

ORIGINAL COURT MINUTES

PAGE #: 8

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE: 06/04/2009

JUDGE:

SHARON S. ARMSTRONG

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 07-04-09

DPA: KING COUNTY, PROSECUTING ATT
ATD: WILSON, DEBORAH LYNN
2066248105

CO-DEFENDANTS: 08-1-04055-7

CHARGE: ROBBERY 1 3CTS
ARR DATE: 05/21/2008
LOC: 4S10LA07
INT: SPANISH
ORIGINAL TRIAL DATE: 10/01/2008
COMMENCE DATE: 08-16-08
TRIAL SET EXP: 10-15-08
MOTION JUDGE #: HON. 092
AFFIDAVIT:

FILED

ACTION:

HOLD TO 6509

5-DAY EXTENSION TO _____

CONT - CONTINUED TO _____

60/90 WAIVER TO _____

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED

ORIGINAL COURT MINUTES

PAGE #: 2

SEATTLE COURTHOUSE
KING COUNTY SUPERIOR COURT

CRIMINAL TRIAL CALENDAR

CALENDAR DATE: 06/05/2009

JUDGE:

SHARON S. ARMSTRONG

COURT CLERK:

LYNN HARKEY

COURT REPORTER

CASE NO: 08-1-04054-9 SEA

DEFENDANT: ERAS-DUQUE, JUAN

TRUE NAME:

CCN: 1854943

EXP: 07-04-09

DPA: KING COUNTY, PROSECUTING ATT

ATD: WILSON, DEBORAH LYNN

2066248105

CO-DEFENDANTS: 08-1-04055-7

EMTD

CHARGE: ROBBERY 1 3CTS

ARR DATE: 05/21/2008

LOC: 4S10LA07

INT: SPANISH

ORIGINAL TRIAL DATE: 10/01/2008

COMMENCE DATE: 08-16-08

TRIAL SET EXP: 10-15-08

MOTION JUDGE #: HON. 000

AFFIDAVIT:

ACTION:

HOLD TO _____

5-DAY EXTENSION TO _____

CONT - CONTINUED TO 6-22-09

60/90 WAIVER TO 7-22-09

ASSIGNED TO JUDGE _____

PLEA - SENT TO _____

STRIKE

BEN - BENCH WARRANT TO BE ISSUED

DSMHRG - ORDER OF DISMISSAL

ORDER SIGNED/ORDER TO BE PRESENTED