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COA NOS. 71144-0-I; 71145-8-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

vs.

ERIK VINCENT BARNES.

Appellant.

ON APPEAL FROM THE SNOHOMISH COUNTY SUPERIOR COURT

SCSC CASE NO. 12-1-01700-4

SCSC CASE NO. 12-1-02050-1

STATEMENT OF ADDITIONAL GROUNDS

RAP 10.10

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~~STATE OF WASHINGTON~~
FILED
COURT OF APPEALS DIV. ONE

PRO SE BRIEF OF APPELLANT

ERIK VINCENT BARNES
#948722 H4-B-115-U
STAFFORD CREEK CORRECTION CENTER
191 - CONSTANTINE WAY
ABERDEEN, WASHINGTON 98520-9504

TABLE OF CONTENTS

A. MR. BARNES DECLARATION OF THE CASE1

B. ARGUMENT 11

1. MR. BARNES DUE PROCESS WAS VIOLATED WHEN THE SENTENCING COURT DID NOT ALLOW HIM TO WITHDRAW HIS PLEA OR HAVE A HEARING TO PROVE HIS OFFENDER SCORE. 11

 a. MR. BARNES IS ALLOWED TO RAISE A CHALLENGE TO HIS CRIMINAL HISTORY FOR THE FIRST TIME ON DIRECT APPEAL.¹¹

2. MR. BARNES DUE PROCESS WAS VIOLATED MAKING HIS PLEA UNKNOWN, UNINTELLIGENT, AND INVOLUNTARY WHEN HE WAS MISINFORMED OF HIS OFFENDER SCORE WHICH IMPROPERLY INCLUDED SEVERAL JUVENILE ADJUDICATIONS. 11

 a. MR. BARNES MADE A KNOWING, INTELLIGENT, AND VOLUNTARY PLEA DECISION WITH RESPECT TO THE LAW IN EFFECT AT THE TIME HE ACCEPTED HIS JUVENILE PLEA BARGAINS. . . . 11

 b. MR. BARNES' PRE-15 YEAR OLD JUVENILE ADJUDICATIONS WASHED OUT WHEN HE TURNED 18 YEARS OLD. . . . 12

 c. MR. BARNES' PRE-18 YEAR OLD JUVENILE ADJUDICATIONS WASHED OUT WHEN HE TURNED 23 YEARS OLD. . . . 12

 d. RCW 9.94A.360(4) WAS MODIFIED BY THE LEGISLATURE AND RCW 9.94A.345 WAS INCORPORATED TO CURE AMBIGUITY OF THAT LAW. 13

 e. MR. BARNES WAS ERRONEOUSLY SENTENCED USING HIS "WASHED OUT" JUVENILE ADJUDICATIONS. 14

 f. MR. BARNES APPEALED HIS MISCALCULATED OFFENDER SCORE; THE SUPREME COURT DEEMED ALL OF MR. BARNES JUVENILE ADJUDICATIONS WERE WASHED OUT FOR ALL SENTENCING PURPOSES. 14

 g. MR. BARNES CONVICTIONS THAT WASHED OUT ARE ALWAYS WASHED ONCE THEY MEET A WASH OUT RULE/CONDITION. ~~14~~ 14

 h. THE LAWS OF 2006 COMPLETELY REDEFINED THE DEFINITION OF WHAT AND HOW, PRIOR JUVENILE AND ADULT CONVICTIONS, ARE COUNTED IN A DEFENDANTS OFFENDER ~~SCORE~~ SCORE. . . . 15

 i. MR. BARNES DUE PROCESS WAS VIOLATED WHEN THE LAW CHANGED THE SENTENCING GUIDELINES WHICH CHANGED THE DIRECT CONSEQUENCES OF HIS JUVENILE PLEA BARGAINS ~~WHICH~~ BECAUSE HE WAS ENTITLED TO KNOW ALL THE DIRECT CONSEQUENCES OF THE PLEAS AT THE TIME HE ACCEPTED THE PLEAS. 15

j. MR. BARNES SHOULD BE ALLOWED TO WITHDRAW ALL 5 OF HIS JUVENILE PLEA BARGAINS BECAUSE OF THE MANIFEST INJUSTICE CREATED BY HIS UNKNOWING, UNINTELLIGENT, AND INVOLUNTARY PLEA DECISIONS. 16

k. MR. BARNES SHOULD BE ALLOWED TO WITHDRAW BOTH OF HIS 2012 PLEA BARGAINS BECAUSE THEY WERE NOT MADE KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY WHEN THEY IMPROPERLY INCLUDED HIS JUVENILE ADJUDICATIONS AS PART OF HIS CRIMINAL HISTORY. 17

3. MR. BARNES' DUE PROCESS WAS VIOLATED MAKING HIS PLEA UNKNOWING, UNINTELLIGENT, AND INVOLUNTARY WHEN HE WAS MISINFORMED OF HIS OFFENDER SCORE WHICH IMPROPERLY INCLUDED 2 EXTRA COUNTS FROM A PRIOR CONVICTION; 18

a. THE TRIAL COURT ERRED WHEN THEY MISCALCULATED MR. BARNES PRIOR AND/OR MULTIPLE PRIOR CONVICTIONS.. . . . 18

b. THE TRIAL COURT VIOLATED MR. BARNES DUE PROCESS WHEN THE TRIAL COURT ERRED AND DENIED HIM A HEARING/DISCUSSION TO DENY HIS PRIOR 2000 CONVICTION WITH 3 COUNTS AS "SAME CRIMINAL CONDUCT". 20

c. MR. BARNES HAS SHOWN TWO REASONABLE INTERPRETATIONS/ CONSTRUCTIONS OF THE WORDING OF THE STATUTES WHICH REQUIRES THAT THE RULE OF LENITY BE APPLIED FOR THE PROPER CALCUATION OF HIS OFFENDER SCORE.. . . . 25

C. CONCLUSION 26

Exhibit A Statement of Defendant on Plea of Guilty
Plea Agreement and Sentencing Recommendation
Appendix A to Plea Agreement
S.C.C. Cause #'s 12-1-01700-4 and 12-1-02050-1

Exhibit B 1988 Judgment and Sentence

Exhibit C 1996 Judgment and Sentence

Exhibit D 2000 Judgment and Sentence

Exhibit E 2005 ReSentencing of the
2000 Judgment and Sentence

Exhibit F 2012 Judgment and Sentence
S.C.C. Cause # 12-1-01700-4

Exhibit G 2012 Judgment and Sentence
S.C.C. Cause # 12-1-02050-1

TABLE OF AUTHORITIES

FEDERAL CASES:

Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969)	16, 17
Henderson v. Morgan, 426 U.S. 637, 96 S.Ct. 2253 (U.S.N.Y. 1979)	16

WASHINGTON STATE CASES:

Hews v. Evans, 99 Wn.2d 80, 660 P.2d 263 (1983)	16
In Re Coats, 173 Wn.2d 123, 267 P.3d 324 (2011)	16
State v. Barnes, 117 Wash.App. 1070, *3 (Wa.App.Div.I 7-21-2003)(No.48236-0-I)	14
State v. Barton, 93 Wn.2d 301, 609 P.2d 1353 (1980)	17
State v. Dean, 113 Wash.App. 691, 54 P.3d 243 (2003), rev. denied, 149 Wash.2d 1009, 67 P.3d 1097	13
State v. Coucil, 170 Wash.2d 704, 245 P.3d 222 (2010)	25
State v. Gore, 101 Wash.2d 481, 681 P.2d 227 (1984)	25
State v. Graciano, 176 Wash.2d 531, 295 P.3d 219 (2013)	22
State v. Hunley, 175 Wn.2d 901, 287 P.3d 584 (2012)	11
State v. Jacobs, 154 Wash.2d 596, 115 P.3d 281 (2005)	25
State v. Lara, 66 Wash.App. 927,834 P.2d 70 (1992)	22
State v. McGee, 122 Wash.2d 783, 864 P.2d 912 (1993)	26

WASHINGTON STATE CASE, continued:

State v. Mendoza, 165 Wash.2d 913, 205 P.3d 986(2009)	11
State v. Moore, 75 Wash.App. 166, 876 P.2d 959 (1994)	16, 17
State v. Reinhart, 72 Wash.App. 454, 891 P.2d 735 (1995)	22
State v. Reis, 2014 WestLaw 1284863(Wash.App.Div.I 2014)(No.69911-3-I)	25
State v. Rice, 320 P.3d 713(Wash.App.Div.II 2014)	26
State v. Rodriguez, 61 Wash.App. 812, 812 P.2d 868 (1991)	24
State v. Ross, 129 Wn.2d 279, 916 P.2d 405 (Wash. 1996)	16
State v. Saas, 118 Wash.2d 37, 820 P.2d 505 (1991)	16, 17
State v. Smith, 118 Wash.App. 288, 75 P.3d 986 (2003)	13
State v. Smith, 144 Wn.2d 665, 30 P.3d 1245 (2001)	14
State v. Snedden, 149 Wash.2d 914, 73 P.3d 995 (2003)	25
State v. Sweat, 2014 WestLaw 1321012(Wash. 2014)(No.88663-6)	25
State v. Taylor, 83 Wash.2d 594, 521 P.2d 699 (1974)	16
State v. Torngren, 147 Wash.App. 556, 196 P.3d 742 (2008)	22, 23, 24
State v. Williams, 176 Wn.App. 138, 307 P.3d 819 (2013)	22, 23
State v. Vike, 125 Wash.2d 407, 885 P.2d 824 (1994)	25
State v. Porter, 133 Wn.2d 177, 942 P.2d 974 (1997)	25

RULES, STATUTES, AND OTHERS:

CrR 4.2(f)	16
RCW 9.94A.360 (1984)	12, 14
RCW 9.94A.360 (1997)	13, 14, 15
RCW 9.94A.345 (2000)	13
RCW 9.94A.525 (2006)	14, 15
RCW 9.94A.525 (2012)	19, 14, 18, 20, 22
RCW 9.94A.589 (2012)	21, 22
U.S. Const. Art. 1 § 5	11, 16, 20
U.S. Const. Art. 1 § 14	11, 16, 20
Wa. St. Const. Art. 1 § 22	11, 16, 20

A. MR. BARNES DECLARATION OF THE CASE:

I am the appellant in this matter. I am over the age of 18. I am a citizen or permanent resident of the United States. I am competent to testify. I assert the following facts from my personal knowledge and observations. I DECLARE the following:

In 1984, 1985, 1986, and twice in 1987, I was informed by my lawyers, in the presence of my parents and my probation officers, to take short term plea bargains with short term consequences. I was specifically told the 1984 case would not count against me past the age of 18 years old, and the 1985, 1986, and both of the 1987 cases would never count against me again after the age of 23.

When I turned 18 years old the 1984 case was not used against me. When I turned 26 the 1985, 1986, and both of the 1987 cases were not used against me.

The Snohomish County Superior Court tried to use my juvenile convictions against me in 2000. My appellate lawyer successfully appealed and in 2005 I was resentenced with no juvenile convictions.

In 2000, I was charged with VUCSA with intent to manufacture and or deliver while armed with a deadly weapon, and unlawful possession of a firearm in the first degree. By my third amended information, there ended up being a total of 5 counts because I would not plead guilty.

I met a confidential informant named Jerry Goodwill. He told me that if I brought a car to a mutual friend he would pay me a little cash and some free drugs, a half of an ounce. He told me that the vehicle and everything in it was not stolen. This

That is the main reason I feel that cause number 00-1-00378-6 should be demed 1 point for 1 adjudication, not 3 points for 3 counts on one adult adjudication.

The second reason is I believe it is same criminal conduct because my intent never changed from the beginning of the crime to the end of the crime.... that it was a crime spree emerging from one sole event, on the same date, time, and place, with one victim... unwitting or not.

I paid for this mistake with 78 months of total confinement. Starting on May 19th, 2000 and ending on November 6th, 2006. I got off of probation on July 25th, 2007.

When I was sentenced in 2001 the Court used 2 of my current offenses to enhance the current offense.

At sentenceing in 2001, when my lawyer Karen Halverson told me about the 2 extra points, she told me not to worry, that in the future, if I got into trouble again, that the single cause number would only count as 1 point against me.

When I was resentenced in 2005 the Court used 2 of my current offenses to enhance the current offense again.

This time I was worried and I told her what Karen had told me, her meaning Laura Martin, my new Public Defender for the purposes of soley being resentenced.

At my resentencing in 2005, Laura Martin, my new Public Defender for the resentencing, answered the same as Karen did

when I asked how many points that this one cause number would count against me if I did indeed get another felony. She answered that it would be 1 point in the future.

In the end of June or early July of 2012, I met another confidential informant, his name was Jason Larcom.

On July 13th, 2012, two witnesses that wrote statements for my lawyers private investigator observed Jason Larcom putting a large handgun behind my television set. According to my probable cause, as he was leaving the premises, my RV, he called one of the leads of the Snohomish County Drug Task Force. He told them that I was waiting on my drug dealing connections and that I had a .38 revolver. He tol them I was moving approximately 12 to 14 ounces of methamphetamines every day.

Two hours after he left my RV I was raided. The police asked me where the gun was and I told them. I also gave them the combo and the key to get into my safe. They found some pipe scrapings and approximately \$2200 in cash. No where near enough to be even considered of moving the meth that he stated I was. He just did not want to go to jail.

I was arrested for VUCSA with intent to manufacture and or deliver and first degree possession offirearm.

On September 27th, 2012, I was found in violation of a DWI that was out of Marysville Municipal Court. They were sentencing me to the unsuspended 6 months that I had left for the year that I was sentenced to. My drug habit being very large andme thinking or not thinking that I would be taken to jail, I took my drugs with me into the Courtroom , they were found, and I was charged

with another VUCSA.

I was then taken to Snohomish County Jail to serve the 2nd half of my 1 year sentence for a DWI while I was being held for the VUCSA. I finished my 6 month sentence (1 year total including good time) on January 25th, 2013 for the DWI.

My witnesses came forward while I was in jail, even though they were scared for their lives. They wrote statements and talked with my lawyers private investigator, Mike Powers. They said that they had seen the confidential informant, Jason Larcom, place a large handgun behind my television in my RV. I would have thrown the gun away or gotten rid of it but I was scared for my childrens and my lives. That if it was not there when he came back for it, that he would become very violent, and since he always carried a gun of some kind, he would probably shoot us. I did not know that he had set me up until after my lawyer told me he did. Which was after I had told my lawyer what the witnesses had seen, months after I had been arrested. That is when and how I found out that he had planted the gun.

Approximately 2 weeks before I was released on January 25th, 2013, my wife, Riza Polistico Ysulat drowned in the Snohomish river. I was completely devastated.

On January 24th, 2013, I posted my third and final bail of \$25,000 for the VUCSA, totalling \$75,000 for all three of my bails.

One week after I bailed out, my grandmother, Mildred Welch, with whom I had lived with off and on since I was 13 years old, went to the General Hospital in North Everett in critical condition. She stayed there until February 15th, 2013 where she died that

morning.

I was totally devastated now. I lost my daughters to CPS, and my wife and my grandmother who was like my mother for over 30 years had died. I was not of a clear state of mind. I was suffering from post-traumatic stress syndrome, massive depression, and chronic oppression. I was under extreme emotional distress. This led me to an unknowing, unintelligent, and involuntary plea decision.

Two hours later, after my grandmother had died, I was in the courtroom with my lawyer. I told him that my grandmother had just died. He told me that the best he could do was 90 months. He told me that they would not drop the gun even though they knew now that it was planted by the confidential informant Jason Larcom. I was dumbfounded by this because my witnesses came forward under the penalty of death. My lawyer just shook his head and looked at the ground. I knew then that my lawyer had given up on my case, on me, and was not working for me anymore. I felt like he sold me down the river without a paddle.

The lawyer started to , or tried to start to read me the 8 page "statement of the defendant on plea of guilty" and the 5 page "Plea agreement and sentencing recommendation" for both the cases; 12-1-01700-4 and 12-1-02050-1, but I told him, "F*ck it, Where do I sign." He then showed me 4 places to sign. He showed me 26 pages, there was never an appendix A on the day, February 15th, 2013, that I signed.

I never saw the Appendix A until after I was mailed a copy by my lawyer Natalie Findley-Wolf that was received after I was *already* in prison post marked November 6th, 2013. It was an

unsigned copy, it was supposed to be a certified copy from a legal specialist, it didnt say who either.

On the way from where I signed the plea bargains back to the courtroom, I asked my lawyer if he could at least try and get me DOSA? He said he would try and they set my change of plea hearing for two weeks, until March 1st, 2013, I did not sign anything that day of March 1st, 2013.

On March 1st, 2013, when I was accepting the plea from the Judge, he told me that I had 9 points. I said,"9 points, I thought I only had 4, maybe 6 tops." My lawyer, Gurjit Pandher, shushed me, and said we talked about this, we will talk about it later. He did this in front of everyone in the Courtroom, the Judge, my Grandfather, my mother, friends of the family, and friends of mine. I did not want my bail revoked, or doubled again, or even raised one more time, so I said, "Whatever, Yeah."

Then a couple months later, after my DOSA interview, but before my sentencing, I texted my lawyer and told him that I wanted to pull my plea bargain because I did not know that I had 9 points when I accepted the plea.

We told the Juge this at sentencing. That was also the day that I found out the Department of Corrections recommended no DOSA for me and my sentence.

I then hired Pete Mazzones office to do a motion ~~to~~ to withdraw my plea for \$3,000 cash. Natalie Findley-Wolf failed to do this. She did not question my witnesses in the courtroom. She did not try and get the audio tape record of the plea hearing. She went strictly off of what the court reporter typed as to what was said that day. It was not reported correctly, she probably

happened on February the 11th, 2000, approximately 20 minutes before I got into a car accident.

My judgement that night was very poor. I had a very large drug habit and would do a lot of stupid things to get drugs that cost way to much cash. I was very easily manipulated.

My sole criminal intent that night was to possess a vehicle long enough to get from point A to point B and collect my "free drugs" and the little bit of cash that I was promised.

I was not intending to break any laws that night except to possess, consume, and or use drugs at the end of my trip.

I got into an accident before I dropped off the vehicle. The vehicle was searched and impounded. I was taken to the hospital and released. Then, later on, I was arrested, charged, and eventually convicted for everything that was in the vehicle.

I was told by my lawyer, Karen Halverson, not to testify. So I did not testify, even though I had really wanted to.

In 2000 - 2001, while I was in the Snohomish County Jail for 11 months, going to Court for the 2000 Case, I asked both of my lawyers, Pete Mazzone and Karen Halverson, to sever all 5 of my counts for cause number 00-1-00378-6. They told me That I could not do that. If I could have, I believe that I would only have been found guilty of 1 or 2 of the counts maximum.

My lawyers and the Court would not even let me plea or change my pleas to guilty on the ones I would have been found guilty of and plead not guilty to the ones I would have won.

My lawyers and the Court made me plea all guilty or all not guilty... all or nothing.

could not hear what was being said when I questioned my points, even though all of my family and friends could hear what I asked, and heard my lawyer shush me but not as to what he said to me except shhhhhhh.

I tried to get the audio recording from the change of plea hearing dated March 1st, 2013. The court clerk replied to me and said, "In regards to cause numbers 12-1-01700-4 and 12-1-02050-1, the plea hearings heard by Judge Wynne on March 1, 2013 were not recorded but reported by Judge Wynnes Court reporter Karen Avery." I thought all courtroom proceedings from Municipal to District to Superior Courts were recorded by audio. I have even purchased copies from the Everett Municipal Court for appeal processes in the past.

My lawyer, Gurjit Pandher, testified at my Motion to pull my plea. He said he normally does things a certain way under certain circumstances, so he must have read and gone through my plea bargains and paperwork with me. But he did not say, that without a shadow of a doubt, that he knew for fact that he did, because he did not.

The Snohomish County Superior Court refused to pull my pleas and they proceeded directly to my sentencing.

After I was sentenced I asked if I could have an appeal bond. The Judge said he wanted a separate and new rider bond for another \$75,000. I had the money but I no longer had the property as my Grandfather had to sell the house because of my Grandmother had died earlier that year. I did not want my Grandfather to be caused any more hardship that would make him hold onto the property that they had owned together. So I went to prison.

All 4 of my signatures on the "Statement of Defendant on Plea of Guilty" and the "Plea Agreement and Sentencing Recommendation" for both 2012 Cause Numbers 12-1-01700-4 and 12-1-02050-1 were signed on the 15th day of February of 2013, NOT on the 1st day of March of 2013. I wrote nothing else on any of those documents on any other day, nor did I ever see the unsworn appendix A to the plea agreement until after I was in prison after the 6th day of November of 2013.

Some one else unknown or unannounced to me without my knowledge or consent changed the dates of my signatures on the "Statement of Defendant on Plea of Guilty" and the "Plea Agreement and Sentencing Recommendation" for both 2012 Cause numbers 12-1-01700-4 and 12-1-02050-1 from the 15th day of February of 2013 to the 1st day of March of 2013.

When I recieved Appendix A to the Plea Agreement after the 6th day of November of 2013 it was unsigned and therefore unsworn testimony, I never saw a signed copy nor was there one. Nor did they bring in any of my Judgement and Sentences at my sentencing to prove any of my convictions.

I have provided, at my own cost, Copies of all of my judgement and Sentences and Plea Bargains. This cost me a lot seeing how I am charged 20 cents per page copied in triplicate and I only make 32 cents per hour that I work and only work on average of 3 hours per day Monday through Friday as a Teachers Aide for the welding program provided by the Grays Harbor Community college for the Stafford Creek Correction Center.

Judge Thomas J. Wynne presided over multiple ~~o~~ other

cases and /or causes that involved me between the dates of my first arrest on July 13th, 2012 up to my sentencing on November 1st, 2013. One I believe was my child custody case/CPS matter stemming from my raid and arrest on the 13th of July of 2012. Another was that of my Daughters, Chelsea Larae Barnes and Erika Brittany Barnes Juvenile felony cases. Then after he heard them he rotated from The Juvenile Courts back to the Adult Superior Courts and took on my cases. He should have recused himself from both of my matters because I believe that him having knowledge of my childrens matters and my CPS matters that there was no way that he would not be prejudiced against me and my Superior Court Cause numbers. It was a conflict of interest and cost me the Motion to withdraw my plea, my freedom, my \$75,000 Bond I was out on, and possibly causing further damage to my children who took it upon themselves to run away and keep running away, both of whom, to my devastation, have been raped multiple times.

I am not saying that I am blameless or even that I am not guilty, I just want to be treated fairly, do my time, and go home to my children and try to help fix my mistakes. I am not a dealer, just a chronic drug addict with large habits.

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



Erik Vincent Barnes

B. ARGUMENT

1. Mr. Barnes Due Process was violated when the sentencing court did not allow him to withdraw his plea or have a hearing to prove his offender score.

"It violates due process to base a criminal defendant's sentence on the prosecutors' bare assertions or allegations of prior convictions and it violates Due Process to treat the defendants failure to object to such assertions or allegations as an acknowledgment of the criminal history." State v. Hunley, 175 Wn.2d 901, 287 P.3d 584, 592 (Wash. November 1st, 2012)(#86135-8); U.S. Const. Art. 1 § 5 and 14; Wa. St. Const. Art 1 § 22.

a. Mr. Barnes is allowed to raise a challenge to his criminal history for the first time on direct appeal.

"A challenge to defendants' criminal history relied on by the sentencing court can be raised for the first time on appeal."

State v. Mendoza, 165 Wash.2d 913, 920, 205 P.3d 113 (2009); State v. Hunley, 175 Wn.2d 901, 287 P.3d 584, FN1 (Wash. 1012).

Mr. Barnes Appendix A was unsworn testimony. (See Exhibit A, Appendix A to plea agreements).

2. MR. BARNES DUE PROCESS WAS VIOLATED MAKING HIS PLEA UNKNOWING, UNINTELLIGENT, AND INVOLUNTARY WHEN HE WAS MIS-INFORMED OF HIS OFFENDER SCORE WHICH IMPROPERLY INCLUDED SEVERAL JUVENILE ADJUDICATIONS.

a. MR. BARNES MADE A KNOWING, INTELLIGENT, AND VOLUNTARY PLEA DECISION WITH RESPECT TO THE LAW IN EFFECT AT THE TIME HE ACCEPTED HIS JUVENILE PLEA BARGAINS.

Mr. Barnes was born on December 24th, 1969. On February 15th, 1984, when he was 14, he pled guilty to 2nd degree Burglary. On August 8th, 1985, when he was 15, he pled guilty to 2nd degree Burglary. On October 1st, 1986, when he was 16, he pled guilty to 2nd degree Possession of Stolen Property. On September 17th, 1987, when he was 17, he pled guilty to 2nd degree Burglary. On September

21st, 1987, when he was 17, he plead guilty to 2nd degree Possession of stolen property. Mr. Barnes was a juvenile when he entered into all 5 of these Plea Bargains, and to induce him into taking all 5 of these plea bargains, ■ his lawyer(s), with his parents and his probation officer(s) present, informed him that the 1st conviction would never affect him again after he reached the age of 18, and that the 2nd through the 5th convictions would never affect him again after he reached the age of 23. The law in effect at the times that he entered all 5 plea bargains was RCW 9.94A.360(1):

"include juvenile felony convictions if the offender was 15 or older at the time the offense was committed and the offender was less than 23 at the time the offense for which he is being sentenced was committed."

b. MR. BARNES' PRE-18 YEAR OLD JUVENILE ADJUDICATIONS WASHED OUT WHEN HE TURNED 18 YEARS OLD.

In 1988, Mr. Barnes turned 18 and plead guilty to 2nd degree Burglary. The state only used his juvenile convictions from 1985, 1986, and two from 1987 as his criminal history. The 1984 juvenile adjudication "washed out" and could not be used. The law still read the same as when Mr. Barnes accepted his juvenile plea bargains. (see Exhibit B, 1988 J & S).

c. MR. BARNES' PRE-18 YEAR OLD JUVENILE ADJUDICATIONS WASHED OUT WHEN HE TURNED 23 YEARS OLD.

In 1996, Mr. Barnes was 26 years old and plead guilty to felony attempting to elude. The state only used his 1988 2nd degree Burglary as all of his criminal history. The 1985, 1986, and both of the 1987 juvenile adjudications, from when he was from 15 to 17 years of age, "washed out" and could not be used. The law still read the same as when Mr. Barnes accepted the juvenile plea

bargains. (See Exhibit C, 1996 J & S).

d. RCW 9.94A.360(4) was MODIFIED BY THE LEGISLATURE AND RCW 9.94A.345 WAS INCORPORATED TO CURE AMBIGUITY OF THAT LAW.

In 1997, the law for offender scores changed to RCW 9.94A.360 (4), it read as follows:

"Always include juvenile convictions for sex offenses and serious violent offenses. Include Class A juvenile felonies only if thge offender was 15 or older at the time the juvenile offense was committed. Include other Class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he is being sentenced was committed."

In 2000, the legislation added RCW 9.94A.345 - Timing, which was intended to cure ambiguity to the juvenile wash out argument.

It reads as follows:

"Any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed."

These case laws and ruling followed:

Defendant's juvenile adjudications were washed out for the purpose of determining defendant's offender score, and thus remand for imposition of a new sentence with a correct offender score was required; defendants' juvenile adjudications occurred before he was 15 years old, the statute in effect when the offenses were committed "washed out" the adjudications. State v. Smith, 118 Wash.App. 288, 75 P.3d 986 (2003).

and,

[The] Senate Bill, which stated that the legislature intended, under the sentencing reform act, that the statutory provisions in effect on the date an offender committed his offenses ~~be~~ be used to determine the offender score could not be applied retroactively to allow the court to use defendant's juvenile adjudications to determine defendant's offender score; at the time of the defendant's offense the Supreme Court interpreted the SRA and its ammendments as "washing out" a juvenile's ~~ad~~ adjudications for all sentencing purposes after the juvenile had turned 23, and defendant had turned 23 prior to the commission of his offense. State v. Dean, 113 Wash.App.691, 54 P.3d 243 (2003), rev. denied, 149 Wash.2d 1009,67 P.3d 1097.

e. MR. BARNES WAS ERRONEOUSLY SENTENCED USING HIS "WASHED OUT" JUVENILE ADJUDICATIONS.

In 2000, Mr. Barnes was charged with 1. Possession of meth-amphetamines with intent to deliver while armed with a deadly weapon, 2. and 3. 1st degree Unlawful possession of a firearm, 4. DWI, and 5. 1st degree Possession of stolen property. In 2001, he was found guilty of 1, 2, 3, and 5. The Snohomish County Superior Court used all 5 of his juvenile adjudications against him as part of his criminal history. Mr. Barnes was 30 years old. The law still read the same as it was written in 1997. All 5 of his juvenile adjudications were "washed out." (See Exhibit D, 2000 J & S).

f. MR. BARNES APPEALED HIS MISCALCULATED OFFENDER SCORE: THE SUPREME COURT DEEMED ALL OF MR. BARNES' JUVENILE ADJUDICATIONS WERE WASHED OUT FOR ALL SENTENCING PURPOSES.

~~Mr.~~ Mr. Barnes appealed and the Washington Appellate Court Division I ruled:

"Barnes also contends that the trial Court erred in including juvenile convictions that had washed out in his offender score. We accept the State's concession that, under State v. Smith, 144 Wn.2d 665, 30 P.3d 1245 (2001), all of Barnes' juvenile convictions had washed out and should not have been ~~included~~ included in his offender score. We remand to the trial Court for resentencing following retrial."

State v. Barnes, 117 Wash.App. 1070, *3 (Wash.App.Div.I 7-21-2003) (No. 48236-0-I). Mr. Barnes was resentenced using none of his washed out juvenile adjudications in 2005. (See Exhibit E, 2005 J & S).

g. MR. BARNES CONVICTIONS THAT WASHED OUT ARE ALWAYS WASHED ONCE THEY MEET A WASH OUT RULE/CONDITION.

According to all years 1984 to present, of RCW's 9.94a.360, 9.94A.525, and the Sentencing Guidelines, "once a conviction meets a wash out rule, it is always washed, it can not be revived or unwashed..." it is a vested right.

h. THE LAWS OF 2006 COMPLETELY REDEFINED THE DEFINITION OF WHAT AND HOW, PRIOR ADULT AND JUVENILE CONVICTIONS, ARE COUNTED IN A DEFENDANTS OFFENDER SCORE.

RCW 9.94A.360 was recodified to RCW 9.94A.525 - Offender score by the laws of 2001, Ch. 10, §6.

In 2006, 2 decades after Mr. Barnes took his plea bargains as a juvenile, the complete definition to the "wash out" rules were rewrote. Now, juvenile felony adjudications and adult felony adjudications now carry the same weight concerning the wash out rules; juvenile adjudications are now governed under adult adjudication wash out rules. A drastic and dramatic change from the laws in effect at the time Mr. Barnes entered into his juvenile plea bargains. RCW 9.94A.525(2) now reads as follows:

"...Class B prior felony convictions other than sex offenses shall not be included in the offender score, if the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of Judgement and Sentence, the offender had spent 10 consecutive years with out committing any crime that subsequently results in a conviction. Class C prior felony convictions other than sex offenses shall not be included in the offender score, if since the date of release of confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of Judgement and Sentence, the offender has spent 5 consecutive years in the community with out committing any crime that subsequently results in a conviction."

i. MR. BARNES DUE PROCESS WAS VIOLATED WHEN THE LAW CHANGED THE SENTENCING GUIDELINES WHICH CHANGED THE DIRECT CONSEQUENCES OF HIS JUVENILE PLEA BARGAINS BECAUSE HE WAS ENTITLED TO KNOW ALL THE DIRECT CONSEQUENCES OF THE PLEAS AT THE TIME HE ACCEPTED THE PLEAS.

This significant substantial and procedural change in the law made all of Mr. Barnes juvenile adjudications count past the ages of 18 and 23, which is contrary to the law in effect at the time he entered into his 5 juvenile plea bargains.

Consequently, Mr. Barnes juvenile plea bargains were not

made in a knowingly, intelligently, or a voluntary way because the legislation and the laws changed the direct consequences of his juvenile plea bargains.

"Due process requires that a guilty plea be knowing, voluntary, and intelligent." Hews v. Evans, 99 Wn.2d 80, 87, 660 P.2d 263 (1983); Henderson v. Morgan, 426 U.S. 637, 644-45, 96 S.Ct. 2253, 2257-58 (U.S.N.Y. 1979); Boykin v. Alabama, 395 U.S. 238, 241-44, 89 S.Ct. 1709, 1711-13, 23 L.Ed.2d 274 (1969). "An accused is entitled to know all the direct consequences of a plea." In Re Coats, 173 Wn.2d 123, 267 P.3d 324, 334 (Wash. 2011).

The laws of 2006 changed the direct consequences of his juvenile plea bargains thereby depriving Mr. Barnes of his "Due Process" and violating his constitutional rights. U.S. Const. Art. 1 § 5 and 14; Wa. St. Const. Art. 1 §22.

j. MR. BARNES SHOULD BE ALLOWED TO WITHDRAW ALL 5 OF HIS JUVENILE PLEA BARGAINS BECAUSE OF THE MANIFEST INJUSTICE CREATED BY HIS UNKNOWING, UNINTELLIGENT, AND INVOLUNTARY PLEA DECISIONS.

A court may permit the withdrawal of a guilty plea whenever it appears that the withdrawal is necessary to correct a manifest injustice. CrR 4.2(f); State v. Ross, 129 Wn.2d 279, 916 P.2d 405, 408 (Wash. 1996).

"The defendant bears the burden of proving manifest injustice, defined as "obvious, directly observable, overt, not obscure." State v. Saas, 118 Wash.2d 37, 42, 820 P.2d 505 (1991) (quoting State v. Taylor, 83 Wash.2d 594, 596, 521 P.2d 699 (1974)); State v. Moore, 75 Wash.App.166, 172, 876 P.2d 959 (1994).

"An involuntary plea produces a manifest injustice to permit withdrawal." State v. Saas, 118 Wash.2d 37, 42, 820 P.2d 505(Wash. 1991); State v. Moore, 75 Wash.App. 166,172, 876 P.2d 959(1994).

"Due Process requires an affirmative showing that a defendant entered a guilty plea intelligently and voluntarily." State v. Barton, 93 Wn.2d 301, 304, 609 P.2d 1353(1980)(citing Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274(1969)).

When Mr. Barnes entered into all 5 of his plea agreements as a juvenile, he was informed that under the law in effect at that time the direct consequences of the plea agreements would never affect him again passed the ages of 18 and 23 years of age.

Now that the direct consequences of all 5 of Mr. Barnes' juvenile plea agreements have been altered by the laws of 2006, Mr. Barnes guilty pleas were not made knowingly, intelligently, or voluntarily. The juvenile Plea Bargains and Judgement and Sentences are a manifest injustice, they are invalid on their face, the pleas of guilty should be allowed to be withdrawn. The least that should happen is all 5 of Mr. Barnes Juvenile Adjudications should be permanently washed out or expunged from his record and his criminal history.

k. MR. BARNES SHOULD BE ALLOWED TO WITHDRAW BOTH OF HIS 2012 PLEA BARGAINS BECAUSE THEY WERE NOT MADE KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY WHEN THEY IMPROPERLY INCLUDED HIS JUVENILE ADJUDICATIONS AS PART OF HIS CRIMINAL HISTORY.

When Mr. Barnes accepted his plea bargains for cause numbers 12-1-01700-4 and 12-1-02050-1, his Due Process was violated making his two plea bargains unknowing, unintelligently, and involuntarily made because he was misinformed of his offender scores which improperly included several juvenile adjudications.(See Exhibit F and G,

2012 J & S's).

Mr. Barnes' 2012 Plea Bargains and Judgement and Sentences are invalid on their faces because they include all 5 of his Juvenile Adjudications. His lawyer, Gurjit Pandher, and the Snohomish County Superior Court Prosecutors Office, and the Snohomish County Superior Court misinformed Mr. Barnes of his offender score being at 9 points; Therefore, Mr. Barnes did not enter into a plea decision knowingly, intelligently, or voluntarily. Mr. Barnes should be allowed to withdraw both of his 2012 plea bargains.

3. MR. BARNES' DUE PROCESS WAS VIOLATED MAKING HIS PLEA UNKNOWING, UNINTELLIGENT, AND INVOLUNTARY WHEN HE WAS MISINFORMED OF HIS OFFENDER SCORE WHICH IMPROPERLY INCLUDED 2 EXTRA COUNTS FROM A PRIOR CONVICTION.

a. THE TRIAL COURT ERRED WHEN THEY MISCALCULATED mr. barnes PRIOR AND/OR MULTIPLE PRIOR CONVICTIONS.

The offender score is governed and calculated by RCW 9.94A.525.

The RCW states that:

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

In July of 2012, Mr. Barnes was charged with VUCSA with intent to manufacture and/or deliver and 1st degree Unlawful Possession of a Firearm. Then in September of 2012, Mr. Barnes was charged with another VUCSA without any intents. Therefore, according to the law, he has 2 "other current offenses": 1. VUCSA with intent and 2. VUCSA without intents.

The law further states that if I have a prior conviction they shall be counted to. But I have Multiple Prior Convictions that need to be calculated. The law addresses that issue and states:

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

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

Mr. Barnes multiple prior convictions are cause numbers:

88-1-00668-1 (Exhibit B), 95-1-01551-9 (exhibit C), and 00-1-00378-6 (Exhibit D, resentenced with Exhibit E). That is he has 3 Multiple Prior Convictions total. § 3 Judgment and Sentences total from three separate and distinct complaints, indictments, or informations period. ~~Mr. Barnes~~ Mr. Barnes was convicted one time for each Judgment and Sentence, the judge signed each document one time, he did not break up the counts in one prior conviction and sentence me on three separate and distinct judgment and sentences and run them consecutively. He sentenced them all as one sentence and ran them all concurrent, because they were all part of one crime under one cause number.

As Mr. Barnes stated in his declaration, he asked his lawyers to sever his Counts and/or let him plea guilty to some and not guilty to others. They would not let him do this, it was an all or nothing deal. So if Mr. Barnes was not allowed to separate the counts, why should the court or the prosecutor be able to separate

the counts as they did with Mr. Barnes 00-1-00378-6 cause number. (See Exhibit A, Appendix A to Plea Agreements).

Mr. Barnes' 2000 case was all charged in one information, charged all from the same date, found guilty all off the same Judgment and Sentence, and all sentenced concurrently; the trial court erred and violated Mr. Barnes Due Process because they failed to have a hearing or discussion on the matter of Mr. Barnes Criminal History. They chose to presume that my prior offenses were legit and not deemed same criminal conduct even though the law stated otherwise "The current sentencing court may presume that such prior offenses were not the same criminal conduct from sentences imposed on separate dates (like all three cause numbers, Exhibits B, C, and E), or in separate counties or jurisdictions (not applicable), or in separate complaints, indictments, or informations (like all 3 cause numbers, Exhibit B, C, and E, all 3 convictions were all off of their own informations or complaints). RCW 9.94A.525; U.S. Const. Art. 14 § 5 and 14; Wa. St. Const. Art. 1 § 22.

Mr. Barnes should have his multiple prior convictions changed from 5 as listed in Exhibit A to 3 points. Mr. Barnes Offender score would then be 2 for other current offenses plus 3 for multiple prior convictions totaling 5 for his offender score for his total adult criminal history.

Mr. Barnes is asking the Court of appeals to make either a determination on his criminal history changing it to a total of 5, for current and past convictions; or to have a hearing on the issue at hand, or deem them as same criminal conduct.

b. THE TRIAL COURT VIOLATED MR. BARNES DUE PROCESS WHEN THE TRIAL COURT ERRED AND DENIED HIM A HEARING/DISCUSSION TO DEEM HIS PRIOR 2000 CONVICTION WITH 3 COUNTS AS "SAME CRIMINAL CONDUCT"

As Mr. Barnes stated in his Declaration, his sole criminal intent on the night of February 11th, 2000, was to possess a vehicle long enough to get from point A to point B and collect a little cash for his time and some "free drugs", he knew nothing about any drugs, guns or stolen property that was locked inside of the trunk. The owner specifically told Mr. Barnes that the vehicle and everything in it was not stolen.

RCW 9.94A.589 is for consecutive or concurrent sentences and also defines "same criminal conduct", it reads as follows:

"(1)(a) except as provided in (b) or (c) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, that if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then these current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.535. "Same criminal Conduct", as used in this subsection, means 2 or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition applies in cases involving vehicular assault or vehicular homicide even if the victims occupied the same vehicle."

As enacted this law read:

"(4) Whenever a person is convicted of 2 or more ~~same~~ non-violent offenses which all arise out of the same ~~criminal transaction~~ criminal transaction, the sentence imposed shall run concurrently."

"A current sentencing Court must calculate an offender score based on an offender's "other current and prior convictions." RCW 9.94A.589(1)(a). If a prior sentencing court found multiple offenses "encompass the same criminal conduct," the current sentencing court must count those prior convictions as one ~~single~~ offense. RCW 9.94A.525(5)(a)(i). If the prior Sentencing Court did not make

this finding, but nonetheless ordered the offender to serve the sentences concurrently, the current sentencing court must independently evaluate whether those prior convictions "encompass the same criminal conduct," and, if they do, must count them as one offense. *Id.*; RCW 9.94A.589(1)(a); State v. Tornngren, 147 Wash.App. 556, 563, 196 P.3d 742(2008)("A sentencing Court... must apply the same criminal conduct test to multiple prior convictions that a court has not already concluded amount to the same criminal conduct). The Court has no discretion on this."(citation omitted) (citing RCW 9.94A.525(5)(a)(i); State v. Reinhart, 72 Wash.App. 454, 459, 891 P.2d 735(1995); State v. Lara, 66 Wash.App. 927, 931-32, 834 P.2d 70(1992)), abrogated on other grounds by State v. Graciano, 176 Wash.2d 531, 295 P.3d 219(2013). FN1> The offender bears the burden of proving offenses encompass the same criminal conduct. State v. Graciano, 176 Wash.2d @ 539, 295 P.3d 219." State v. Williams, 176 Wn.App. 138, 307 P.3d 819,820(2013).

When Mr. Barnes was being sentenced he was never asked any questions about his criminal history, nor was there a hearing or a discussion to determine what his criminal history was, the court went with ~~the~~ the State's bare assertions, unsupported by evidence, using an unsworn list of crimes to use for the calculation of his offender score. As Mr. Barnes stated, and would have testified for the Court, if they did not violate his Due Process by not having the hearing or the discussion about his past counts from a prior conviction, that his sole criminal intent, was to possess a vehicle (that had unwittingly possessed guns, drugs, and stolen property) long enough to get the vehicle from ~~the~~

point A to POInt B and collect a little cash for his time and some "free drugs". These were all non-violent offenses arising all out of the same criminal transaction, that is why they were ran concurrently. Mr. Barnes also stated that he was told that the car and everything in it was not stolen. The end result, the only real criminal intent for all three offenses or counts, was after he got to point B, he would then possess, consume, and use the free drugs he would be paid with because he had a drivers license.

The analysis for determining whether the offenses involve the same criminal intent such that the offenses are not considered seperately when calculating the defendant's offense score pursuant to the Sentencing Reform Act (SRA) considers whether one crime ~~was~~ furthered the other, or the two were part of a recognizable scheme or plan. State v. Williams, 176 Wn.App. 138, 307 P.3d 819(2013).

Whether offenses involve the same criminal intent such that the offenses are not considered seperately when calculating the defendant's offense score pursuant to the SRA depends on the extent to which the criminal intent, as objectively viewed, changed from one crime to the ~~other~~ next. State v. Williams, 176 Wn.App. 138, 307 P.3d 819(2013).

Two prior offenses share the same criminal intent, as element for counting them as one crime in defendant's criminal history for purposes of sentencing for new offenses, when the ~~the~~ offender's intent, objectively viewed, does not change from one crime to the next. State v. Torngren, 147 Wash.App. 556, 196 P.3d ~~556~~ 742(2008).

To determine whether 2 prior offenses share the same criminal intent, as element for counting them as one crime in a defendant's criminal history for purposes of sentencing for new offenses, the court looks at the underlying statutes and intent necessary to ~~commit~~ committ each crime, and also considers the facts shown at sentencing. State v. Torngren, 147 Wash.App. 556, 196 P.3d 742(2008); State v. Rodriguez, 61 Wash.App. 812, 816, 812 P.2d 868(1991).

When Mr. Barnes was deprived the Due Process required to have a hearing or discussion about his criminal history and how it was calculated, he could not introduce any facts or statements at the sentencing. Mr. Barnes unwitting possessions were all by statute him possessing or trying to possess things that by statute were illegal for him to possess. He never stole from anyone, to get these illegal possessions, they were handed to him all at once with instructions to drop the car at point B, don't worry the car and everything in it are not stolen. Furthermore, Mr. Barnes already paid 78 months of total confinement for this prior conviction of 3 counts or offenses, on one Judgement and Sentence ran concurrent by the Court, which was also derived from one complaint or information or amended information, not out of 3 complaints or 3 seperate informations. Mr. Barnes prior conviction 00-1-00378-6 with 3 seperate counts, should by this Court and every Court here after be deemed as same criminal conduct for the purpose of sentencing.

"In order for separate offenses to "encompass the same criminal conduct" under the statute, three elements must therefore be present: 1. same criminal intent (which I believe has been proven objectively viewed), 2. same time and place (Exhibit's D and E, February 11th, 2000 as to all counts), and 3. same victim (possession is a strict liability crime, you have to knowingly possess something in order for it to be a crime - unless you do not testify like in my case). The absence of any one of these prongs prevents a finding of same criminal conduct." State v. Vike, 125 Wash.2d 407, 410, 885 P.2d 824(1994); State v. Porter, 133 Wn.2d 177, 942 P.2d 974, 976(Wash. 1997). Mr. Barnes, objectively viewed with his testimony, has met all three prongs.

C. MR. BARNES HAS SHOWN TWO REASONABLE INTERPRETATIONS/ CONSTRUCTIONS OF THE WORDING OF THE STATUTES WHICH REQUIRES THAT THE RULE OF LENITY BE APPLIED FOR THE PROPER CALCULATION OF HIS OFFENDER SCORE.
Mr. Barnes believes that the rule of lenity applies here.

"[if] a penal statute is susceptible to more than one reasonable interpretation, it is ambiguous and, absent legislative intent to the contrary, the rule of lenity requires the Court to interpret the statute in favor of the defendant."

State v. Council, 170 Wash.2d 704,706-07, 245 P.3d 222(2010)(citing State v. Jacobs, 154 Wash.2d 596, 600-01, 115 P.3d 281(2005)); State v. Sweat, 2014 WL 1321012 (Wash. 2014)(No.88663-6).

"The rule of lenity requires that, where two possible constructions of a statute are permissible, the statute must be strictly construed against the state and in favor of the accused."

State v. Gore, 101 Wash.2d 481,485-86, 681 P.2d 227(1984); State v. Reis, 2014 WL 1284863(Wash.App.Div.I 2014)(No. 69911-3-I).

"The Rule of lenity applies to situations where more than one interpretation can be drawn from the wording of a statute. State v. Snedden, 149 Wash.2d 914,922, 73 P.3d 995 (2003). "Under the rule of lenity, the court must adopt the

interpretation most favorable to the criminal defendant." State v. McGee, 122 Wash.2d 783, 787, 864 P.2d 912(1993)"

State v. Rice, 320 P.3d 713,726(Wash.App.Div.II 2014).

Obviously, Mr. Barnes' Gullibility led to a wrongful prior conviction in his 2000 case. His present convictions should not count his wrongful prior conviction in 2000 as 3 separate points, only as 1 point; OR deem it as "same criminal conduct" and count it as 1 point. Supra 18 - 26.

C. CONCLUSION:

Mr. Barnes respectfully requests this Court to consider the aforementioned Arguments.

The Ever-Changing Statutes have created Ambiguity of the Statutes leading to the multiple miscalculations of Mr. Barnes' offender Score.

Mr. Barnes is asking this Court to allow him to withdraw all 5 of his Juvenile Plea Bargains and that all 5 of the Juvenile Judgment and Sentences be permanently "washed out" for all sentencing purposes and/or be expunged from his record and his criminal history.

Mr. Barnes would also like this Court to correct the trial courts error of his miscalculated prior conviction in 2000 from 3 points to 1 point.

Mr. Barnes would then like to be remanded for resentencing with the proper score of 5 points; The 3 prior convictions from 1988, 1996, and 2000 (3 points) plus his 2 "other current offenses" from the 2012 cases (2 points).

OR; Mrs Barnes should be allowed to withdraw his 2012 Plea Bargains, have his previous \$75,000 bail bond reinstated or released on his

own personal recognisance with the same conditions he was out on bail before sentencing on the 11st day of November, 2013, and allowed to go to trial.

Thank you for your time and consideration on these matters.

DATED this 23rd day of July, 2014.

Respectfully Submitted,



~~ERIK VINCENT BARNES~~
#948722 H4-B-115-U
Stafford Creek Correction Center
191-Constantine Way
Aberdeen, Washington 98520

EXHIBIT A

STATEMENT OF DEFENDANT ON PLEA OF GUILTY

PLEA AGREEMENT AND SENTENCING RECOMMENDATION

APPENDIX A TO PLEA AGREEMENT

S.C.C. CAUSE No's. 12-1-01700-4 and 12-1-02050-1

- (c) The right at trial to hear and question witnesses who testify against me.
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me.
- (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty.
- (f) The right to appeal a finding of guilt after a trial.

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

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

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancement)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range + enhancement)	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
I	9	87-116 MONTHS		87-116 MONTHS	18-36 months	10YRS/\$20,000
II	9	60+-120 MONTHS		60+-120 MONTHS	12 months	10YRS/\$20,000

*Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, see RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang involving minor, (AE) Endangerment while Attempting to Elude.

- (b) The standard range(s) is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind, if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, domestic violence penalty, and costs of incarceration.
- (f) In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the term established for that offense type as set forth in the chart below unless the judge finds substantial and compelling reasons not to do so. If the

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MAR 06 2012

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

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

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT

Defendant.

No. 12-1-01700-4

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY

1. My true name is ERIK VINCENT BARNES.

2. My age is 43.

3. I went through the GED grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

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

(b) I am charged with the crime(s) of Count 1: Unlawful Possession of a Firearm in the First Degree, Count 2: Possession of a Controlled Substance With Intent to Manufacture or Deliver, methamphetamine, RCW 9.41.040(1), 69.50.401(1), 69.50.401(1).

The elements of the crime(s) are:

COUNT I: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 13th day of July, 2012, 3) having previously been convicted in this state or somewhere of a serious offense as defined in RCW 9.41.010, to-wit: Second Degree Burglary, 4) did knowingly own or have in his possession or under his control a firearm.

COUNT II: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 13th day of July, 2012, did knowingly and unlawfully possess, 3) with intent to manufacture or deliver a controlled substance, to-wit: methamphetamine.

5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM UP BY PLEADING GUILTY:

(a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed.

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself.

period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by RCW 9.94A.411(2)	12 months
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

During the period of community custody I will be under the supervision of the Department of Corrections (DOC), and I will have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the DOC. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(5)(h), and may result in the DOC transferring me to a more restrictive confinement status or other sanctions.

If I violate the conditions of my community custody, the DOC may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the DOC may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

- (g) The prosecuting attorney will make the recommendation to the judge as set forth in the attached plea agreement, which is incorporated by reference. Persons other than the prosecuting attorney may make sentence recommendations which could differ from the prosecuting attorney's recommendation.
- (h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences:
 - (i) The judge may impose an exceptional sentence below the standard range if the judge finds exceptional mitigating circumstances supporting an exceptional sentence.
 - (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime, and I have either an offender score of more than nine or unscored misdemeanor or foreign criminal history.
 - (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interest of justice and the purposes of the Sentencing Reform Act. If an exceptional sentence is imposed, I agree not to challenge it. If I do challenge the exceptional sentence, then I understand that I am subject to the same consequences as outlined in paragraph 9 of the Plea Agreement.
 - (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

- If the judge imposes a standard range sentence, then no one may appeal the sentence. If the judge imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence except as otherwise indicated above.
- (i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, removal from the United States, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
 - (j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.
(Pursuant to RCW 9.41.047(1), the Judge shall also notify me orally of the above restriction in paragraph (j) if I am pleading guilty to an offense that makes me ineligible to possess a firearm. The Clerk shall forward a copy of the defendant's driver's license, identicard or comparable identification to the Department of Licensing along with the date of conviction.)
 - (k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art VI § 3, RCW 29A.04.079, 29A.08.520
 - (l) Government assistance may be suspended during any period of imprisonment.
 - (m) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100 DNA collection fee.

Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, they shall be stricken.

- ~~(n) **Three Strikes Law.** The crime of is a "most serious offense" or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.~~
- ~~(n-1) **Two Strikes Law.** If a current offense is (A) rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree; kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any of the aforementioned crimes and I have at least one prior conviction for one of the aforementioned crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. The prior conviction must have occurred before commission of the current offense.~~
- ~~(o) The judge may sentence me as a First Time Offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030 and RCW 9.94A.650. This sentence could include as much as 90 days confinement and up to one year of community custody plus all of the conditions described in paragraph 6(e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~
- (p) The judge may sentence me under the Parenting Sentencing Alternative (PSA) if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the PSA, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At anytime during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence.

The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.

- ~~(q) If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, I will be required to register where I reside, study, or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~
- ~~(r) If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~
- ~~(s) If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~
- (t) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- (u) The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.

If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of one-half of the midpoint of the standard range.

If the judge imposes the **residential chemical dependency treatment-based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of **three to six months**, as set by the court.

As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the Department of Corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(e). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. If

the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

- ~~(v) If this crime involves the manufacture, delivery, or possession with intent to deliver methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fine may not be suspended. RCW 69.50.401(2)(b).~~
- (v-1) If this crime involves a felony violation of RCW 69.50.401 through .4013, .4015, .402, .403, .406, .407, .410, or .415, then a fine of \$1,000, or \$2,000 if this violation is a second or subsequent violation of such laws, will be assessed in addition to any other fine or penalty imposed unless the court makes a finding that I am indigent. RCW 69.50.430.
- (w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.
- ~~(x) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.~~
- ~~(y) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(14).~~
- ~~(z) If I am pleading guilty to felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of Chapter 9.94A, RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements.~~
- ~~(aa) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(n) and/or 6(n-1).~~
- ~~(bb) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on Counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~
- ~~(cc) The offense(s) I am pleading guilty to include(s) a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must be run consecutively to all other sentencing provisions.~~
- ~~(dd) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~
- ~~(ee) If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve consecutive sentences for each conviction of these crimes, and for each firearm unlawfully possessed.~~
- (ff) If I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least six months if this is my first conviction and for at least twelve months if this is my second or subsequent

conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.200.

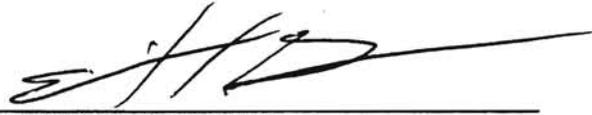
- (gg) The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I cannot currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I cannot have a current or prior conviction for a sex or violent offense.
7. I plead guilty to the crime(s) of Count 1: Unlawful Possession of a Firearm in the First Degree, Count 2: Possession of a Controlled Substance With Intent to Manufacture or Deliver, methamphetamine, in the Information. I have received a copy of that Information.
 8. I make this plea freely and voluntarily.
 9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
 10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
 11. The judge has asked me to state in my own words what I did that makes me guilty of this crime. This is my statement:

On or about July 13, 2012, in Snohomish
County, Wash, having previously been convicted in
this state or somewhere of Burglary Second Degree,
a most serious offense, I did knowingly possess
a Firearm.

Further, on the same date and place, I did
unlawfully possess methamphetamine, a controlled
substance, with intent to manufacture or deliver.

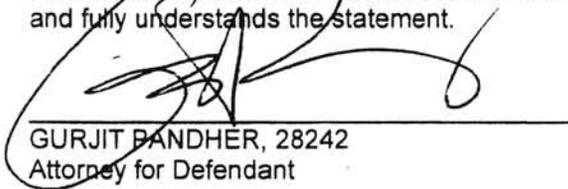
In addition to the statement above, I agree that the court may review the Affidavit of Probable Cause previously filed in this case to establish a factual basis for my plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs, the "Offender Registration" Attachment, if applicable, and the other attachments/appendices to this document. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

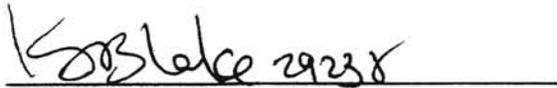


ERIK VINCENT BARNES
Defendant

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



GURJIT PANDHER, 28242
Attorney for Defendant


TAMMY L. BAYARD, 33554
Deputy Prosecuting Attorney

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that *[check appropriate box]*:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is included below.

Interpreter's Declaration: I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I have interpreted this 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.

Signed at Everett, Snohomish County, Washington, on this _____ day of _____, 2013.

Interpreter Print Name

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

Dated this 15 day of March, 2013.

JUDGE 

PLEA AGREEMENT AND SENTENCING RECOMMENDATION

Date: February 15, 2013
Defendant: ERIK VINCENT BARNES

Cause No.: 12-1-01700-4

The State of Washington and the defendant enter into this Plea Agreement which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea.

This Plea Agreement is dependent upon the defendant entering a plea of guilty in all other cause numbers included in the State's plea offer.

The Plea Agreement is as follows:

1. The defendant is pleading guilty to Count 1: Unlawful Possession of a Firearm in the First Degree, Count 2: Possession of a Controlled Substance With Intent to Manufacture or Deliver, methamphetamine, as charged in the Amended Information.

2. SENTENCING FACTS

Facts to be considered for imposing sentence are as set forth in the affidavit(s) of probable cause previously filed in this Cause Number and Appendix C if filed herein.

3. STIPULATION TO EXCEPTIONAL SENTENCE ABOVE OR BELOW THE STANDARD RANGE

The defendant and the State both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range. The defendant stipulates the facts as outlined in the affidavit(s) of probable cause and Appendix C exist beyond a reasonable doubt and justify an exceptional sentence outside the standard range. The court may consider those facts when deciding whether there are substantial and compelling reasons to sentence the defendant outside the standard range.

4. CRIMINAL HISTORY/OFFENDER SCORE

The defendant agrees the attached Appendix A - Prosecutor's Understanding of Defendant's Criminal History ("Appendix A") and the attached Sentencing Guidelines scoring form(s) are accurate and complete. The defendant also agrees that he/she was represented by counsel or waived counsel at the time of the prior conviction(s). Any challenge by the defendant to the criminal history or scoring will constitute a breach of this agreement. The sentencing recommendation may increase in severity if any additional convictions are discovered.

The defendant affirmatively acknowledges that the out-of-state convictions listed in the attached Appendix A are comparable to the Washington crimes listed in Appendix A or are comparable to the following crimes: _____

The defendant disputes the following criminal history set forth in Appendix A: _____

5. FINDING OF CHEMICAL DEPENDENCY

The defendant agrees that chemical dependency contributed to the commission of this offense.

6. DRIVER'S LICENSE REVOCATION

[] The defendant [] agrees [] disputes that his/her conviction results in a mandatory license revocation pursuant to RCW 46.20.285. If the defendant disputes the license revocation, the issue will be decided by the court at sentencing.

7. SENTENCE RECOMMENDATION

[X] The defendant agrees to the State's sentencing recommendation as set forth below except for [] confinement [] community custody [] no contact order [X] legal financial obligations.

[] The defendant does not agree with the State's sentencing recommendation as set forth below, and he/she will make his/her own sentencing recommendation.

State recommends, unless otherwise specified, that the court impose the following sentence:

A. TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement as follows:

Count I	<u>90</u>	days/months	Count IV	_____	days/months
Count II	<u>90</u>	days/months	Count V	_____	days/months
Count III	_____	days/months	Count VI	_____	days/months

Terms on each count to run [X] concurrently with [] consecutively to [] each other
[X] terms imposed in cause number(s) 12-1-02050-1

ALTERNATIVES TO CONFINEMENT (sentences one year or less)

[] Term of confinement may be served in the following alternatives if the defendant is eligible and approved: [] work release [] work crew [] electronic home monitoring [] work crew and electronic home monitoring.

[] _____ days of total confinement ordered may be converted to _____ hours of community service (8 hours = 1 day, nonviolent offenders only) (240 hours max). The State agrees to recommend credit for all hours performed prior to sentencing if the defendant provides written proof satisfactory to the prosecuting attorney and court.

SENTENCING ALTERNATIVES/EXCEPTIONAL SENTENCE

[] Drug Offender Sentencing Alternative (DOSA) (sentences greater than one year)
[] State will recommend a DOSA if defendant is eligible and DOC recommends.
[] The State reserves making a recommendation regarding a DOSA until it reviews the risk assessment and/or chemical dependency screening report(s).
[] The State objects to a DOSA sentence.

[] First Time Offender Waiver (FTOW) (no prior felony convictions)
[] State [] Defendant recommend(s) a FTOW sentence and request(s) the court waive imposition of a sentence within the standard range.
[] The State objects to a FTOW sentence.

- Parent Offender Sentencing Alternative (POSA) (*no prior felony sex or violent convictions; high end of standard range sentence greater than one year*)
 - State will recommend a POSA if defendant is eligible and DOC recommends.
 - State reserves making a recommendation regarding a POSA until it reviews the information from DSHS, risk assessment report, and/or chemical dependency screening report.
 - State objects to a POSA.
- Exceptional Sentence
 - State Defendant recommend(s) an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth in the affidavit(s) of probable cause filed in this Cause Number and the attached Appendix C.

B. COMMUNITY CUSTODY: State recommends that the defendant serve the following term of Community Custody:

Count I	<u>18-36</u>	months	Count IV	_____	months
Count II	<u>12</u>	months	Count V	_____	months
Count III	_____	months	Count VI	_____	months

In addition to the standard conditions of Community Custody, the State recommends that the defendant:

- have no contact with victim(s) _____;
- not possess or use other person's means of identification;
- not purchase, possess, or consume alcohol controlled substances without a valid prescription;
- complete State certified domestic violence treatment program;
- complete an anger management program;
- complete a chemical dependency evaluation and comply with all treatment recommendations;
- complete a mental health evaluation and comply with all treatment recommendations, including taking prescribed medications; and
- other: comply with conditions of DOC

C. LEGAL FINANCIAL OBLIGATIONS: The State recommends that the defendant pay the following financial obligations to the clerk of court:

- \$500 Victim Penalty Assessment;
- fine of ~~\$1,000~~ \$2,000 \$3,000;
- court costs and costs of appointed counsel;
- \$100 State crime lab fee;
- \$100 DNA fee;
- \$100 DV fee;
- restitution for charged and uncharged crimes as set forth in ¶ 8 below; and
- other: _____

8. RESTITUTION

Pursuant to statute, the defendant agrees to pay restitution in full as follows:

Charged crimes

Uncharged crimes, RCW 9.94A.753(5):

LAW ENFORCEMENT AGENCY	INCIDENT NO.	VICTIM
Tracy King 1 + Atty Tracy King	12-11583	Millers

9. AGREEMENT NOT TO CHALLENGE CONVICTION

The defendant agrees not to challenge the conviction for this crime, whether by moving to withdraw the plea, appealing the conviction, filing a personal restraint petition, or in any other way. If an exceptional sentence is imposed, the defendant may appeal the sentence without violating this agreement, except as stated in Paragraph 6(h)(iii) of the Statement of Defendant on Plea of Guilty.

10. AGREEMENT TO DISMISS/NOT TO FILE ADDITIONAL CHARGES

The State agrees to dismiss the pending charges/cases or not to file additional charges as set forth below. This agreement is limited to cause numbers or crimes specifically referred to in this plea agreement and identified by crime, police incident or court case number, victim, and date of violation (DOV) specified, and does not apply to any other matters which may be under investigation, pending, or being handled by any other DPA or agency.

CRIME/CHARGE	AGENCY/COURT NO.	VICTIM	DOV
Atty Tracy 1 / Tracy 1	SCSO	Millers	≈ 7-13-12
addicts of UPI +	"		
possession stolen firearm	"	Millers	≈ 7-13-12

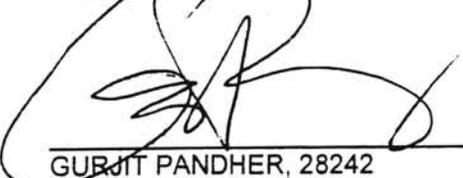
11. NON-COMPLIANCE WITH AGREEMENT

The defendant is bound by this agreement and may not withdraw his guilty plea in the event he/she violates the provisions of this agreement. If the defendant fails to appear for sentencing, commits a new offense or violates any condition of release prior to sentencing, or violates any other provision of this agreement, the State may recommend a more severe sentence, re-file charges that were dismissed as part of this plea agreement, or file additional or greater charges. The defendant waives any objection to the filing of additional or greater charges based upon pre-charging or pre-trial delay, statutes of limitations, mandatory joinder requirements, or double jeopardy. If defendant's violation of the agreement constitutes a crime, the State may charge the defendant with that crime.

12. OTHER: _____

AGREED this ~~15~~ 1 day of ~~Feb~~ March, 2013.


TAMM L. BAYARD, 33554
Deputy Prosecuting Attorney


GURJIT PANDHER, 28242
Attorney for Defendant


ERIK VINCENT BARNES
Defendant

APPROVED this 15 day of March, 2013.

JUDGE 

UNLAWFUL POSSESSION OF A FIREARM FIRST DEGREE

7/31/12 (gp) 2/14/13 RCW 9.41.040(1)
 BARNES, Erik Vincent CLASS B - NONVIOLENT
 OFFENDER SCORING RCW 9.94A.525(7)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(B)) on or after 7/01/2006, use the General Nonviolent Offense with a Sexual Motivation Finding scoring form on page 176.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Nonviolent Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 174.

ADULT HISTORY:
 Enter number of felony convictions 5 x 1 = 5

JUVENILE HISTORY:
 Enter number of serious violent and violent felony dispositions 0 x 1 = 0
 Enter number of nonviolent felony dispositions 5 x 1/2 = 2.5

OTHER CURRENT OFFENSES:
 (Other current offenses that do not encompass the same conduct count in offender score)
 Enter number of other felony convictions 2 x 1 = 2

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

Total the last column to get the **Offender Score** (Round down to the nearest whole number) 9

SENTENCE RANGE

	Offender Score									
	0	1	2	3	4	5	6	7	8	9+
LEVEL VII	17.5m 15 - 20	24m 21 - 27	30m 26 - 34	36m 31 - 41	42m 36 - 48	47.5m 41 - 54	66m 57 - 75	78m 67 - 89	89.5m 77 - 102	101.5m 87 - 116

- ✓ For attempt, solicitation, conspiracy (RCW 9.94A.595) see page 26 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 170 for standard range adjustments.
- ✓ For sentencing alternatives, see page 163.
- ✓ For community custody eligibility, see page 171.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 168.
- ✓ Each firearm possessed under this section is a separate offense.
- ✓ The offender shall be sentenced according to RCW 9.94A.589(1)(c) if the offender is convicted of Unlawful Possession of a Firearm 1 or 2 (RCW 9.41.040) and for felonies Theft of a Firearm or Possession of a Stolen Firearm, or both, as current offenses.
- ✓ If the present conviction is for Unlawful Possession of a Firearm 1 or 2 and felonies Theft of a Firearm or Possession of a Stolen Firearm, or both, charged under RCW 9.41.040, other current convictions for Unlawful Possession of a Firearm 1 or 2, Possession of a Stolen Firearm or Theft of a Firearm may not be included in the computation of the offender score per RCW 9.94A.589(1)(c). The offender will serve consecutive sentences for these particular offenses.

The Caseload Forecast Council is not liable for errors or omissions in the manual, for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual, or for any other written or verbal information related to adult or juvenile sentencing. The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules. If you find any errors or omissions, we encourage you to report them to the Caseload Forecast Council.

DELIVER OR POSSESS WITH INTENT TO DELIVER METHAMPHETAMINE

~~7/31/12~~ (gp) 2/11/13 RCW 69.50.401(2)(b)
 CLASS B - NONVIOLENT/DRUG
 BARNES, Erik Vincent
 OFFENDER SCORING RCW 9.94A.525(13)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(B)) on or after 7/01/2006, use the General Drug Offense with a Sexual Motivation Finding scoring form on page 178.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Drug Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 177.

ADULT HISTORY:

Does the offender have a prior sex or serious violent offense in history?
 YES Enter number of felony drug convictions 0 x 3 = 0
 NO Enter number of felony drug convictions 1 x 1 = 1
 Enter number of felony convictions 4 x 1 = 4

JUVENILE HISTORY:

Does the offender have a prior sex or serious violent offense in history?
 YES Enter number of felony drug dispositions 0 x 2 = 0
 NO Enter number of felony drug dispositions 0 x 1/2 = 0
 Enter number of serious violent and violent felony dispositions 0 x 1 = 0
 Enter number of nonviolent felony dispositions 5 x 1/2 = 2.5

OTHER CURRENT OFFENSES:

(Other current offenses that do not encompass the same conduct count in offender score)

Does the offender have other prior sex or serious violent offense in history?
 YES Enter number of other felony drug convictions 0 x 3 = 0
 NO Enter number of other felony drug convictions 0 x 1 = 0
 Enter number of other felony convictions 2 x 1 = 2

STATUS:

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

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

9

SENTENCE RANGE - DRUG

Offender Score			
	0 to 2	3 to 5	6 to 9+
	16m	40m	90m
LEVEL II	12+ - 20	20+ - 60	60+ - 120

- ✓ For attempt, solicitation or conspiracy drug felonies see page 27 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 170 for standard range adjustments.
- ✓ Per RCW 9.94A.518, any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602 becomes a level III offense.
- ✓ For deadly weapon enhancement, see page 173.
- ✓ For sentencing alternatives, see page 163.
- ✓ For community custody eligibility, see page 171.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 168.
- ✓ Per RCW 69.50.408, the statutory maximum for a **subsequent conviction** under chapter 69.50 RCW is 240 months.
- ✓ Per RCW 69.50.435, if the offense occurred within a **protected zone**, 24 months shall be added to the standard range and the statutory maximum is 240 months.

The Caseload Forecast Council is not liable for errors or omissions in the manual, for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual, or for any other written or verbal information related to adult or juvenile sentencing. The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules. If you find any errors or omissions, we encourage you to report them to the Caseload Forecast Council.

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

DATE: February 14, 2013 (da/gp/dhw)
 DEFENDANT: **BARNES, Erik Vincent**
 DOB: 12/24/69 W/M
 SID: WA12990748 FBI: 196128JA3 DOC: 948722
 DNA TAKEN: Yes

<u>CRIME</u>	<u>DATE OF CONVICTION</u>	<u>PLACE OF CONVICTION</u>	<u>Incarceration/Probation DISPOSITION</u>
ADULT FELONIES:			
Second Degree Burglary (B)	12/15/88	Snohomish County 88-1-00668-1	6 Mos. Comm. Supervision 5 Mos. Confinement
Attempting to Elude (C)	3/29/96	Snohomish County 95-1-01551-9	12 Mos. Comm. Supervision 45 Days Confinement
VUCSA – Possession With Intent to(B) Manufacture/Deliver (Methamphetamine) With Deadly Weapon finding (Firearm)	4/28/05 resentenced	Snohomish County 00-1-00378-6	84 Mos. Confinement (inc enhancement) 9 Mos Comm Placement 11/6/06 Released
First Degree Unlawful Possession (B) Of a Firearm	4/28/05 resentenced	Snohomish County 00-1-00378-6	48 Mos. Confinement
First Degree Possession (B) Stolen Property	4/28/05 resentenced	Snohomish County 00-1-00378-6	14 Mos. Confinement

ADULT MISDEMEANORS:

1. No Valid License/Expired License	4/4/89	Lewis County
2. Driving Under Influence	5/8/89	Snohomish County
3. Third Degree Theft	12/4/88	Snohomish County
4. Minor in Possession of Alcohol	6/22/89	Snohomish County
5. Negligent Driving	6/30/89	Snohomish County
6. Reckless Driving	7/2/89	Snohomish County
7. No Valid License/Expired License	5/11/90	Snohomish County
8. Reckless Driving	5/11/90	Snohomish County
9. Fourth Degree Assault	8/25/90	Snohomish County
10. Refuse to Give Info/Cooperate	3/28/91	Snohomish County
11. Driving While Suspend/Revoked	5/12/92	Snohomish County
12. Carry Concealed Weapon	5/23/92	Snohomish County
13. Driving While Suspend/Revoked	8/21/92	Snohomish County
14. Obstructing	11/26/93	Snohomish County
15. Driving Under Influence	4/29/95	Snohomish County
16. Obstructing	4/29/95	Snohomish County
17. Driving While Suspend/Revoked	10/6/95	Snohomish County
18. Disorderly Conduct	10/19/96	Snohomish County
19. Obstructing - DV	12/5/97	Snohomish County
20. Reckless Driving	10/15/98	Snohomish County
21. Fail to Stop & Give Information	10/15/98	Snohomish County
22. Resisting Arrest	10/15/98	Snohomish County
23. Reckless Driving (Alcohol)	3/13/00	Snohomish County

BARNES, Erik Vincent

ADULT MISDEMEANORS: (continued)

24. Driving While Suspend/Revoked	5/3/00	Snohomish County
25. Driving While Suspend/Revoked	5/6/00	Snohomish County
26. Driving Under the Influence	7/25/07	Snohomish County

JUVENILE FELONIES:

Second Degree Burglary (B)	2/15/84	Snohomish County	Community Supervision
Second Degree Burglary (B)	8/8/85	Snohomish County	Community Supervision
Second Degree Poss. Stolen Property (C)	10/1/86	Snohomish County	Institution
Second Degree Burglary (B)	9/17/87	Snohomish County	Institution
Second Degree Poss. Stolen Property(C)	9/21/87	Snohomish County	Institution

JUVENILE MISDEMEANORS:

None.

!Date of conviction reflects the sentencing date on felonies & offense date on misdemeanors.

AFFIDAVIT BY CERTIFICATION

I am a legal specialist employed by the Snohomish County Prosecutor's Office, and make this affidavit in that capacity. I have reviewed the following databases maintained by federal and state agencies to determine the above named defendant's criminal history: NCIC (maintained by the FBI), WWCIC (Washington State Patrol Criminal History Section), JIS (Judicial Information System), Washington State Department of Licensing, [] Washington State Department of Corrections. A review of those sources indicates the defendant's criminal history is as listed above.

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

LEGAL SPECIALIST

DATED this _____ day of _____, 2013, at the Snohomish County Prosecutor's Office

PANDHER
FILED

MAR 07 2012

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH.

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

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT

Defendant.

No. 12-1-02050-1

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY

1. My true name is ERIK VINCENT BARNES.

2. My age is 43.

3. I went through the GED grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

- (a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is GURJIT PANDHER.
- (b) I am charged with the crime(s) of Count 1: Possession of a Controlled Substance, Methamphetamine, RCW 69.50.4013.

The elements of the crime(s) are: That the defendant, 1) in Snohomish County, Washington, 2) on or about the 27th day of September, 2012, 3) did unlawfully possess a controlled substance, to-wit: Methamphetamine.

5. I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed.
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself.
- (c) The right at trial to hear and question witnesses who testify against me.
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me.
- (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty.
- (f) The right to appeal a finding of guilt after a trial.

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

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

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancement)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range + enhancement)	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	9	12+-24 months		12+-24 months	12 months	5 years/\$10,000

*Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, see RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang involving minor, (AE) Endangerment while Attempting to Elude.

- (b) The standard range(s) is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind, if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees, domestic violence penalty, and costs of incarceration.
- (f) In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the term established for that offense type as set forth in the chart below unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by RCW 9.94A.411(2)	12 months
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

During the period of community custody I will be under the supervision of the Department of Corrections (DOC), and I will have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the DOC. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(5)(h), and may result in the DOC transferring me to a more restrictive confinement status or other sanctions.

If I violate the conditions of my community custody, the DOC may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the DOC may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

- (g) The prosecuting attorney will make the recommendation to the judge as set forth in the attached plea agreement, which is incorporated by reference. Persons other than the prosecuting attorney may make sentence recommendations which could differ from the prosecuting attorney's recommendation.
- (h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences:
 - (i) The judge may impose an exceptional sentence below the standard range if the judge finds exceptional mitigating circumstances supporting an exceptional sentence.
 - (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime, and I have either an offender score of more than nine or unscored misdemeanor or foreign criminal history.
 - (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interest of justice and the purposes of the Sentencing Reform Act. If an exceptional sentence is imposed, I agree not to challenge it. If I do challenge the exceptional sentence, then I understand that I am subject to the same consequences as outlined in paragraph 9 of the Plea Agreement.
 - (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the judge imposes a standard range sentence, then no one may appeal the sentence. If the judge imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence except as otherwise indicated above.

- (i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, removal from the United States,

exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

- (j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.
(Pursuant to RCW 9.41.047(1), the Judge shall also notify me orally of the above restriction in paragraph (j) if I am pleading guilty to an offense that makes me ineligible to possess a firearm. The Clerk shall forward a copy of the defendant's driver's license, identicard or comparable identification to the Department of Licensing along with the date of conviction.)
- (k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art VI § 3, RCW 29A.04.079, 29A.08.520
- (l) Government assistance may be suspended during any period of imprisonment.
- (m) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a \$100 DNA collection fee.

Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, they shall be stricken.

- ~~(n) **Three Strikes Law.** The crime of _____ is a "most serious offense" or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.~~
- ~~(n-1) **Two Strikes Law.** If a current offense is (A) rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree; kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any of the aforementioned crimes and I have at least one prior conviction for one of the aforementioned crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. The prior conviction must have occurred before commission of the current offense.~~
- ~~(o) The judge may sentence me as a First Time Offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030 and RCW 9.94A.650. This sentence could include as much as 90 days confinement and up to one year of community custody plus all of the conditions described in paragraph 6(e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~
- (p) The judge may sentence me under the Parenting Sentencing Alternative (PSA) if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the PSA, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At anytime during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.

- ~~(q) If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, I will be required to register where I reside, study, or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~
- ~~(r) If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~
- ~~(s) If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~
- (t) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- (u) The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.

If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of one-half of the midpoint of the standard range.

If the judge imposes the **residential chemical dependency treatment-based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of **three to six months**, as set by the court.

As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the Department of Corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(e). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

- (v) ~~If this crime involves the manufacture, delivery, or possession with intent to deliver methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fined may not be suspended. RCW 69.50.401(2)(b).~~
- (v-1) If this crime involves a felony violation of RCW 69.50.401 through .4013, .4015, .402, .403, .406, .407, .410, or .415, then a fine of \$1,000, or \$2,000 if this violation is a second or subsequent violation of such laws, will be assessed in addition to any other fine or penalty imposed unless the court makes a finding that I am indigent. RCW 69.50.430.
- (w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.
- (x) ~~I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.~~
- (y) ~~If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(14).~~
- (z) ~~If I am pleading guilty to felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of Chapter 9.94A, RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements.~~
- (aa) ~~The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(n) and/or 6(n-1).~~
- (bb) ~~I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on Counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~
- (cc) ~~The offense(s) I am pleading guilty to include(s) a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must be run consecutively to all other sentencing provisions.~~
- (dd) ~~The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~
- (ee) ~~If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve consecutive sentences for each conviction of these crimes, and for each firearm unlawfully possessed.~~
- (ff) ~~If I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least six months if this is my first conviction and for at least twelve months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.~~
- (gg) The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I cannot currently be either pending prosecution or serving a sentence for

violation of the uniform controlled substance act and I cannot have a current or prior conviction for a sex or violent offense.

7. I plead guilty to the crime(s) of Count 1: Possession of a Controlled Substance in the Information. I have received a copy of that Information.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. The judge has asked me to state in my own words what I did that makes me guilty of this crime. This is my statement:

On or about Sept 27, 2012, in
Snohomish County, Wash, I did unlawfully
possess methamphetamine, a controlled
substance.

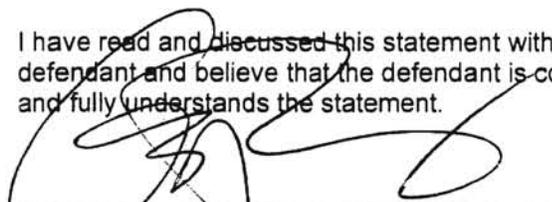
In addition to the statement above, I agree that the court may review the Affidavit of Probable Cause previously filed in this case to establish a factual basis for my plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs, the "Offender Registration" Attachment, if applicable, and the other attachments/appendices to this document. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.



ERIK VINCENT BARNES
Defendant

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



GURJIT PANDHER 28242
Attorney for Defendant



TAMMY L. BAYARD, 33554
Deputy Prosecuting Attorney

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

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is included below.

Interpreter's Declaration: I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I have interpreted this 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.

Signed at Everett, Snohomish County, Washington, on this _____ day of _____, 2013.

Interpreter

Print Name

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

Dated this 1st day of March, 2013.

JUDGE



PLEA AGREEMENT AND SENTENCING RECOMMENDATION

Date: February 15, 2013
Defendant: ERIK VINCENT BARNES

Cause No.: 12-1-02050-1

The State of Washington and the defendant enter into this Plea Agreement which is accepted only by a guilty plea. This agreement may be withdrawn at any time prior to entry of the guilty plea.

This Plea Agreement is dependent upon the defendant entering a plea of guilty in all other cause numbers included in the State's plea offer.

The Plea Agreement is as follows:

1. The defendant is pleading guilty to Count 1: Possession of a Controlled Substance as charged in the Information.

2. SENTENCING FACTS

Facts to be considered for imposing sentence are as set forth in the affidavit(s) of probable cause previously filed in this Cause Number and Appendix C if filed herein.

3. STIPULATION TO EXCEPTIONAL SENTENCE ABOVE OR BELOW THE STANDARD RANGE

The defendant and the State both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range. The defendant stipulates the facts as outlined in the affidavit(s) of probable cause and Appendix C exist beyond a reasonable doubt and justify an exceptional sentence outside the standard range. The court may consider those facts when deciding whether there are substantial and compelling reasons to sentence the defendant outside the standard range.

4. CRIMINAL HISTORY/OFFENDER SCORE

The defendant agrees the attached Appendix A - Prosecutor's Understanding of Defendant's Criminal History ("Appendix A") and the attached Sentencing Guidelines scoring form(s) are accurate and complete. The defendant also agrees that he/she was represented by counsel or waived counsel at the time of the prior conviction(s). Any challenge by the defendant to the criminal history or scoring will constitute a breach of this agreement. The sentencing recommendation may increase in severity if any additional convictions are discovered.

The defendant affirmatively acknowledges that the out-of-state convictions listed in the attached Appendix A are comparable to the Washington crimes listed in Appendix A or are comparable to the following crimes: _____

The defendant disputes the following criminal history set forth in Appendix A: _____

5. FINDING OF CHEMICAL DEPENDENCY

The defendant agrees that chemical dependency contributed to the commission of this offense.

6. DRIVER'S LICENSE REVOCATION

[] The defendant [] agrees [] disputes that his/her conviction results in a mandatory license revocation pursuant to RCW 46.20.285. If the defendant disputes the license revocation, the issue will be decided by the court at sentencing.

7. SENTENCE RECOMMENDATION

[X] The defendant agrees to the State's sentencing recommendation as set forth below except for [] confinement [] community custody [] no contact order [X] legal financial obligations.

[] The defendant does not agree with the State's sentencing recommendation as set forth below, and he/she will make his/her own sentencing recommendation.

State recommends, unless otherwise specified, that the court impose the following sentence:

A. TOTAL CONFINEMENT: State recommends that the defendant be sentenced to a term of total confinement as follows:

Count I 24 days/months Count IV _____ days/months
Count II _____ days/months Count V _____ days/months
Count III _____ days/months Count VI _____ days/months

Terms on each count to run [X] concurrently with [] consecutively to [] each other

[X] terms imposed in cause number(s) 12-1-01400-4

ALTERNATIVES TO CONFINEMENT (sentences one year or less)

[] Term of confinement may be served in the following alternatives if the defendant is eligible and approved: [] work release [] work crew [] electronic home monitoring [] work crew and electronic home monitoring.

[] _____ days of total confinement ordered may be converted to _____ hours of community service (8 hours = 1 day, nonviolent offenders only) (240 hours max). The State agrees to recommend credit for all hours performed prior to sentencing if the defendant provides written proof satisfactory to the prosecuting attorney and court.

SENTENCING ALTERNATIVES/EXCEPTIONAL SENTENCE

[] Drug Offender Sentencing Alternative (DOSA) (sentences greater than one year)
[] State will recommend a DOSA if defendant is eligible and DOC recommends.
[] The State reserves making a recommendation regarding a DOSA until it reviews the risk assessment and/or chemical dependency screening report(s).
[] The State objects to a DOSA sentence.

[] First Time Offender Waiver (FTOW) (no prior felony convictions)
[] State [] Defendant recommend(s) a FTOW sentence and request(s) the court waive imposition of a sentence within the standard range.
[] The State objects to a FTOW sentence.

- Parent Offender Sentencing Alternative (POSA) (no prior felony sex or violent convictions; high end of standard range sentence greater than one year)
 - State will recommend a POSA if defendant is eligible and DOC recommends.
 - State reserves making a recommendation regarding a POSA until it reviews the information from DSHS, risk assessment report, and/or chemical dependency screening report.
 - State objects to a POSA.

- Exceptional Sentence
 - State Defendant recommend(s) an exceptional sentence, and the substantial and compelling reasons for departing from the presumptive sentence range are set forth in the affidavit(s) of probable cause filed in this Cause Number and the attached Appendix C.

B. COMMUNITY CUSTODY: State recommends that the defendant serve the following term of Community Custody:

Count I	<u>12</u>	months	Count IV	_____	months
Count II	_____	months	Count V	_____	months
Count III	_____	months	Count VI	_____	months

In addition to the standard conditions of Community Custody, the State recommends that the defendant:

- have no contact with victim(s) _____;
- not possess or use other person's means of identification;
- not purchase, possess, or consume alcohol controlled substances without a valid prescription;
- complete State certified domestic violence treatment program;
- complete an anger management program;
- complete a chemical dependency evaluation and comply with all treatment recommendations;
- complete a mental health evaluation and comply with all treatment recommendations, including taking prescribed medications; and
- other: comply with conditions of DOC

C. LEGAL FINANCIAL OBLIGATIONS: The State recommends that the defendant pay the following financial obligations to the clerk of court:

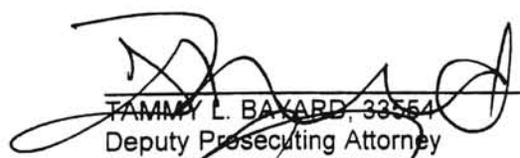
- \$500 Victim Penalty Assessment;
- fine of \$1,000 \$2,000 \$3,000;
- court costs and costs of appointed counsel;
- \$100 State crime lab fee;
- \$100 DNA fee;
- \$100 DV fee;
- restitution for charged and uncharged crimes as set forth in ¶ 8 below; and
- other: _____

11. NON-COMPLIANCE WITH AGREEMENT

The defendant is bound by this agreement and may not withdraw his guilty plea in the event he/she violates the provisions of this agreement. If the defendant fails to appear for sentencing, commits a new offense or violates any condition of release prior to sentencing, or violates any other provision of this agreement, the State may recommend a more severe sentence, re-file charges that were dismissed as part of this plea agreement, or file additional or greater charges. The defendant waives any objection to the filing of additional or greater charges based upon pre-charging or pre-trial delay, statutes of limitations, mandatory joinder requirements, or double jeopardy. If defendant's violation of the agreement constitutes a crime, the State may charge the defendant with that crime.

12. OTHER: _____

AGREED this 15 day of Feb March, 2013.



TAMMY L. BAYARD, 33554
Deputy Prosecuting Attorney



GURJIT PANDHER, 28242
Attorney for Defendant



ERIK VINCENT BARNES
Defendant

APPROVED this 15th day of March, 2013.



JUDGE

POSSESSION OF CONTROLLED SUBSTANCE THAT IS A NARCOTIC FROM SCHEDULE III, IV OR V OR NONNARCOTIC FROM SCHEDULE I-V (EXCEPT PHENCYCLIDINE OR FLUNITRAZEPAM) e.g. METHAMPHETAMINE, MARIJUANA

10/2/12 (gp)

RCW 69.50.4013
CLASS C - NONVIOLENT

BARNES, Erik Vincent

OFFENDER SCORING RCW 9.94A.525(7)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(8)) on or after 7/01/2006, use the General Nonviolent Offense with a Sexual Motivation Finding scoring form on page 176.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Nonviolent Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 174.

ADULT HISTORY:

Enter number of felony convictions 5 x 1 = 5

JUVENILE HISTORY:

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

Enter number of nonviolent felony dispositions 5 x ½ = 2.5

OTHER CURRENT OFFENSES:

(Other current offenses that do not encompass the same conduct count in offender score)

Enter number of other felony convictions 2 x 1 = 2

STATUS:

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

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

9

SENTENCE RANGE - DRUG

	Offender Score		
	0 to 2	3 to 5	6 to 9+
	3m	12m	18m
LEVEL I	0 - 6	6+ - 18	12+ - 24

- ✓ For attempt, solicitation, conspiracy (RCW 9.94A.595) see page 26 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 170 for standard range adjustments.
- ✓ Per RCW 9.94A.518, any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602 becomes a level III offense.
- ✓ For deadly weapon enhancement, see page 173.
- ✓ For sentencing alternatives, see page 163.
- ✓ For community custody eligibility, see page 171.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 168.

The Caseload Forecast Council is not liable for errors or omissions in the manual, for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual, or for any other written or verbal information related to adult or juvenile sentencing. The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules. If you find any errors or omissions, we encourage you to report them to the Caseload Forecast Council.

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

DATE: February 14, 2013 (da/gp/dhw)
 DEFENDANT: **BARNES, Erik Vincent**
 DOB: 12/24/69 W/M
 SID: WA12990748 FBI: 196128JA3 DOC: 948722
 DNA TAKEN: Yes

<u>CRIME</u>	<u>DATE OF CONVICTION</u>	<u>PLACE OF CONVICTION</u>	<u>Incarceration/Probation DISPOSITION</u>
ADULT FELONIES:			
Second Degree Burglary (B)	12/15/88	Snohomish County 88-1-00668-1	6 Mos. Comm. Supervision 5 Mos. Confinement
Attempting to Elude (C)	3/29/96	Snohomish County 95-1-01551-9	12 Mos. Comm. Supervision 45 Days Confinement
VUCSA – Possession With Intent to(B) Manufacture/Deliver (Methamphetamine) With Deadly Weapon finding (Firearm)	4/28/05 resentenced	Snohomish County 00-1-00378-6	84 Mos. Confinement (inc enhancement) 9 Mos Comm Placement 11/6/06 Released
First Degree Unlawful Possession (B) Of a Firearm	4/28/05 resentenced	Snohomish County 00-1-00378-6	48 Mos. Confinement
First Degree Possession (B) Stolen Property	4/28/05 resentenced	Snohomish County 00-1-00378-6	14 Mos. Confinement

ADULT MISDEMEANORS:

1. No Valid License/Expired License	4/4/89	Lewis County	
2. Driving Under Influence	5/8/89	Snohomish County	
3. Third Degree Theft	12/4/88	Snohomish County	
4. Minor in Possession of Alcohol	6/22/89	Snohomish County	
5. Negligent Driving	6/30/89	Snohomish County	
6. Reckless Driving	7/2/89	Snohomish County	
7. No Valid License/Expired License	5/11/90	Snohomish County	
8. Reckless Driving	5/11/90	Snohomish County	
9. Fourth Degree Assault	8/25/90	Snohomish County	
10. Refuse to Give Info/Cooperate	3/28/91	Snohomish County	
11. Driving While Suspend/Revoked	5/12/92	Snohomish County	
12. Carry Concealed Weapon	5/23/92	Snohomish County	
13. Driving While Suspend/Revoked	8/21/92	Snohomish County	
14. Obstructing	11/26/93	Snohomish County	
15. Driving Under Influence	4/29/95	Snohomish County	
16. Obstructing	4/29/95	Snohomish County	
17. Driving While Suspend/Revoked	10/6/95	Snohomish County	
18. Disorderly Conduct	10/19/96	Snohomish County	
19. Obstructing - DV	12/5/97	Snohomish County	
20. Reckless Driving	10/15/98	Snohomish County	
21. Fail to Stop & Give Information	10/15/98	Snohomish County	
22. Resisting Arrest	10/15/98	Snohomish County	
23. Reckless Driving (Alcohol)	3/13/00	Snohomish County	

Appendix A to Plea Agreement – Page 2

BARNES, Erik Vincent

ADULT MISDEMEANORS: (continued)

24. Driving While Suspend/Revoked	5/3/00	Snohomish County
25. Driving While Suspend/Revoked	5/6/00	Snohomish County
26. Driving Under the Influence	7/25/07	Snohomish County

JUVENILE FELONIES:

Second Degree Burglary (B)	2/15/84	Snohomish County	Community Supervision
Second Degree Burglary (B)	8/8/85	Snohomish County	Community Supervision
Second Degree Poss. Stolen Property (C)	10/1/86	Snohomish County	Institution
Second Degree Burglary (B)	9/17/87	Snohomish County	Institution
Second Degree Poss. Stolen Property(C)	9/21/87	Snohomish County	Institution

JUVENILE MISDEMEANORS:

None.

!Date of conviction reflects the sentencing date on felonies & offense date on misdemeanors.

AFFIDAVIT BY CERTIFICATION

I am a legal specialist employed by the Snohomish County Prosecutor's Office, and make this affidavit in that capacity. I have reviewed the following databases maintained by federal and state agencies to determine the above named defendant's criminal history: NCIC (maintained by the FBI), WWCIC (Washington State Patrol Criminal History Section), JIS (Judicial Information System), Washington State Department of Licensing, [] Washington State Department of Corrections. A review of those sources indicates the defendant's criminal history is as listed above.

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

LEGAL SPECIALIST

DATED this _____ day of _____, 2013, at the Snohomish County Prosecutor's Office

EXHIBIT B

1988 JUDGEMENT AND SENTENCE

Plaintiff,)
)
)

v.)
Eric V. Barnes)
 Defendant.)

DEC 15 3 25 PM '88
 NO. 88-1-00668-1
 KAY D. ANDERSON
 COUNTY CLERK JUDGMENT AND SENTENCE
 SNOHOMISH CO. WASH.

I. FINDINGS

Based on the testimony heard, statements by defendant and/or victims, argument of counsel, the presentence report and case record to date, the court finds:

1. CURRENT OFFENSE(S): The defendant was found guilty on 10-27-88 by (plea) (jury verdict) (~~finding of the court~~) of:
 Count No.: 1 Crime: Second Degree Burglary
 RCW 9A.52.030 Crime code _____
 Date of crime 10-27-88 Incident # 88-27498
 Count No.: _____ Crime: _____
 RCW _____ Crime code _____
 Date of crime _____ Incident # _____
 Count No.: _____ Crime: _____
 RCW _____ Crime code _____
 Date of crime _____ Incident # _____

- () Additional current offenses are attached in Appendix A.
 () With a special verdict/finding for use of deadly weapon on Count(s) _____
 The defendant is adjudged guilty of the crimes set forth above and in Appendix A.

2. CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are:

Crime	Sentencing Date	Adult or Juv. Crime	Date of Crime	Crime Class
(a) <u>PSP 2^o</u>	<u>10-1-86</u>	<u>Juv.</u>	_____	<u>C</u>
(b) <u>PSP 2^o</u>	<u>9-21-87</u>	<u>Juv.</u>	_____	<u>BC</u>
(c) <u>Burg 2^o</u>	<u>9-17-87</u>	<u>Juv.</u>	_____	<u>B</u>
(d) <u>Burg 2^o</u>	<u>8-8-82</u>	<u>Juv.</u>	_____	<u>B</u>

- () Additional criminal history is attached in Appendix B.
 () Prior convictions for offenses committed before July 1, 1986 and served concurrently and counted as one offense in determining the offender score are: _____

 () Prior convictions for offenses found to encompass the same criminal conduct and counted as one offense in determining the offender score are: _____

copy cc to file

ST 25

3. SENTENCING DATA

() Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are:

Count No.	Offender Seriousness			Range	Maximum term
	Score	Level			
Count No. <u>I</u>	<u>3</u>	<u>II</u>		<u>4</u> to <u>12</u> months	<u>10</u> years
Count No. _____	_____	_____		_____ to _____ months	_____ years
Count No. _____	_____	_____		_____ to _____ months	_____ years

() Additional current offense sentencing data is attached in Appendix C.

4. EXCEPTIONAL SENTENCE:

() Substantial and compelling reasons exist which justify a sentence (above)(below) the standard range for Count(s) _____ . The reasons are set forth in Appendix D.

II. ORDER

IT IS ORDERED that defendant serve the determinate sentence and abide by the conditions set forth below:

1. Defendant shall pay to the Clerk of this Court:

(a) () \$ waived, Court costs, including reimbursement for costs of extradition, if incurred; plus any costs determined after this date as established by separate order of this court.

(b) (x) \$70.00, Victim assessment;

(c) (x) \$ _____, Total amount restitution (with credit for amounts paid by co-defendants). The amount and recipient(s) of the restitution are as established by separate order of this court;

(d) (x) \$ waived / ~~\$500~~ / ~~\$255~~. Recoupment for attorney's fees;

(e) () \$ _____, Fine;

(f) () \$ _____, _____ Dep't, Drug enforcement fund;

(g) () \$ _____, Other costs.

(h) () The above payments shall be made to the Snohomish County Clerk in the manner established by Local Rule 2.65 and according to the following terms: () Not less than \$ _____ per month, (x) on a schedule established by the defendant's community corrections officer, to be paid within 6 months of () this date (x) release from confinement.

(i) () The defendant shall remain under the Court's jurisdiction and the supervision of the State Department of Corrections for a period up to ten years to assure payment of the above monetary obligations.

2. () The defendant, having been convicted of a sexual offense, a drug offense associated with the use of hypodermic needles, or a prostitution related offense, shall cooperate with the Snohomish Health District in conducting a test for the presence of human immunodeficiency virus. The defendant, if out of custody, shall report to the Health District, 1st Floor, Courthouse, within 1 hour of this order to arrange for the test.

3. The Court, upon motion of the State, DISMISSES Count(s) _____

JUDGMENT AND SENTENCE (Felony)

Page 2 of 5

4. CONFINEMENT ONE YEAR OR LESS: Defendant shall serve a term of total confinement in the Snohomish County Jail () custody of the State Department of Corrections, as follows, commencing () immediately no later than the 19 day of December, 19 88 at 7:00 P.M.:

5 ~~days~~ / months on Count No. I
____ days/months on Count No. ____
____ days/months on Count No. ____

() The terms in Counts No. ____ are (concurrent)(consecutive).

() The sentence herein shall run (concurrently)(consecutively) with the sentence in cause number(s) _____.

Credit is given for 45 days served.

(A) ALTERNATIVE CONVERSION

() _____ days of the actual term of total confinement ordered above shall be converted to partial confinement in the form of work release, if the defendant is eligible for participation in that program. The confinement shall be served subject to the rules and regulations of the Snohomish County Department of Corrections.

() _____ days of the actual term of total confinement ordered above are hereby converted to _____ hours of community service under the supervision of the State Department of Corrections to be performed on a schedule established by the Community Corrections Officer and completed within _____ months of () this date () release from confinement.

Alternative conversion was not used because:

- (a) () Defendant is a violent offender;
(b) Defendant is not eligible for work release;
(c) () Defendant has served most or all of the time imposed;
(d) () Other: _____

(B) COMMUNITY SUPERVISION: Defendant shall serve 6 months of community supervision. Community supervision shall commence () immediately; upon release from confinement. Defendant shall report no later than the next week day following this date or release from confinement to the State Department of Corrections and shall comply with all rules, regulations and requirements of that department. *Supervision is required for the purposes of monitoring financial payment only*

JUDGMENT AND SENTENCE (Felony)

CONFINEMENT ONE YEAR OR LESS

Page 3 of 5

The defendant's monthly probationer assessment to the State Department of Corrections is as follows:

() Full payment; Total exemption; () Partial exemption; payments shall not exceed \$ _____ per month.

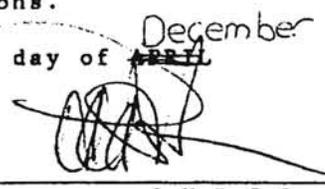
() (C) OTHER CONDITIONS _____

() Additional conditions are attached in Appendix E

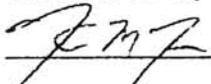
The following Appendices are attached to this Judgment and Sentence and are incorporated by reference:

- () Appendix A, Additional Current Offenses;
- () Appendix B, Additional Criminal History;
- () Appendix C, Current Offense(s) Sentencing Data;
- () Appendix D, Reasons for an Exceptional Sentence; and
- () Appendix E. Additional Conditions.

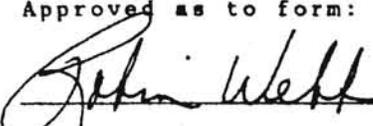
DONE IN OPEN COURT this 15th day of December, 1988.



J U D G E

Presented by:


Deputy Prosecuting Attorney

Approved as to form:


Attorney for Defendant

Eric V. Barnes

Defendant
14807 - 62nd PI. NE

Lake Stevens, Wa 98258

Defendant's current address

Telephone number 334-2336

JUDGMENT AND SENTENCE (Felony)
CONFINEMENT ONE YEAR OR LESS
Page 4 of 5

FINGERPRINTS



Right Hand
Fingerprints of:

Eric V. Barnes
(Defendant's Signature)

Dated: Dec. 15, 1988

Attested by:

Kay D. Anderson, Snohomish Co. Clerk

By: M. Maxwell
(Deputy Clerk)

CERTIFICATE

I, Kay D. Anderson, Clerk of this Court, certify that the above is a true copy of the Judgment and Sentence in this action on record in my office.

Dated: _____
Kay D. Anderson, Snohomish Co. Clerk

By: _____
(Deputy Clerk)

JUDGMENT AND SENTENCE (Felony)
FINGERPRINTS

Page 5 of 5

OFFENDER IDENTIFICATION

S.I.D. No. WA12990748

Date of Birth 12-24-69

Sex M

Race W

ORI WA031000

OCA 70980

OIN 008827498

DOA 9-25-88

FILED

ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Department of Corrections
of the County of Snohomish, State of Washington:

WHEREAS, Eric Barnes, has
been convicted of the crime(s) of Second Degree
Burglary

and judgment has been pronounced against the defendant that
punishment be by imprisonment in the Snohomish County
Department of Corrections for a period of time as specified
in the attached certified copy of Judgment and Sentence,
Now, Therefore,

THIS IS TO COMMAND YOU, the Snohomish County Department
of Corrections, to detain the defendant pursuant to the
terms of the Judgment and Sentence.

FURTHER, this is to command you that should the
Judgment and Sentence authorize the release of the defendant
to a Work/Training Release Facility or Program, or to any
other program or for some specific purpose, this Order of
Commitment shall constitute authority for you to release the
defendant for that program or purpose, subject to any
additional requirements of that program or purpose.

WITNESS, the Honorable Paul Hansen,
Judge of Snohomish County Superior Court and the said
thereof, this 15th day of December, 1988.

CLERK OF THE SUPERIOR COURT

By: Nancy Coffey
Deputy

EXHIBIT C

1996 JUDGEMENT AND SENTENCE

ORIGINAL

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT,

Defendant.

No. 95-1-01551-9

JUDGMENT AND SENTENCE

Prison

Jail One Year or Less

First Time Offender

Special Sexual Offender

Sentencing Alternative

Clerk's action required,
restraining order entered para. 4.4

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

SID: WA12990748

If no SID, use DOB: 12/24/69

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on Feb. 23, 1996 by plea of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	Att to Elude	46.61.024	EVE 9511007	05/25/95
II				
III				
IV				

as charged in the original Information.

Additional current offenses are attached in Appendix 2.1.

A special verdict/finding for use of **deadly weapon** which was not a firearm was returned on Count(s) _____
RCW 9.94A.125.310.

A special verdict/finding for use of a **deadly weapon** which was a firearm was returned on Count(s) _____
RCW 9.94A.125.310, 9.41.010.

A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9.94A.127

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

The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the
influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW
9.94A.030

Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW
9.94A.400):

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

The offense in Count(s) _____ was committed in a county jail or state correctional facility. RCW 9.94A.310(4).

1cc Jail

ORIGINAL

96-9-00519-1

38

0000 2576

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J	TYPE OF CRIME
					Adult, Juv.	
1	2° Burglary	12/15/88	Snohomish County		Adult	B
2						
3						
4						
5						

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENT	MAXIMUM TERM
I	1	I	0-90 days		5 years
II					
III					
IV					

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

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence

above within below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.142

- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142):

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 [] The Court DISMISSES Counts _____

3.3 [] The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

\$	<u>N/A</u>	Restitution to: _____	
JASS CODE	\$ _____	Restitution to: _____	
RTN/RIN	\$ _____	Restitution to: _____	
<small>(Name and Address—address may be withheld and provided confidentially to Clerk's Office).</small>			
RMA	<u>\$15/\$20/\$50 N/A</u>	Restitution Monitoring Fee	SCC 4.94.010
		The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations.	RCW 9.94A.145
PCV	<u>\$100</u>	Victim assessment	RCW 7.68.035
CRC	<u>\$ WAIVED</u>	Court costs, including	RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/SRF
		Jury demand fee \$ _____	JFR
		Other \$ _____	
PUB	<u>\$6671727 WAIVED</u>	Fees for court appointed attorney	RCW 9.94A.030
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.030
FCM	\$ _____	Fine RCW 9A.20.021; [] VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDP/LDU	\$ _____	Drug enforcement fund of _____	RCW 9.94A.030
PCD/NTF/SAD/SDI	\$ _____		
CLF	\$ _____	Crime lab fee [] deferred due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.120
	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum)	RCW 38.52.430
	\$ _____	Other costs for: _____	
	<u>\$ 100.00</u>	TOTAL	RCW 9.94A.145

[] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142.

[] RESTITUTION. Schedule attached, Appendix 4.1.

[] Restitution ordered above shall be paid jointly and severally with:

NAME of other defendant CAUSE NUMBER (Victim name) (Amount-\$)

R/N

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

\$ _____ per month commencing _____ RCW 9.94A.145

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____ RCW 9.94A.145

All payments shall be made within 12 months of:

- Release of confinement.
 MARCH 29 1996, (today's date).
 Other _____

- In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.145

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

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

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

- 4.3 The defendant shall not use, own, or possess firearms or ammunition while under the supervision of the Department of Corrections. RCW 9.94A.120

- 4.4 The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

- DOMESTIC VIOLENCE. VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10.99 RCW AND WILL SUBJECT A VIOLATOR TO ARREST; ANY ASSAULT OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.040

- HARASSMENT. VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 9A.46 RCW AND WILL SUBJECT A VIOLATOR TO ARREST. RCW 9A.46.040

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

4.5 PROSECUTOR'S RECOMMENDATION

The Prosecutor made the following recommendation:

- 45 months/days as to Count I.
_____ months/days as to Count II.
_____ months/days as to Count III.
_____ months/days as to Count IV.
_____ months/days as to Count V.
_____ months/days as to Count VI.

The Prosecutor recommended said counts _____ to run concurrently/consecutively.

4.6 OTHER: _____

4.7 JAIL ONE YEAR OR LESS. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the county jail:

45 days months on Count I _____ months on Count IV _____
 _____ months on Count II _____ months on Count V _____
 _____ months on Count III _____ months on Count VI _____

Actual number of months of total confinement ordered is: _____

All counts shall be served concurrently, except for the following which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.400

Confinement shall commence immediately unless otherwise set forth here: To commence by April 29, 1996, 9AM.
(or earlier if a bed date is available if the defendant is eligible for work release)
(If the defendant is rejected from work release he must report to the jail within 48 hours of rejection but no later than April 29, 1996.)

PARTIAL CONFINEMENT. Defendant may serve the sentence, if eligible and approved, in partial confinement in the following programs, subject to the following conditions: _____

- work crew RCW 9.94A.135
- home detention RCW 9.94A.180, .190
- work release RCW 9.94A.180

ALTERNATIVE CONVERSION. RCW 9.94A.380. _____ days of total confinement ordered above are hereby converted to _____ hours of community service (8 hours = 1 day, nonviolent offenders only, 30 days maximum) under the supervision of the Department of Corrections to be completed on a schedule established by the defendant's community corrections officer but not less than _____ hours per month.

defendant has served all or most of the time imposed.

Alternatives to total confinement were not used because of: _____

criminal history failure to appear (finding required for nonviolent offenders only) RCW 9.94A.380

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.120. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: ONE DAY

4.8 COMMUNITY SUPERVISION. RCW 9.94A.120. Defendant shall serve 12 months (up to 12 months) in community supervision. Defendant shall report to the Department of Corrections, EVERT OFFICE, EVERETT WAY

(address of office) not later than 72 hours after release from custody and the defendant shall comply with the instructions, rules and regulations of the Department for the conduct of the defendant during the period of community supervision, and any other conditions of community supervision stated in this Judgment and Sentence. The defendant shall:

remain in prescribed geographic boundaries specified by _____ notify the community corrections officer of any change in defendant's address or employment
the community corrections officer _____

Community supervision conditions: Defendant shall not drive unless properly licensed.

The community supervision imposed by this order shall be served consecutively to any term of community supervision in any sentence imposed for any other offense, unless otherwise stated. The maximum length of community supervision pending at any given time shall not exceed 24 months, unless an exceptional sentence is imposed. RCW 9.94A.400

4.9 OFF LIMITS ORDER (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____
(See additional page for other conditions of sentence)

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. RCW 9.94A.145
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030.
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials):
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.140.
 A restitution hearing shall be set for _____
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200

Cross off if not applicable:

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

5.7 **SEX OFFENDER REGISTRATION.** ~~RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense, you are required to register with the sheriff of the county of the state of Washington where you reside. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.~~
~~If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.~~
~~If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 10 days of establishing your new residence. If you change your residence to a new county within this state, you must register with the sheriff of the new county and you must give written notice of your change of address to the sheriff of the county where last registered, both within 10 days of establishing your new residence.~~

5.8 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: March 29, 1996

[Signature]
JUDGE
Print name: _____

[Signature]
TAMARA M. CHIN, #23062
Deputy Prosecuting Attorney

[Signature]
JETT L. WHITMER, #18624
Attorney for Defendant

[Signature]
ERIK VINCENT BARNES
Defendant

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

NUMBER of this case: 95-1-01551-9
I, Pamela L. Daniels, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

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

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA12990748

Date of Birth 12/24/69

If no SID take fingerprint card for State Patrol)

FBI No. 196128JA3

Local ID No. 070980

PCN No.

DOC

Alias name, SSN, DOB: MATTHEW BARNES , ERIK V GORDON , ERIK G MATTHEW ,

Race: White

Ethnicity:

Sex: M

[] Hispanic

[] Non-Hispanic

Height: 508

Weight: 145

Hair: Brown

Eye: Blue

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints

and signature thereto. Clerk of the Court: *W. Gordon*, Deputy Clerk. Dated: 3-29-96

DEFENDANT'S SIGNATURE: *[Signature]*

ADDRESS: 6302 - Fleming Street, Everett, WA 98203

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously



0000 7604

ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Department of Corrections of the County of Snohomish, State of Washington:

WHEREAS, ERIK VINCENT BARNES, has been convicted of the crime(s) of Count 1 Attempting to Elude a Pursuing Police Vehicle, and judgment has been pronounced against the defendant that punishment be by imprisonment in the Snohomish County Department of Corrections for a period of time as specified in the attached certified copy of Judgment and Sentence, Now, Therefore,

THIS IS TO COMMAND YOU, the Snohomish County Department of Corrections, to detain the defendant pursuant to the terms of the Judgment and Sentence.

FURTHER, this is to command you that should the Judgment and Sentence authorize the release of the defendant to a Work/Training Release Facility or Program, or to any other program or for some specific purpose, this Order of Commitment shall constitute authority for you to release the defendant for that program or purpose, subject to any additional requirements of that program or purpose.

WITNESS, the Honorable GERALD L. KNIGHT, Judge of Snohomish County Superior Court and the said thereof, this 29th day of March, 1996.

Patricia L. Daniels
CLERK OF THE SUPERIOR COURT

By: *Wardner*
Deputy Clerk

FILED
95 APR -9 PM 3:31
CLERK OF SUPERIOR COURT
SNOHOMISH CO. WASH.

ORDER OF COMMITMENT

THE STATE OF WASHINGTON to the Department of Corrections of the County of Snohomish, State of Washington:

WHEREAS, ERIK VINCENT BARNES, has been convicted of the crime(s) of Count 1 Attempting to Elude a Pursuing Police Vehicle, and judgment has been pronounced against the defendant that punishment be by imprisonment in the Snohomish County Department of Corrections for a period of time as specified in the attached certified copy of Judgment and Sentence, Now, Therefore,

THIS IS TO COMMAND YOU, the Snohomish County Department of Corrections, to detain the defendant pursuant to the terms of the Judgment and Sentence.

FURTHER, this is to command you that should the Judgment and Sentence authorize the release of the defendant to a Work/Training Release Facility or Program, or to any other program or for some specific purpose, this Order of Commitment shall constitute authority for you to release the defendant for that program or purpose, subject to any additional requirements of that program or purpose.

WITNESS, the Honorable GERALD L. KNIGHT, Judge of Snohomish County Superior Court and the said thereof, this 29th day of MARCH, 1996.

PAULINE L. DANIELS
CLERK OF THE SUPERIOR COURT

By: *Wardner*
Deputy Clerk

FILED
96 APR -3 PM 3:31
COUNTY CLERK
SNOHOMISH CO. WASH.

EXHIBIT D

2000 JUDGEMENT AND SENTENCE

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

No. 00-1-00378-6

Plaintiff,

JUDGMENT AND SENTENCE

v.

Prison **01 MAR 12 PH 3:33**

BARNES, ERIK VINCENT

Jail One Year or Less
 First Time Offender
 Special Sexual Offender
 Sentencing Alternative
 Special Drug Offender Sentencing Alternative
 Clerk's Action Required,
restraining order entered para. 4.4

Defendant.

Clerk's action required
firearms rights revoked, para. 4.3 and 5.6
 Clerk's action required, para 5.4
Restitution Hearing set.

SID: WA12990748
If no SID, use DOB: 12/24/1969

00-1-00378-6

100



INELIGIBLE TO CARRY FIREARMS

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on November 29, 2000, by jury-verdict of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	Possession of a Controlled Substance With Intent to Manufacture or Deliver, To-wit: Methamphetamine, While Armed With A Firearm	9.94A.310/ 9.41.010/ 9.94A.125/ 69.50.401(a)	WSP, 00001365	2/11/00
II	Unlawful Possession of Firearm First Deg.	9.41.040(a)	WSP, 00001365	2/11/00
III	Unlawful Possession of Firearm First Deg.	9.41.040(a)	WSP, 00001365	2/11/00
V	First Deg. Possession Stolen Property	9A.56.150	WSP, 00001365	2/11/00

as charged in the Third Amended Information.

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of a deadly weapon which was a firearm was returned on Court(s) II RCW 9.94A.125, 310.; 9.41.010.
- A special verdict/finding for use of deadly weapon which was not a firearm was returned on Count(s) _____ RCW 9.94A.125,310.
- A special verdict/finding of sexual motivation was returned on Count(s) _____ RCW 9.94A.127.
- A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter.; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture was returned on Count(s) _____ RCW 9.94A, RCW 69.50.401(a), RCW 69.50.440.
- The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030
- This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.

See jail w/ Statement / DA Ma

cc: AEA

01-9-01639-7

WJ 100

[] The court finds that the offender has a **chemical dependency** which contributed to the offense and imposes as a condition of sentence that defendant shall participate in the rehabilitative program/affirmative conduct:

RCW 9.94A.129.

- [] The crime charged in Count(s) _____ involve(s) **domestic violence**.
[] The offense in Count(s) _____ was committed in a county jail or state correctional facility. RCW 9.94A.310(5).
 The court finds that in Count I a motor vehicle was used in the commission of this felony. The Department of Licensing shall revoke the defendant's driver's license. RCW 26.20.285.
[] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400):
[] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):
2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J		TYPE OF CRIME
				Adult,	Juv.	
1 Second Degree Burglary	12/15/88	Snohomish Cty, WA		A		B
2 Attempting to Elude	3/29/96	Snohomish Cty, WA		A		C
3 Second Degree Burglary	2/15/84	Snohomish Cty, WA		J		B
4 Second Degree Burglary	8/8/85	Snohomish Cty, WA		J		B
5 Second Deg Poss Stln Prop	10/1/86	Snohomish Cty, WA		J		C
6 Second Degree Burglary	9/17/87	Snohomish Cty, WA		J		B
7 Second Deg Poss Stln Prop	9/21/87	Snohomish Cty, WA		J		C

- [] Additional criminal history is attached in Appendix 2.2.
[] The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360.
[] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):
[] The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	6	VIII	67 - 89 Months	36 Months	103 - 125 Months	10 Years
II	6	VII	57 - 75 Months		57 - 75 Months	10 Years
III	6	VII	57 - 75 Months		57 - 75 Months	10 Years
V	6	II	17 - 22 Months		17 - 22 Months	10 Years

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

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

2.4 [] EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence

[] above [] within [] below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The prosecuting attorney [] did [] did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.142

[] The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142):

2.6 The prosecutor's recommendation was 84+36 months/days on Count 1, 75 months/days on Count 2, 75 months/days on Count 3, 22 months/days on Count 4. The prosecutor recommended counts I-V run concurrently/consecutively. 84 BASE STANDARD RANGE + 36 MONTH ENHANCEMENT

EXCEPT FOR ENHANCEMENT THAT PUNS CONSECUTIVELY

III. JUDGMENT

- 3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.
- 3.2 The Court DISMISSES Counts _____
- 3.3 The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

\$ N/A Restitution to: _____

JASS CODE \$ _____ Restitution to: _____

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

RMA ~~\$15/\$25/\$50~~ Restitution Monitoring Fee SCC 4.94.010
The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations. RCW 9.94A.145

PCV \$100/\$500 Victim assessment RCW 7.68.035
\$100.00 crimes committed prior to June 6, 1996.
\$500.00 crimes committed on or after June 6, 1996.

CRC \$ WAIVED Court costs, including RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190
Criminal filing fee \$ _____ FRC
Witness costs \$ _____ WFR
Sheriff service fees \$ _____ SFR/SFS/SFW/SRF
Jury demand fee \$ _____ JFR
Other \$ _____

PUB ~~\$700-WAIVED~~ Fees for court appointed attorney RCW 9.94A.030
PUB ~~\$700-620-530~~ Fees for all appointed conflict cases RCW 9.94A.030
WFR \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.030
FCM \$ 1000 Fine RCW 9A.20.021; VUCSA additional fine deferred due to indigency RCW 69.50.430
CDF/LDV \$ _____ Drug enforcement fund of _____ RCW 9.94A.030
FCD/NTF/SAD/SDI

CLF \$ 100 Crime lab fee deferred due to indigency RCW 43.43.690
EXT \$ _____ Extradition costs RCW 9.94A.120
\$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) RCW 38.52.430
\$ _____ Other costs for: _____
\$ 600 TOTAL RCW 9.94A.145

- The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142.
- RESTITUTION. Schedule attached, Appendix 4.1.
- Restitution ordered above shall be paid jointly and severally with:
NAME of other defendant CAUSE NUMBER (Victim name) (Amount-\$)

RJN _____

- The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.200010

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

\$ _____ per month commencing _____ months of: release of confinement; entry of judgment; RCW 9.94A.145

All payments shall be made within 12 months of: release of confinement; entry of judgment;

Other if payment made in this fine period, court will consider waiving interest.

- In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.145
- The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.
- The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

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

DNA TESTING. The defendant shall have a blood sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

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

(Check for any domestic violence crime as defined by RCW 10.99.020(3)): VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10.99 RCW AND WILL SUBJECT A VIOLATOR TO ARREST. ANY ASSAULT, DRIVE-BY SHOOTING, OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY. RCW 10.99.050.

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

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

4.4 OTHER: _____

4.5

CONFINEMENT OVER ONE YEAR The defendant is sentenced as follows:

(a) **CONFINEMENT.** RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>78+36</u> months on Count <u>I</u>	<u>22</u> months on Count <u>I</u>
<u>75</u> months on Count <u>II</u>	_____ months on Count _____
<u>75</u> months on Count <u>III</u>	_____ months on Count _____

Actual number of months of total confinement ordered is: 114 MONTHS (78 MONTHS + 36 MONTH ENHANCE)
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data above)

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____
but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.400

Confinement shall commence immediately unless otherwise set forth here: _____

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.120. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: _____

4.6 **COMMUNITY PLACEMENT** is ordered as follows: Count I for 9 months;
Count _____ for _____ months; Count _____ for _____ months.

COMMUNITY CUSTODY is ordered as follows:
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses – serious violent offense, second degree assault, any crime against a person with a deadly weapon finding. Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense – RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

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

The defendant shall not consume any alcohol.

Defendant shall have no contact with: ASSOCIATE WITH ANY KNOWN DRUG USERS OR DEALERS

Defendant shall remain within outside of a specific geographical boundary, to wit: _____

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

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

The defendant shall comply with the following crime-related prohibitions: NO POSSESSION OF CONSUMPTION
OF CONTROLLED SUBSTANCES WITHOUT PRESCRIPTION

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

4.7 **WORK ETHIC CAMP.** RCW 9.94A.137, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

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

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

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.145 and RCW 9.94A.120(13).

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030.

5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): _____
 Defendant waives any right to a restitution hearing within 6 months RCW 9.94A.140.
 A restitution hearing shall be set for _____
The Prosecutor shall provide a copy of the proposed restitution order and supporting affidavit(s) of victim(s) 21 judicial days prior to the date set for said restitution hearing. The defendant's presence at said restitution hearing may be excused only if a copy of the proposed restitution order is signed by both defendant and defense counsel and returned to the Court and Prosecutor no later than 10 judicial days prior to said hearing.

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200

Cross off if not applicable:

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

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

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

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

~~If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this State's Department of Corrections.~~

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

~~If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required~~

to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 14 days after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report in person to the sheriff of the county where you are registered on a weekly basis if you have been classified as a risk level II or III, or on a monthly basis if you have been classified as a risk level I. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level. If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

Cross off if not applicable:

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

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

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

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

5.9 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: MARCH 8, 2001

Bernard L. Knight
JUDGE

Print name: BERNARD L. KNIGHT

COPY reviewed *[Signature]*

Karen D Moore

KAREN D MOORE, #21328
Deputy Prosecuting Attorney

Karen Halverson

KAREN HALVERSON, #19193
Attorney for Defendant

N. Tarantino #24847

ERIK VINCENT BARNES
Defendant

Interpreter signature/Print name: _____

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

CAUSE NUMBER of this case: 00-1-00378-6

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

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

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA12990748
(If no SID take fingerprint card for State Patrol)

Date of Birth: 12/24/1969

FBI No. 196128JA3

Local ID No. 70980

PCN No. _____

DOC 948722

Alias name, SSN, DOB: _____

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 508

Weight: 145

Hair: Brown

Eyes: Blue

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints

and signature thereto. Clerk of the Court: Noreen Hale, Deputy Clerk. Dated: 3-8-2001

DEFENDANT'S SIGNATURE: _____

ADDRESS: D.O.C.

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously



ORDER OF COMMITMENT

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

WHEREAS, ERIK VINCENT BARNES, has been duly convicted of the crime(s) of Count 1 Possession of a Controlled Substance With Intent to Manufacture or Deliver, Count 2 Unlawful Possession of a Firearm in the First Degree, Count 3 Unlawful Possession of a Firearm in the First Degree, Count 5 First Degree Possession of Stolen Property as charged in the Third Amended Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term of 114 months all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

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

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

WITNESS the Honorable GERALD L. KNIGHT, Judge of the said Superior Court and the seal thereof, this

8th day of MARCH, 2001.

Pam L. Daniels
CLERK OF THE SUPERIOR COURT

By: Nareen Poole
Deputy Clerk

01 MAR 12 PM 3:33
P. L. DANIELS
CLERK
SNOHOMISH CO. WASH.

EXHIBIT E

2005 RESENTENCING OF THE
2000 JUDGMENT AND SENTENCE

FILED

2005 APR 29 PH 2: 15

LAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

cc



CL00051984

INELIGIBLE TO CARRY FIREARMS

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT

Defendant.

SID: WA12990748
If no SID, use DOB: 12/24/1969

No. 00-1-00378-6

- JUDGMENT AND SENTENCE
(AMENDED AFTER RESENTENCING)
- Prison
 - Jail One Year or Less
 - First Time Offender
 - Special Sexual Offender Sentencing Alternative
 - Special Drug Offender Sentencing Alternative
 - Clerk's Action Required, restraining order entered para. 4.3
 - Clerk's action required firearms rights revoked, para. 4.3 and 5.6
 - Clerk's action required, para 5.4 Restitution Hearing set.

cc 2-5-05 with statement

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSES: The defendant was found guilty on November 29,2000, by jury verdict of:

COUNT	CRIME	RCW	INCIDENT #	DATE OF CRIME
I	Possession of a Controlled Substance With Intent to Manufacture of Deliver, To-wit: methamphetamine, While Armed With a Firearm	9.94A.310/ 9.41.010/ 9.94A.125/ 69.50.401(a)		
III	1 st Deg. Unlawful Possession of Firearm	9.41.040(a)	WSP, 00001365	2/11/00
V	1 st Deg. Possession of Stolen Property	9A.56.150	WSP, 00001365	2/11/00

as charged in the Third Amended Information.

Additional current offenses are attached in Appendix 2.1.

A special verdict/finding for use of a deadly weapon which was a firearm was returned on Court(s)
RCW 9.94A.602, 510, 310; 9.41.010.

ORIGINAL

AA
126

- A special verdict/finding for use of **deadly weapon** which was not a firearm was returned on Count(s) _____ RCW 9.94A.602,510.
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9.94A.835.
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____ RCW 9.94A, RCW 69.50.401(a), RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030(45)
- This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- The court finds that the offender has a **chemical dependency** which contributed to the offense and imposes as a condition of sentence that defendant shall participate in the rehabilitative program/affirmative conduct:

 RCW 9.94A.607.

- The crime charged in Count(s) _____ involve(s) **domestic violence**.
- The offense in Count(s) _____ was committed in a **county jail or state correctional facility**. RCW 9.94A.510(5)
- The court finds that in Count B a **motor vehicle was used in the commission of this felony**. The Department of Licensing shall revoke the defendant's driver's license. RCW 46.20.285.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

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

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1 2 nd Deg. Burglary	12/15/88	Snohomish County, WA		A	Felony
2 Attempting to Elude	3/29/96	Snohomish County, WA		A	Felony

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

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
1	4	VIII	41 - 54 months	36 months	77 to 90 months	10 years
3	4	VII	36 - 48 months	n/a	36 - 48 months	10 years
5	4	II	12+ to 14 months	n/a	36 - 48 months	10 years

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

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The prosecuting attorney did did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.760):

2.6 The prosecutor's recommendation was ~~85~~ ⁸⁵ months/days on Count 1, _____ months/days on Count 2, 48 months/days on Count 3, 14 months/days on Count 4. The prosecutor recommended counts I, III, 5 run concurrently/consecutively. 5

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 The Court DISMISSES Counts 2 _____

3.3 The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

\$ _____ Restitution to: _____
 JASS CODE \$ _____ Restitution to: _____
 RTN/RJN \$ _____ Restitution to: _____
(Name and Address--address may be withheld and provided confidentially to Clerk's Office).

RMA \$15/\$25/\$50 Restitution Monitoring Fee SCC 4.94.010
 The Clerk shall collect this fee before collecting restitution or any other assessed legal financial obligations. RCW 9.94A.760

PCV \$100/\$500 Victim assessment RCW 7.68.035
 \$100.00 crimes committed prior to June 6, 1996.
 \$500.00 crimes committed on or after June 6, 1996.

CRC \$ Waived Court costs, including RCW 9.94A.030, 9.94A.505, 10.01.160, 10.46.190
 Criminal filing fee \$ _____ FRC
 Witness costs \$ _____ WFR
 Sheriff service fees \$ _____ SFR/SFS/SPW/SRF
 Jury demand fee \$ _____ JFR
 Other \$ _____

PUB \$790 Waived Fees for court appointed attorney RCW 9.94A.030
 PUB \$790, 520, 530 Fees for all appointed conflict cases RCW 9.94A.030
 WFR \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.030
 FCM \$ 1000.00 Fine RCW 9A.20.021; VUCSA additional fine deferred due to indigency RCW 69.50.430
 Drug enforcement fund of _____ RCW 9.94A.030

CDF/LDV \$ _____
 FCD/NTF/SAD/SDI \$ _____
 CLF \$ 100.00 Crime lab fee [] deferred due to indigency RCW 43.43.690
 EXT \$ _____ Extradition costs RCW 9.94A.505
 \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) RCW 38.52.430
 \$100 Biological Sample Fee RCW 43.43.7541
 \$ _____ Domestic Violence Penalty (Post 6/4/04--\$100 maximum) RCW 10.99.080
 \$ _____ Other costs for: _____
 \$ ~~6000~~ 1000 TOTAL RCW 9.94A.760

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

[] RESTITUTION. Schedule attached, Appendix 4.1.
 [] Restitution ordered above shall be paid jointly and severally with:
 NAME of other defendant CAUSE NUMBER (Victim name) (Amount-\$)

RJN _____

[] The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602

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

\$ _____ per month commencing _____ . RCW 9.94A.760

All payments shall be made within 12 months of:

release of confinement;

entry of judgment;

Other if payment made in this time period court will consider waiving interest.

[] In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.760

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

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.000. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

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

DNA TESTING. The defendant shall have a biological sample taken for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

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

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

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

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

4.4 OTHER: _____

Handwritten notes:
JMS
my
my
JMS

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

48 + 36 months on Count I _____ months on Count _____
48 months on Count III _____ months on Count _____
14 months on Count VI _____ months on Count _____

Actual number of months of total confinement ordered is: 84 months (48 months + 36 months enhancement)
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data above)

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

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

Confinement shall commence immediately unless otherwise set forth here: _____

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

4.6 [X] COMMUNITY PLACEMENT is ordered as follows:

Count I for 9 months;
Count _____ for _____ months;
Count _____ for _____ months.

[] COMMUNITY CUSTODY is ordered as follows:

Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;
Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728 and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding. Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.] The total period of actual confinement plus community custody or community placement shall not exceed the statutory maximum.

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

- The defendant shall not possess or consume alcohol or controlled substances without legal prescription, compliance monitored as required by DOC
- Defendant shall have no contact with: or associate with any known drug users or dealers
- Defendant shall remain within outside of a specific geographical boundary, to wit: _____

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

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

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

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

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

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

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

V. NOTICES AND SIGNATURES

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

Cross off if not applicable:

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

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

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

LM
may

Cross off if not applicable: - Since the defendant went to trial this "Right to Appeal" is applicable

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

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

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

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

5.8 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: April 28, 2005

Gerardo L. Knight

JUDGE
Print name: GERALD L. KNIGHT

Randall W. Yates

RANDALL W. YATES, #8305
Deputy Prosecuting Attorney

Natalie A. Tarantino 30897

NATALIE A. TARANTINO, #24867
Attorney for Defendant

Erik Vincent Barnes

ERIK VINCENT BARNES
Defendant

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

CAUSE NUMBER of this case: 00-1-00378-6

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

WITNESS my hand and seal of the said Superior Court affixed this date: _____
Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA12990748
(If no SID take fingerprint card for State Patrol)

Date of Birth: 12/24/1969

FBI No. 196128JA3

Local ID No.

PCN No. _____

DOC 948722

Alias name, SSN, DOB: _____

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 508

Weight: 145

Hair: Brown

Eyes: Blue

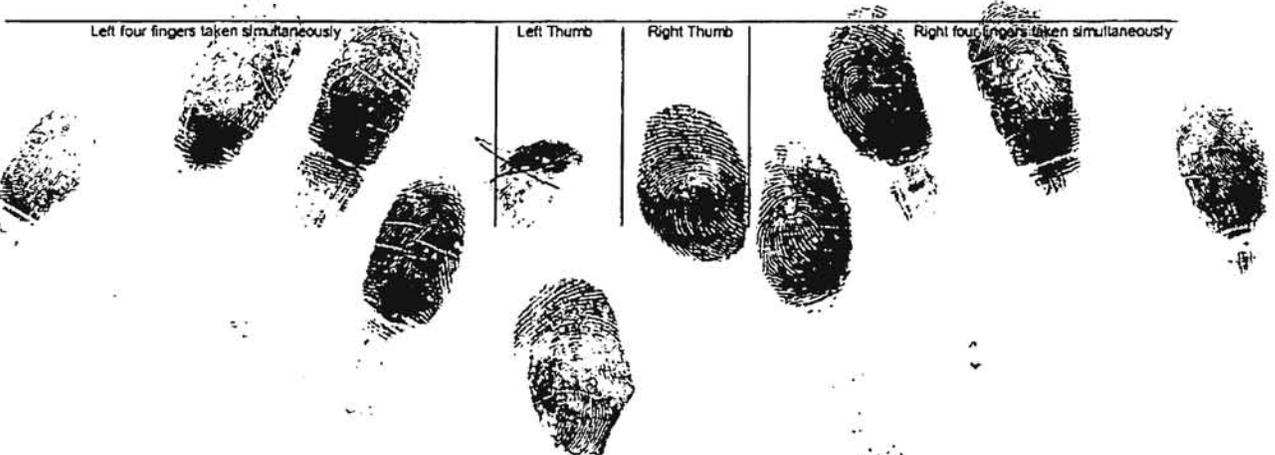
FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court: [Signature], Deputy Clerk.

Dated: 4-28-05

DEFENDANT'S SIGNATURE: [Signature]

ADDRESS: D.O.C.



31150
ORDER OF COMMITMENT

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

2005 APR 29 PM 2:15
PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH

WHEREAS, ERIK VINCENT BARNES, has been duly convicted of the crime(s) of Count 1 Possession of a Controlled Substance w/ Intent to Deliver, to-wit: (methamphetamine) While Armed w/ a Firearm, Count 3 Unlawful Possession of a Firearm in the First Degree, Count 5 First Degree Possession of Stolen Property, as charged in the Third Amended Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof, Now, Therefore,

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

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

WITNESS the Honorable GERALD L. KNIGHT, Judge of the said Superior Court and the seal thereof, this 28 day of April, 2005.

Pam L. Daniels
CLERK OF THE SUPERIOR COURT

By: _____

[Signature]
Deputy Clerk

EXHIBIT E

2012 JUDGEMENT AND SENTENCE

S.C.C.Cause # 12-1-01700-4

FILED

2013 NOV -1 PM 1:46

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



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

THE STATE OF WASHINGTON,

No. 12-1-01700-4

Plaintiff,

JUDGMENT AND SENTENCE

v.

- Prison
- Jail One Year or Less
- First Time Offender
- Special Drug Offender Sentencing Alternative
- Clerk's action required, firearm rights revoked, ¶ 5.5
- Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3
- Clerk's action required, ¶ 5.6 (use of motor vehicle)
- Restitution Hearing set, ¶ 4.3

BARNES, ERIK VINCENT

Defendant.

SID: WA12990748
If no SID, use DOB:

I. HEARING

- 1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

- 2.1 CURRENT OFFENSE(S). The defendant was found guilty on March 1, 2013 by plea of:

COUNT	CRIME	RCW	CLASS	INCIDENT #	DATE OF CRIME
I	Unlawful Possession of Firearm in the First Degree	9.41.040(1) 9.41.040(1)	B	SSO 1211583	7/13/12
II	Possession of a Controlled Substance with Intent to Manufacture or Deliver	69.50.401(1)	B		7/13/12

as charged in the Amended Information.

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

- See ¶ 4.1 regarding findings in relation to Drug Offender or Parenting Sentencing Alternative.
- The defendant used a **firearm** in the commission of the offense(s) in Count(s) _____, RCW 9.94A.602, 9.41.010, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in the commission of the offense(s) in Count(s) _____, RCW 9.94A.602, 9.94A.533.
- The defendant committed the offense in Count(s) _____ with **sexual motivation**. RCW 9.94A.835.

cc: Jail BAM

45

- [] Count(s) _____ **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter; or in or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- [] The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count(s) _____. RCW 9.94A.605, 69.50.401, 69.50.440.
- [] Count(s) _____ is (are) a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- [] Count(s) _____ is (are) the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.____.
- [] The defendant committed vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- [] Count(s) _____ involve(s) attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- [] Count(s) _____ is (are) a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- [] The defendant has a chemical dependency that has contributed to the offense(s) in Count(s) _____. RCW 9.94A.607.
- [] For the crime charged in Count(s) _____, domestic violence was pled and proved. RCW 10.99.020.
- [] The offense in Count(s) _____ was (were) committed in a county jail or state correctional facility. RCW 9.94A.533(5).
- [] Count(s) _____ involve(s) kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [] Count(s) _____ and _____ merge. (See ¶ 3.2 for dismissal of specific count.)
- [] Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 12-1-02050-1 Possession of a Controlled Substance, methamphetamine

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

	<u>CRIME</u>	<u>DATE OF SENTENCE</u>	<u>SENTENCING COURT (County & State)</u>	<u>A or J (Adult or Juvenile)</u>	<u>TYPE OF CRIME</u>
1	Second Degree Burglary	12/15/88	Snohomish Co., WA	A	B
2	Attempting to Elude	3/29/96	Snohomish Co., WA	A	C
3	VUCSA-Possession with Intent to Manufacture/Deliver	4/28/05 resentenced	Snohomish Co., WA	A	B

	(Methamphetamine) w/ DeadlyWeapon finding (Firearm)					
4	First Degree Unlawful Possession of a Firearm	4/28/05	resentenced	Snohomish Co., WA	A	B
5	First Degree Possession Stolen Property	4/28/05	resentenced	Snohomish Co., WA	A	B
6	Second Degree Burglary	2/15/84		Snohomish Co., WA	J	B
7	Second Degree Burglary	8/8/85		Snohomish Co., WA	J	B
8	Second Degree Possession Stolen Property	10/1/86		Snohomish Co., WA	J	C
9	Second Degree Burglary	9/17/87		Snohomish Co., WA	J	B
10	Second Degree Possession Stolen Property	9/21/87		Snohomish Co., WA	J	C

- The defendant committed Count(s) _____ while on community custody (adds one point to score). RCW 9.94A.525.
- The court finds the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA.

COUNT NO.	OFFENDER SCORE	SRA LEVEL	STANDARD RANGE (not including enhancements)	*PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	9	VII	87-116 MONTHS		87-116 MONTHS	10YRS/\$20,000
II	9	II	60+-120 MONTHS		60+-120 MONTHS	10YRS/\$20,000

*(F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang Involving Minor, (AE) Endangerment While Attempting to Elude.

- 2.4** **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence above below the standard range for Count(s) _____ or within the standard range for Count(s) _____ but served consecutively to Count(s) _____.
- The defendant and State stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purpose of the Sentencing Reform Act.
- Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory. Findings of fact and conclusions of law are attached in Appendix 2.4. The jury's interrogatory is attached. The prosecuting attorney did did not recommend a similar sentence.

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant is an adult and is not disabled and therefore the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

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

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

2.6 PROSECUTOR'S RECOMMENDATION. The prosecutor's recommendation was as follows:

90 months on Count I _____ months on Count IV
90 months on Count II _____ months on Count V
_____ months on Count III _____ months on Count VI

Terms on each count to run:

concurrently with or consecutively to each other

concurrently with or consecutively to the terms imposed in Cause No(s). _____

12-1-02050-1

III. JUDGMENT

- 3.1 The defendant is GUILTY of the counts and charges listed in Paragraph 2.1.
- 3.2 The court DISMISSES Count(s) _____
- 3.3 The defendant was found NOT GUILTY of Count(s) _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

- 4.1 CONFINEMENT OVER ONE YEAR. The court sentences the defendant to total confinement as follows:

CONFINEMENT. RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

<u>90</u> months on Count I	_____ months on Count IV
<u>90</u> months on Count II	_____ months on Count V
_____ months on Count III	_____ months on Count VI

The confinement time on Count(s) _____ includes _____ months as enhancement for Firearm Deadly Weapon VUCSA in a Protected Zone Manufacture of Methamphetamine with Juvenile Present other _____

Actual term of total confinement ordered is Ninty months.

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

The sentence herein shall run concurrently to the sentence in cause number(s) 12-1-02050-1 and consecutive to any sentence which was imposed before the date of violation for the offenses in this cause number. The sentence shall run concurrently to the sentence in cause numbers _____ RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

CREDIT FOR TIME SERVED. The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505(6). The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

WORK ETHIC PROGRAM. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in ¶ 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement.

4.2

COMMUNITY CUSTODY. RCW 9.94A.701. The defendant shall serve the following term of community custody (12 months for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate; 18 months for violent offenses; and 36 months for serious violent offenses):

Count I for a period of <u>0</u> months	Count IV for a period of _____ months
Count II for a period of <u>12</u> months	Count V for a period of _____ months
Count III for a period of _____ months	Count VI for a period of _____ months

and the conditions ordered are set forth below. The combined term of community custody and confinement shall not exceed the statutory maximum.

The defendant shall report to DOC, 8625 Evergreen Way, Suite 100, Everett, Washington 98208 not later than 72 hours after release from custody.

While on community custody, the defendant shall (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) notify DOC of any change in the defendant's address or employment; (4) not consume or possess controlled substances except pursuant to lawfully issued prescriptions; (5) not own, use, or possess firearms or ammunition; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with orders of the court as required by DOC; and (8) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .708. The residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The defendant shall not ~~consume any alcohol.~~ ^{purchase, possess or consume} ~~controlled substance~~ w/o valid prescription

The defendant shall have no contact with _____. See ¶ 4.5.

The defendant shall remain within outside of a specific geographical boundary, to wit: _____

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

comply w/ DOC conditions

The defendant shall participate in the following: State certified domestic violence treatment program chemical dependency evaluation mental health evaluation anger management program, and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: UA's as required

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

4.3 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the clerk of the court:

PVC	<input checked="" type="checkbox"/> \$500	Victim assessment	RCW 7.68.035
CRC	\$ _____ <input type="checkbox"/> waived	Court costs, including	RCW 9.94A.030, .505; 10.01.160
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFG/SFW/SRF
		Jury demand fee \$ _____	JFR
		Other \$ _____	RCW 10.46.190
PUB	<input type="checkbox"/> \$962 <input type="checkbox"/> waived	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other costs	RCW 9.94A.760
FCM	<input type="checkbox"/> \$1,000 <input checked="" type="checkbox"/> \$2,000	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/ADV FCD/INTF/SAD/SDI	\$ _____	Drug enforcement fund of \$ _____	RCW 9.94A.760
CLF	<input type="checkbox"/> \$100	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
RTN/PLN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide, DUI only, \$2,500 maximum)	RCW 38.52.430
	<input checked="" type="checkbox"/> \$100	Biological Sample Fee	RCW 43.43.7541
		(for offenses committed after 07-01-2002)	
PDV	<input type="checkbox"/> \$100	Domestic Violence Penalty (for offenses committed after 06-04-2004 - maximum \$100)	RCW 10.99.080
	\$ _____	Other costs for: _____	
	<u>\$ 2600⁰⁰</u>	TOTAL	RCW 9.94A.760

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

A restitution hearing shall be set for _____
 Defendant waives any right to be present at any restitution hearing (sign initials): _____
 Defendant waives any right to a restitution hearing within 6 months. RCW 9.94A.750.

A separate Restitution Order is being entered contemporaneously with this Judgment and Sentence.

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

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

\$25⁰⁰ per month commencing 60 days after release. RCW 9.94A.760.

All payments shall be made within 60 months of release of confinement; entry of judgment; other _____

The defendant shall report to the clerk of the court or as directed by the clerk to provide financial and other information requested. RCW 9.94A.760(7)(b).

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$100.00 per day (not to exceed \$100 per day) unless another rate is specified here _____. RCW 9.94A.760(2).

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

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

- 4.4 **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.
- HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 106, Everett, Washington 98201 within one (1) business day of entry of this order to arrange for the test. RCW 70.24.340.

4.5 **NO CONTACT.**

- The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until _____ (date) (not to exceed the maximum statutory sentence). EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.
- A separate post conviction Domestic Violence No Contact Order, Anti-Harassment Order, or Sexual Assault Protection Order was filed at the time of entry of the plea of guilty/guilty verdict is filed contemporaneously with this Judgment and Sentence. (Entry of a separate order makes a violation of this no contact sentencing provision also punishable as a criminal offense, and the order will be entered into the law enforcement database.)
- The pre-trial Domestic Violence No Contact Order, Anti-Harassment Order, or Sexual Assault Protection Order entered on _____ is hereby terminated.

4.6 **OTHER.** _____

4.7 **OFF-LIMITS ORDER.** (Known drug trafficker). RCW 10.68.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

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

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94A.760 and RCW 9.94A.505(5).
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 **VIOLATION OF JUDGMENT AND SENTENCE/COMMUNITY CUSTODY VIOLATION.**
(a) Any violation of a condition or requirement of sentence is punishable by up to 60 days confinement for each violation. RCW 9.94A.633.

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

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

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

The defendant is ordered to forfeit any firearm he/she owns or possesses no later than _____ to _____ (name of law enforcement agency). RCW 9.41.098

- 5.6 **MOTOR VEHICLE.** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.7 **CERTIFICATE OF DISCHARGE.**
(a) If you are under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received notice from Department of Corrections and clerk's office that you have completed all requirements of the sentence and satisfied all legal financial obligations. RCW 9.94A.637.

(b) If you are not under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received verification from you that you have completed all sentence conditions other than payment of legal financial obligations and the clerk's office that you have satisfied all legal financial obligations.

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

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

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

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

5.9 VOTING RIGHTS STATEMENT. I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

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

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

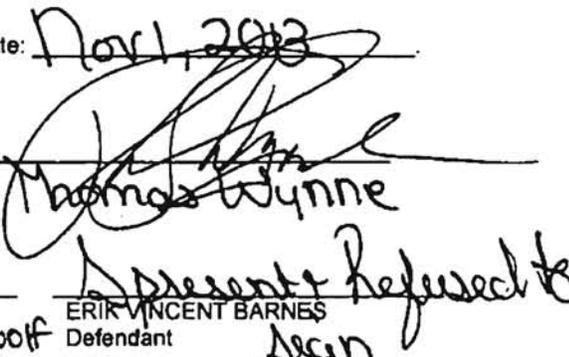
5.10 OTHER. _____

DONE in Open Court and in the presence of the defendant this date: Nov 1, 2013


 TAMMY L. BAYARD
 WSBA 33554
 Deputy Prosecuting Attorney


 GURJOT PANDHER
 WSBA 20242
 Attorney for Defendant

JUDGE
 Print name: Thomas Wynne


 ERIK VINCENT BARNES
 Defendant

Interpreter Refused to Sign

Natalie Finley-wolf
40925

Interpreter signature/Print name: _____

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language. Cause No. of this case: 12-1-01700-4.

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

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

Clerk of said County and State, _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID Number: WA12990748
(If no SID, take fingerprint card for State Patrol)

Date of Birth: 12/24/1969

FBI Number: 198128JA3

Local ID Number: _____

PCN Number: _____

DOC Number: 948722

Alias name, SSN, DOB:

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 508

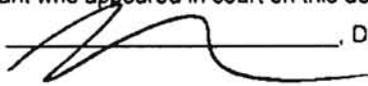
Weight: 145

Hair: Brown

Eyes: Blue

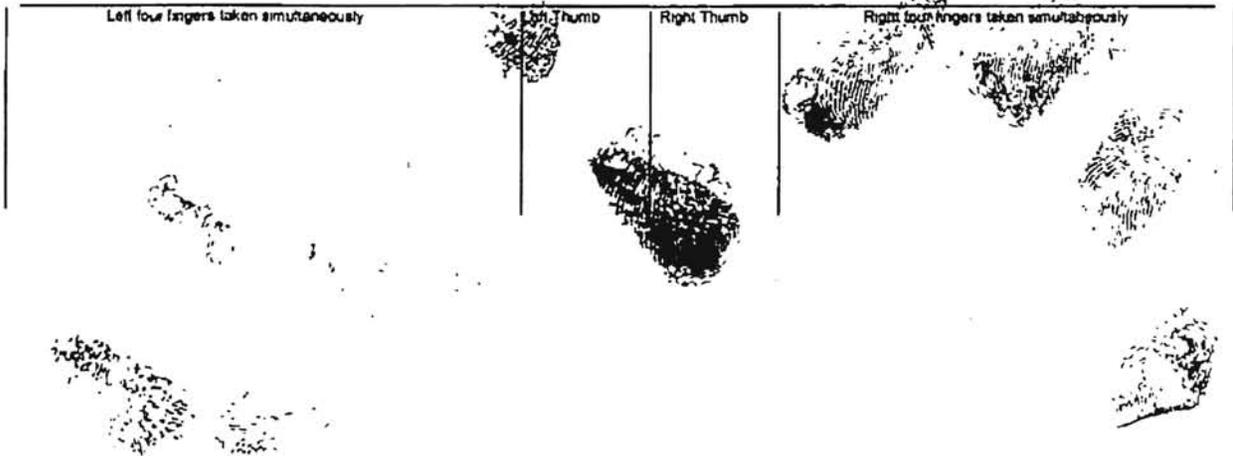
FINGERPRINTS: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: _____, Deputy Clerk.

Dated: 11-1-13



DEFENDANT'S SIGNATURE: _____

ADDRESS: _____



ORDER OF COMMITMENT

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

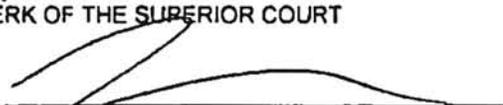
WHEREAS, ERIK VINCENT BARNES has been duly convicted of the crime(s) of Count 1: Unlawful Possession of a Firearm in the First Degree, Count 2: Possession of a Controlled Substance With Intent to Manufacture or Deliver as charged in the Amended Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her that he/she be punished therefore by imprisonment in such correctional institution under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections pursuant to RCW 72.02.210, for the term(s) as provided in the judgment which is incorporated by reference, all of which appears of record in this court; a certified copy of said judgment being endorsed hereon and made a part thereof; Now, Therefore,

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to transfer to the custody of the Superintendent for the Washington State Department of Corrections or his designee for transport to either the Washington Corrections Center at Shelton, Washington or Washington Corrections Center for Women at Purdy, Washington and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

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

WITNESS the Honorable Thomas Wynne, Judge of the said Superior Court and the seal thereof, this 1 day of Nov, 2013.

Sonya Kraski
CLERK OF THE SUPERIOR COURT

By: 
Deputy Clerk



FILED

2013 NOV -1 PM 1:47

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH

THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT
12/24/1969

Defendant.

No. 12-1-01700-4

TEMPORARY ORDER OF COMMITMENT

Agency: SNOHOMISH COUNTY SHERIFF'S OFFICE Event #: 1211583
Charge: Count 1: Unlawful Possession of a Firearm in the First Degree, Count 2: Possession of a
Controlled Substance With Intent to Manufacture or Deliver, methamphetamine
RCW: 9.41.040(1), 89.50.401(1)

TO: SNOHOMISH COUNTY SHERIFF/DEPARTMENT OF CORRECTIONS

You are instructed to receive and hold in custody the above-identified defendant until such time as formal commitment papers are received. The reason the defendant is referred to your custody is as stated below.

- Personal recognizance revoked, bail set for \$ _____
- Bail revoked/increased to \$ _____
- Sentenced to Snohomish County Jail for _____

Sentenced to the State Department of Corrections; hold for transport to Shelton or Purdy.
 Other: concurrent with cause number 12-1-02650-1,
Appeal bond set in the amount of \$50,000.

DATED this 1 day of Nov, 2013.

JUDGE Thomas Wynne

Presented by:

Tammy L. Bayard
TAMMY L. BAYARD, 33554
Deputy Prosecuting Attorney

Approved for Entry, Notice of Presentation Waived:
Gurjit Randher
GURJIT RANDHER, 28242
Attorney for Defendant Natalie Findley-1008
#40925

44

FILED

2013 NOV -4 PM 3: 06

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT

Defendant.

No. 12-1-01700-4

CONDITIONS OF RELEASE
PENDING APPEAL

Pursuant to RAP 7.2(f) and RCW 9.95.062, execution of the judgment is stayed pending appeal with the following conditions and exceptions:

1. The defendant shall post cash bail or a surety bond in the amount of \$50,000.00. This bail shall secure the defendant's appearance and, if condition 2 is not in effect, shall also secure payment of financial obligations. The defendant shall remain in custody until bail is posted.

2. The defendant shall make payments towards court-ordered legal financial obligations in the manner established by the supervising community corrections officer or the Snohomish County Clerk's Office.

3. The provisions of the Judgment and Sentence that prohibit contact with specified persons shall remain in effect. Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest.

[] 4. The defendant shall report to the Department of Corrections, remain under the supervision of a community corrections officer, and follow the instructions, rules and regulations of the Department. All conditions of community supervision or community placement set out in the Judgment and Sentence are incorporated as conditions of release.

48

5. The defendant shall not possess any firearms.
6. The defendant shall have no arrests.
7. The defendant shall diligently prosecute the appeal.

8. The defendant shall report to jail to serve any sentence of incarceration stayed pending appeal within 30 days of the issuance of a ruling or opinion by the appellate court that affirms the conviction or dismisses the appeal.

9. ~~The defendant shall not purchase, possess, or consume any controlled substances without valid prescription.~~

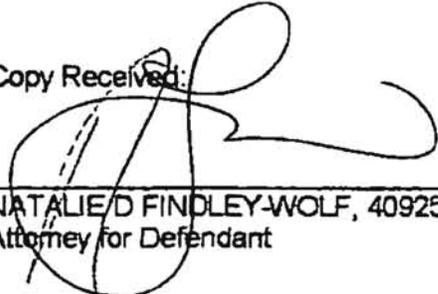
DONE IN OPEN COURT this 4 day of Nov, 2013.


 JUDGE Thomas Wynne

Presented by:


 TAMMY L. BAYARD 33554
 Attorney for Plaintiff

Copy Received:


 NATALIE D FINDLEY-WOLF, 40925
 Attorney for Defendant


 ERIK VINCENT BARNES
 Defendant

FILED

2013 NOV -4 PM 3:06

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



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

THE STATE OF WASHINGTON,

Plaintiff,

v.

Barnes, Eric Vincent
Defendant.

No. *12-1-01700-4*
Amended
TEMPORARY ORDER OF
COMMITMENT

Agency: *SCSO*

Charge: *UPF1 + PCS w/ Intent to Deliver*

Event # *1211583*

RCW:

TO: SNOHOMISH COUNTY SHERIFF/DEPARTMENT OF CORRECTIONS

You are instructed to receive and hold in custody the above-identified defendant until such time as formal commitment papers are received. The reason the defendant is referred to your custody is as stated below.

- Personal recognizance revoked, bail set for \$ _____
- Bail revoked/increased to \$ _____
- Sentenced to Snohomish County Jail for _____

Sentenced to the State Department of Corrections; hold for transport to Shelton or Purdy.

Other: *concurrent w/ 12-1-02650-1 + C 611684 (Date Stevens)*

DATED this *4* day of *Nov*, 2012/13.

JUDGE *Thomas Wynne*
Approved for Entry, Notice of Presentation Waived:

Presented by:

[Signature]
Deputy Prosecuting Attorney *77351*

Attorney for Defendant #40925
Natalee Findley-wolf

EXHIBIT G

2012 JUDGEMENT AND SENTENCE

S.C.C. Cause # 12-1-02050-1

FILED

2013 NOV -1 PM 1:46

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



CL16312566

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

THE STATE OF WASHINGTON,

No. 12-1-02050-1

Plaintiff,

JUDGMENT AND SENTENCE

v.

Prison

BARNES, ERIK VINCENT

Jail One Year or Less

Defendant.

First Time Offender

Special Drug Offender Sentencing Alternative

SID: WA12990748
If no SID, use DOB:

Clerk's action required, firearm rights
revoked, ¶ 5.5

Clerk's action required, ¶¶ 2.1, 4.1, 4.3, 4.5, 5.2, 5.3

Clerk's action required, ¶ 5.6 (use of motor vehicle)

Restitution Hearing set, ¶ 4.3

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

2.1 CURRENT OFFENSE(S). The defendant was found guilty on March 1, 2013 by plea of:

COUNT	CRIME	RCW	CLASS	INCIDENT #	DATE OF CRIME
1	Possession of a Controlled Substance, Methamphetamine	69.50.4013	C	MAR 1206287	9/27/12

as charged in the Information.

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

- See ¶ 4.1 regarding findings in relation to Drug Offender or Parenting Sentencing Alternative.
- The defendant used a **firearm** in the commission of the offense(s) in Count(s) _____ RCW 9.94A.602, 9.41.010, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in the commission of the offense(s) in Count(s) _____ RCW 9.94A.602, 9.94A.533.
- The defendant committed the offense in Count(s) _____ with **sexual motivation**. RCW 9.94A.835.
- Count(s) _____ **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter;

cc: Jail BAN

43

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

- [] The defendant committed a crime involving the manufacture of methamphetamine including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count(s) _____. RCW 9.94A.605, 69.50.401, 69.50.440.
- [] Count(s) _____ is (are) a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- [] Count(s) _____ is (are) the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.____.
- [] The defendant committed vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- [] Count(s) _____ involve(s) attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- [] Count(s) _____ is (are) a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- [] The defendant has a chemical dependency that has contributed to the offense(s) in Count(s) _____. RCW 9.94A.807.
- [] For the crime charged in Count(s) _____, domestic violence was pled and proved. RCW 10.99.020.
- [] The offense in Count(s) _____ was (were) committed in a county jail or state correctional facility. RCW 9.94A.533(5).
- [] Count(s) _____ involve(s) kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [] Count(s) _____ and _____ merge. (See ¶ 3.2 for dismissal of specific count.)
- [] Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 12-1-01700-4 Unlawful Possession of Firearm in the First Degree, Possession of a Controlled Substance with Intent to Manufacture or Deliver

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

	<u>CRIME</u>	<u>DATE OF SENTENCE</u>	<u>SENTENCING COURT (County & State)</u>	<u>A or J (Adult or Juvenile)</u>	<u>TYPE OF CRIME</u>
1	Second Degree Burglary	12/15/88	Snohomish Co., WA	A	B
2	Attempting to Elude	3/29/96	Snohomish Co., WA	A	C
3	VUCSA-Possession with Intent to Manufacture/Deliver (Methamphetamine) w/ Deadly Weapon finding (Firearm)	4/28/05 resentenced	Snohomish Co., WA	A	B
4	First Degree Unlawful Possession of a Firearm	4/28/05 resentenced	Snohomish Co., WA	A	B

5	First Degree Possession Stolen Property	4/28/05 resentenced	Snohomish Co., WA	A	B
6	Second Degree Burglary	2/15/84	Snohomish Co., WA	J	B
7	Second Degree Burglary	8/8/85	Snohomish Co., WA	J	B
8	Second Degree Possession Stolen Property	10/1/86	Snohomish Co., WA	J	C
9	Second Degree Burglary	9/17/87	Snohomish Co., WA	J	B
10	Second Degree Possession Stolen Property	9/21/87	Snohomish Co., WA	J	C

- The defendant committed Count(s) _____ while on community custody (adds one point to score). RCW 9.94A.525.
- The court finds the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA.

COUNT NO.	OFFENDER SCORE	SRA LEVEL	STANDARD RANGE (not including enhancements)	*PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	9	I	12+-24 months		12+-24 months	5 years/\$10,000

*(F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, (JP) Juvenile Present, (CSG) Criminal Street Gang Involving Minor, (AE) Endangerment While Attempting to Elude.

- 2.4 **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence above below the standard range for Count(s) _____ or within the standard range for Count(s) _____ but served consecutively to Count(s) _____.
- The defendant and State stipulate that justice is best served by imposition of an exceptional sentence above the standard range and the court finds that exceptional sentence furthers and is consistent with the interests of justice and the purpose of the Sentencing Reform Act.
- Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory. Findings of fact and conclusions of law are attached in Appendix 2.4. The jury's interrogatory is attached. The prosecuting attorney did did not recommend a similar sentence.

- 2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant is an adult and is not disabled and therefore the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

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

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

- 2.6 **PROSECUTOR'S RECOMMENDATION.** The prosecutor's recommendation was as follows:

24 months on Count I _____ months on Count IV
 _____ months on Count II _____ months on Count V

_____ months on Count III _____ months on Count VI

Terms on each count to run:
 concurrently with or consecutively to each other
 concurrently with or consecutively to the terms imposed in Cause No(s). _____
12-1-01760-4

III. JUDGMENT

- 3.1 The defendant is GUILTY of the counts and charges listed in Paragraph 2.1.
- 3.2 The court DISMISSES Count(s) _____.
- 3.3 The defendant was found NOT GUILTY of Count(s) _____.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 CONFINEMENT OVER ONE YEAR. The court sentences the defendant to total confinement as follows:

CONFINEMENT. RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

<u>24</u> months on Count I	_____ months on Count IV
_____ months on Count II	_____ months on Count V
_____ months on Count III	_____ months on Count VI

The confinement time on Count(s) _____ includes _____ months as enhancement for Firearm Deadly Weapon VUCSA in a Protected Zone Manufacture of Methamphetamine with Juvenile Present other _____

Actual term of total confinement ordered is Twenty Four months.

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

The sentence herein shall run consecutively to the sentence in cause number(s) _____

and consecutive to any sentence which was imposed before the date of violation for the offenses in this cause number. The sentence shall run concurrently to the sentence in cause numbers _____ RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

CREDIT FOR TIME SERVED. The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505(6). The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court:

WORK ETHIC PROGRAM. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in ¶ 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement.

4.2

COMMUNITY CUSTODY. RCW 9.94A.701. The defendant shall serve the following term of community custody (12 months for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate; 18 months for violent offenses; and 36 months for serious violent offenses):

Count I for a period of <u>12</u> months	Count IV for a period of _____ months
Count II for a period of _____ months	Count V for a period of _____ months
Count III for a period of _____ months	Count VI for a period of _____ months

and the conditions ordered are set forth below. The combined term of community custody and confinement shall not exceed the statutory maximum.

The defendant shall report to DOC, 8625 Evergreen Way, Suite 100, Everett, Washington 98208 not later than 72 hours after release from custody.

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

The defendant shall not ~~consume any alcohol.~~ ^{purchase, possess or controlled subs} ~~use any~~ ^{who voided prescription}

The defendant shall have no contact with _____. See ¶ 4.5.

The defendant shall remain within outside of a specific geographical boundary, to wit:

The defendant shall participate in the following ~~crime-related treatment or counseling services:~~
comply w/ DOC conditions

The defendant shall participate in the following: State certified domestic violence treatment program chemical dependency evaluation mental health evaluation anger management program, and fully comply with all recommended treatment.

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

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

4.3 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the clerk of the court:

PVC	<input checked="" type="checkbox"/> \$500	Victim assessment	RCW 7.68.035
CRC	\$ <input type="checkbox"/> waived	Court costs, including	RCW 9.94A.030, .505; 10.01.160
		Criminal filing fee \$ _____	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFRS/SFS/SFW/SRF
		Jury demand fee \$ _____	JFR
		Other \$ _____	RCW 10.46.190
PUB	<input type="checkbox"/> \$982 <input checked="" type="checkbox"/> waived	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other costs	RCW 9.94A.760
FCM	<input type="checkbox"/> \$1,000 <input type="checkbox"/> \$2,000	Fine RCW 9A.20.021; <input checked="" type="checkbox"/> VUCSA additional fine	RCW 69.50.430
		deferred due to indigency	
CDF/LDV	\$ _____	Drug enforcement fund of \$ _____	RCW 9.94A.760
FCD/INTF/SAD/SDI			
CLF	<input type="checkbox"/> \$100	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
EXT	\$ _____	Extradition costs	RCW 9.94A.505
RTN/RJN	\$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide, DUI only, \$2,500 maximum)	RCW 38.52.430
	<input checked="" type="checkbox"/> \$100 <i>Waived</i>	Biological Sample Fee	RCW 43.43.7541
		(for offenses committed after 07-01-2002)	
PDV	<input type="checkbox"/> \$100	Domestic Violence Penalty (for offenses committed after 06-04-2004 - maximum \$100)	RCW 10.99.080
	\$ _____	Other costs for: _____	
	<u>\$500.00</u>	TOTAL	RCW 9.94A.760

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

- A restitution hearing shall be set for _____.
- Defendant waives any right to be present at any restitution hearing (*sign initials*): _____.
- Defendant waives any right to a restitution hearing within 6 months. RCW 9.94A.750.

A separate Restitution Order is being entered contemporaneously with this Judgment and Sentence.

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

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

\$ 2500 per month commencing 60 days after release. RCW 9.94A.760.

All payments shall be made within 60 months of release of confinement;
 entry of judgment; other _____.

The defendant shall report to the clerk of the court or as directed by the clerk to provide financial and other information requested. RCW 9.94A.760(7)(b).

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at \$100.00 per day (not to exceed \$100 per day) unless another rate is specified here _____ RCW 9.94A.760(2).

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

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

- 4.4 **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.
- HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. The defendant, if out of custody, shall report to the HIV/AIDS Program Office at 3020 Rucker, Suite 106, Everett, Washington 98201 within one (1) business day of entry of this order to arrange for the test. RCW 70.24.340.

4.5 **NO CONTACT.**

- The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until _____ (date) (not to exceed the maximum statutory sentence). **EVEN IF THE PERSON WHO THIS ORDER PROTECTS INVITES OR ALLOWS CONTACT, YOU CAN BE ARRESTED AND PROSECUTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU HAVE THE SOLE RESPONSIBILITY TO AVOID OR REFRAIN FROM VIOLATING THIS ORDER.**
- A separate post conviction Domestic Violence No Contact Order, Anti-Harassment Order, or Sexual Assault Protection Order was filed at the time of entry of the plea of guilty/guilty verdict is filed contemporaneously with this Judgment and Sentence. *(Entry of a separate order makes a violation of this no contact sentencing provision also punishable as a criminal offense, and the order will be entered into the law enforcement database.)*
- The pre-trial Domestic Violence No Contact Order, Anti-Harassment Order, or Sexual Assault Protection Order entered on _____ is hereby terminated.

4.6 **OTHER.** _____

4.7 **OFF-LIMITS ORDER.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

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

V. NOTICES AND SIGNATURES

- 5.1 COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.753(4); RCW 9.94.A.760 and RCW 9.94A.505(5).
- 5.3 NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606.
- 5.4 VIOLATION OF JUDGMENT AND SENTENCE/COMMUNITY CUSTODY VIOLATION.**
(a) Any violation of a condition or requirement of sentence is punishable by up to 60 days confinement for each violation. RCW 9.94A.633.

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

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

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

The defendant is ordered to forfeit any firearm he/she owns or possesses no later than _____ to _____ *(name of law enforcement agency)*. RCW 9.41.098

- 5.6 MOTOR VEHICLE.** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.7 CERTIFICATE OF DISCHARGE.**
(a) If you are under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received notice from Department of Corrections and clerk's office that you have completed all requirements of the sentence and satisfied all legal financial obligations. RCW 9.94A.637.

(b) If you are not under the custody and supervision of the Department of Corrections, the court will not issue a Certificate of Discharge until it has received verification from you that you have completed all sentence conditions other than payment of legal financial obligations and the clerk's office that you have satisfied all legal financial obligations.

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

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

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

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

5.9 **VOTING RIGHTS STATEMENT.** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

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

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

5.10 **OTHER.** _____

DONE in Open Court and in the presence of the defendant this date: Nov 1, 2013


TAMMY L. BAYARD
WSBA 33554
Deputy Prosecuting Attorney


GLORIT PANDHER
WSBA 28242
Attorney for Defendant
Natalie Findley Wolf
40925.

JUDGE
Print name: Thomas Wynne


ERIK VINCENT BARNES
Defendant
Present + refused to sign

Interpreter signature/Print name: _____

I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language. Cause No. of this case: 12-1-02050-1.

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

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

Clerk of said County and State, _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID Number: WA12990748
(If no SID, take fingerprint card for State Patrol)

Date of Birth: 12/24/1969

FBI Number: 196128JA3

Local ID Number:

PCN Number:

DOC Number: 948722

Alias name, SSN, DOB:

Race: White

Ethnicity:
 Hispanic
 Non-Hispanic

Sex: M

Height: 508

Weight: 145

Hair: Brown

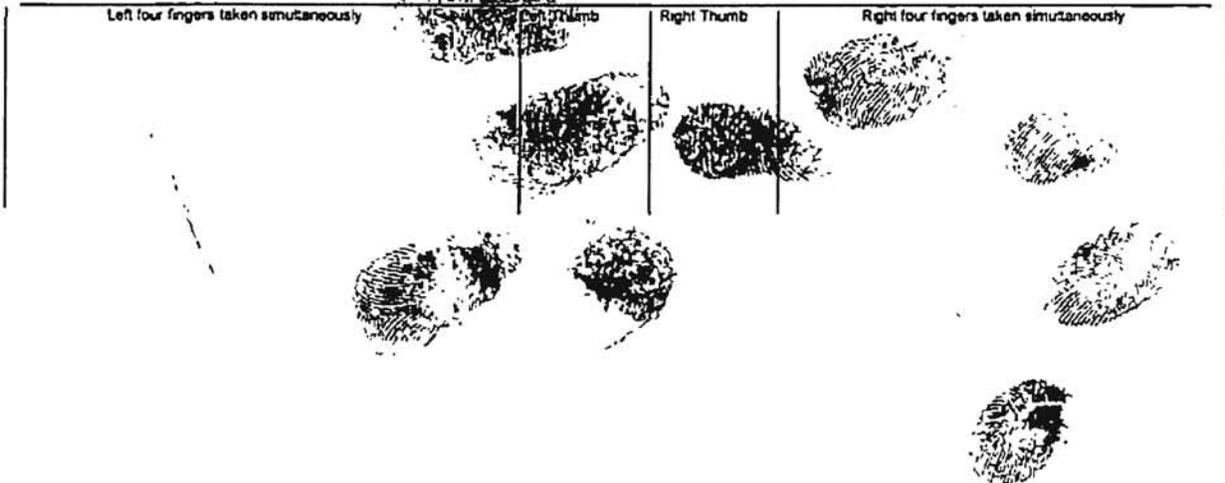
Eyes: Blue

FINGERPRINTS: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court: _____, Deputy Clerk.

Dated: 11-1-13

DEFENDANT'S SIGNATURE: _____

ADDRESS: _____



ORDER OF COMMITMENT

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

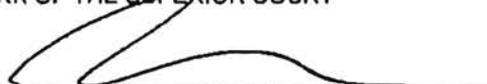
WHEREAS, ERIK VINCENT BARNES has been duly convicted of the crime(s) of Count 1: Possession of a Controlled Substance, Methamphetamine, as charged in the Information filed in the Superior Court of the State of Washington, in and for the County of Snohomish, and judgment has been pronounced against him/her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

THIS IS TO COMMAND YOU, the said Sheriff, to detain the said defendant until called for by the officer authorized to transfer to the custody of the Superintendent for the Washington State Department of Corrections or his designee for transport to either the Washington Corrections Center at Shelton, Washington or Washington Corrections Center for Women at Purdy, Washington and this is to command you, the said Superintendent and Officers in charge of said Washington Corrections Center to receive from the said officers the said defendant for confinement, classification, and placement in such corrections facilities under the supervision of the Department of Corrections, Division of Prisons, as shall be designated by the Secretary of the Department of Corrections.

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

WITNESS the Honorable Thomas Wynne, Judge of the said Superior Court and the seal thereof, this 1 day of March, 2013.

Sonya Kraski
CLERK OF THE SUPERIOR COURT

By: 
Deputy Clerk



FILED

2013 NOV -1 PM 1:47

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH

THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT
12/24/1989

Defendant.

No. 12-1-02050-1

TEMPORARY ORDER OF COMMITMENT

Agency: MARYSVILLE POLICE DEPARTMENT
Charge: Court 1: Possession of a Controlled Substance
RCW: 69.50.4013

Event #: 1208287

TO: SNOHOMISH COUNTY SHERIFF/DEPARTMENT OF CORRECTIONS

You are instructed to receive and hold in custody the above-identified defendant until such time as formal commitment papers are received. The reason the defendant is referred to your custody is as stated below:

- Personal recognizance revoked, bail set for \$ _____
- Bail revoked/increased to \$ _____
- Sentenced to Snohomish County Jail for _____

Sentenced to the State Department of Corrections; hold for transport to Shelton or Purdy.
 Other: concurrent with cause number 12-1-01700-4;
Appeal bond set in the amount of \$25,000.

DATED this 1 day of Nov, 2013.

JUDGE Thomas Wynne
Approved for Entry, Notice of Presentation Waived:

Presented by:
TAMMY L. BAYARD, 32354
Deputy Prosecuting Attorney

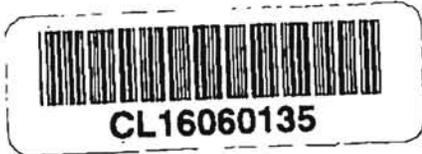
GURJIT RANDEH, 28242
Attorney for Defendant
Natalie Fhdley-wolf
#40925

42

FILED

2013 NOV -4 PM 3: 06

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

v.

BARNES, ERIK VINCENT

Defendant.

No. 12-1-02050-1

CONDITIONS OF RELEASE
PENDING APPEAL

Pursuant to RAP 7.2(f) and RCW 9.95.062, execution of the judgment is stayed pending appeal with the following conditions and exceptions:

1. The defendant shall post cash bail or a surety bond in the amount of \$25,000.00. This bail shall secure the defendant's appearance and, if condition 2 is not in effect, shall also secure payment of financial obligations. The defendant shall remain in custody until bail is posted.

2. The defendant shall make payments towards court-ordered legal financial obligations in the manner established by the supervising community corrections officer or the Snohomish County Clerk's Office.

3. The provisions of the Judgment and Sentence that prohibit contact with specified persons shall remain in effect. Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest.

[] 4. The defendant shall report to the Department of Corrections, remain under the supervision of a community corrections officer, and follow the instructions, rules and regulations of the Department. All conditions of community supervision or community placement set out in the Judgment and Sentence are incorporated as conditions of release.

46

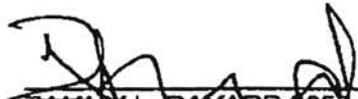
5. The defendant shall not possess any firearms.
6. The defendant shall have no arrests.
7. The defendant shall diligently prosecute the appeal.
8. The defendant shall report to jail to serve any sentence of incarceration stayed pending appeal within 30 days of the issuance of a ruling or opinion by the appellate court that affirms the conviction or dismisses the appeal.

9. ~~The defendant shall not purchase, possess or consume any controlled substances without a valid prescription.~~

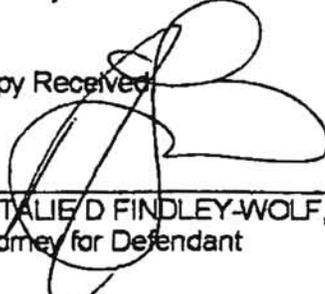
DONE IN OPEN COURT this 4 day of Nov, 2013.

JUDGE 
Thomas Wynne

Presented by:


TAMMY L. BAYARD 83574
Attorney for Plaintiff

Copy Received


NATALIE D. FINDLEY-WOLF, 40925
Attorney for Defendant


ERIK VINCENT BARNES
Defendant

FILED

2013 NOV -4 PM 3:06

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



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

THE STATE OF WASHINGTON,

Plaintiff,

v.

Barnes, Erik Vincent
Defendant.

No. 12-1-02050-1

Amended
TEMPORARY ORDER OF
COMMITMENT

Agency: Marysville Police Department Event #: 1206287

Charge: Count 1: Possession of Controlled Substance

RCW: 69.50.4013

TO: SNOHOMISH COUNTY SHERIFF/DEPARTMENT OF CORRECTIONS

You are instructed to receive and hold in custody the above-identified defendant until such time as formal commitment papers are received. The reason the defendant is referred to your custody is as stated below:

- Personal recognizance revoked, bail set for \$ _____
- Bail revoked/increased to \$ _____
- Sentenced to Snohomish County Jail for _____

Sentenced to the State Department of Corrections; hold for transport to Shelton or Purdy.

Other: concurrent with 12-1-01700-4 and 66168L (Lake Stevens case)

DATED this 4 day of Nov, 2012.

JUDGE

Approved for Entry, Notice of Presentation Waived:

Presented by:

[Signature]
Deputy Prosecuting Attorney 33554

[Signature]
Attorney for Defendant #40925
Natalie Endley-Wolf

47