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Court of Appeals
Division I
State of Washington

NO. 74123-3-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

STATE OF WASHINGTON,

Respondent,

v.

O'KEITH MCGILL,

Appellant.

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

BRIEF OF RESPONDENT

DANIEL T. SATTERBERG
King County Prosecuting Attorney

WESLEY C. BRENNER
Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9000

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A. ISSUES PRESENTED

1. To preserve jury unanimity when the State presents evidence of multiple acts that could constitute the charged crime, the trial court must give a unanimity instruction or the State must elect which act it is relying upon. However, where the multiple acts are part of a continuous course of conduct, neither a unanimity instruction nor election is necessary. Here, O'Keith McGill twice entered into James Kershaw's apartment in a short span of time with the intent to assault Emilee Piirainen. Evaluating the evidence in a common sense manner, does the evidence show that the two entries were part of the same continuous course of conduct?

2. A defendant's affirmative acknowledgment of his criminal history relieves the State of its burden of proving the defendant's criminal history by a preponderance of the evidence. Here, McGill affirmatively acknowledged that his offender score was seven. The trial court found that his offender score was seven. Should McGill's sentence be affirmed?

3. RCW 10.73.160 and Title 14 RAP authorize the imposition of costs on appeal. Neither the statute nor the court rule requires an individualized assessment of indigency prior to the imposition of costs; instead, a defendant who is unable to pay costs on appeal may object to

costs under RAP 14.5 or seek remission pursuant to RCW 10.73.160(4).

Should McGill's preemptive objection to costs on appeal be denied?

B. STATEMENT OF THE CASE

1. PROCEDURAL FACTS.

The State charged defendant O'Keith McGill (hereinafter "McGill") with count one, burglary in the first degree – domestic violence,¹ and count two, assault in the second degree – domestic violence.² CP 1-2. The State alleged that on January 23, 2015, McGill entered and remained unlawfully in a building with the intent to commit a crime against a person or property therein. CP 1. The State also alleged that, in the same incident, McGill intentionally assaulted another and thereby recklessly inflicted substantial bodily harm. CP 2.

A jury convicted McGill of both crimes as charged. CP 21-22. McGill received a standard range sentence with counts one and two to run concurrent. CP 60-62. This appeal timely followed. CP 76.

¹ RCW 9A.52.020 (burglary); RCW 10.99.020 (domestic violence).

² RCW 9A.36.021(1)(a) (assault); RCW 10.99.020 (domestic violence).

2. SUBSTANTIVE FACTS.

On January 23, 2015, McGill went unannounced to James Kershaw's (hereinafter "Kershaw") apartment in Shoreline, Washington. 2RP³ 160. McGill had previously stayed at Kershaw's home, but he had been asked to leave several days prior. 2RP 157. McGill knocked, and Kershaw opened the door. 2RP 161. McGill stated he wanted to see if Emilee Piirainen (hereinafter "Piirainen") was there. 2RP 161. Piirainen and McGill had been romantically involved. 2RP 193. Kershaw responded that McGill couldn't come in, to which McGill replied he was going to come in the house and "kill the bitch [Piirainen]." 2RP 162, 200.

McGill pushed his way through the doorway of the apartment. 2RP 163. Bishop—another guest at the apartment—placed himself between McGill and Piirainen, and the two men fell over the coffee table. 2RP 163, 200. McGill got up, went over to Piirainen, and started punching and kicking her. 2RP 163. McGill repeatedly told Piirainen he was going to kill her. 2RP 163, 201. Bishop told McGill they would call the police, at which point McGill stopped hitting Piirainen and walked towards the front door. 2RP 164. Kershaw left the apartment to ask the building manager if he could use his phone to call the police. 2RP 165.

³ There are 3 volumes of verbatim report of proceedings. They will be referred to as follows: 1RP (August 12, 2015); 2RP (August 13, 2015); and 3RP (August 17, 2015 and September 18, 2015).

McGill then walked around the apartment complex to the back of Kershaw's apartment, 2RP 184. McGill threw a cinderblock through the back sliding glass door and entered the apartment again. 2RP 184. McGill chased after Piirainen, grabbed her by the throat, and threw her to the ground; he then punched Piirainen repeatedly in the face. 2RP 185-86. While hitting Piirainen, McGill again repeatedly stated that he was going to kill her. 2RP 168. Kershaw grabbed McGill in an attempt to separate him from Piirainen and told McGill that the police were on their way. 2RP 168. McGill left the apartment. 2RP 168. Police and fire responded to the scene, where McGill was taken into custody. 1RP 13-15. Piirainen was transported by ambulance to Swedish Medical Center where she was diagnosed with multiple facial fractures. 3RP 244, 255-57.

C. **ARGUMENT**

1. **McGILL'S RIGHT TO JURY UNANIMITY WAS PROTECTED WHERE HIS TWO UNLAWFUL ENTRIES WERE PART OF THE SAME CONTINUING COURSE OF CONDUCT.**

McGill contends that the trial court violated his right to a unanimous jury verdict when it failed to give a unanimity instruction and the State failed to elect which act of unlawful entry was the basis for the charge. McGill's argument fails because the acts were part of a

continuous course of conduct. Thus, neither a unanimity instruction nor election was necessary.

a. Standard Of Review.

Criminal defendants in Washington have a right to a unanimous jury verdict. Const. art. I, § 21. *State v. Ortega-Martinez*, 124 Wn.2d 702, 707, 881 P.2d 231 (1994). When the State presents evidence of multiple acts that could constitute the crime charged, the jury must unanimously agree on a specific act. *State v. Kitchen*, 110 Wn.2d 403, 422, 756 P.2d 105 (1988). To ensure jury unanimity, “[t]he State must tell the jury which act to rely on in its deliberations or the [trial] court must instruct the jury to agree on a specific criminal act.” *Kitchen*, 110 Wn.2d at 409; *State v. Petrich*, 101 Wn.2d 566, 572, 683 P.2d 173 (1984).

However, the State need not make an election and the court need not give a unanimity instruction if the evidence shows that the defendant was engaged in a continuous course of conduct. *State v. Handran*, 113 Wn.2d 11, 17, 775 P.2d 453 (1989); *State v. Craven*, 69 Wn. App. 581, 587, 849 P.2d 681, *review denied*, 122 Wn.2d 1019 (1993). To determine whether the defendant’s conduct constitutes one continuing criminal act, “the facts must be evaluated in a commonsense manner.” *Petrich*, 101 Wn.2d at 571; *Craven*, 69 Wn. App. at 588.

Courts have considered various factors in determining whether a continuous course of conduct exists. *State v. Fiallo-Lopez*, 78 Wn. App. 717, 724, 899 P.2d 1294 (1995). Factors in this determination include whether the acts occurred in a “separate time frame” or “identifying place.” *Petrich*, 101 Wn.2d at 571. In general, where the evidence involves conduct at different times and places, the evidence tends to show that the acts were several distinct acts and not a continuous course of conduct. *Handran*, 113 Wn.2d at 17.

In contrast, evidence that a defendant engages in more than one act intended to achieve the same objective supports the characterization of those acts as a continuous course of conduct. *See Handran*, 113 Wn.2d at 17 (two acts of assault, the kissing and hitting of defendant’s ex-wife, did not require a unanimity instruction or election because the evidence showed a continuous course of conduct intended to secure sexual relations with the victim); *Fiallo-Lopez*, 78 Wn. App. at 726 (in one count of delivery of cocaine, providing a “sample” at one site followed by delivering a “larger amount” at a different location, the acts were part of a continuing course of conduct because, although they were separated in time and place, they were intended to bring about the same “ultimate purpose”); *State v. Garman*, 100 Wn. App. 307, 314, 984 P.2d 453 (1999) (separate criminal acts demonstrated a continuing course of conduct where

the evidence supported that the acts were part of a scheme with the common objective of stealing money from the city); *State v. Marko*, 107 Wn. App. 215, 221, 27 P.3d 228 (2001) (threatening statements directed at different people during a ninety-minute time period formed a continuing course of conduct that did not require a unanimity instruction or election by the State).

b. The Two Acts Of Burglary Were Part Of A Continuous Course Of Conduct.

Here, a common sense evaluation shows McGill's repeated unlawful entries into the apartment were part of a continuous course of conduct. Importantly, the two entries occurred in the same "time frame" and "identifying place" and were intended to achieve the same common objective.

McGill's unlawful entries happened in the same "time frame" and "identifying place." Both entries occurred in the same location, the apartment of Kershaw. 2RP 151-52, 162-63, 167-69, 179-80, 184-85, 200, 202. Although the exact times of McGill's entries are not precisely reflected, the record shows that both were made within a short time period. After McGill first left the apartment, he immediately walked around to the back, threw a cinderblock through the back door, and reentered the

apartment. 2RP 166, 184-85, 200-02. McGill himself testified that it took him only "a minute and a half, if that" to walk from the front door around to the back door. 3RP 279.

McGill argues that the minute and a half delay between his exiting the front door and entering the back door is enough to sever his conduct into two specific and distinct unlawful entries. Br. of App't at 6-7. However, McGill provides no authority to support his premise that this brief pause is sufficient to conclude, as a matter of law, the acts occurred at different times. *Contrast State v. Fiallo-Lopez*, 78 Wn. App. 717, 726, 899 P.2d 1294, 1299 (1995) (the two acts at issue occurred at different times where the defendant sold cocaine in the first act "a day or so before" the second act). A series of events that occur within mere minutes of each other are commonly understood to have occurred at or around the same time, particularly when these acts occur at the same place, between the same aggressor and victim, with the same objective. *See, e.g., State v. Handran*, 113 Wn.2d 11, 775 P.2d 453 (1989). Here, a common sense evaluation shows the two acts of entering Kershaw's apartment occurred "at the same time" for purposes of the continuous course of conduct analysis.

Evidence of McGill's common objective of assaulting Piirainen is pervasive throughout the record. Kershaw, Martineau, and Piirainen all testified that McGill arrived at Kershaw's apartment demanding to talk to Piirainen and was told he could not enter. 2RP 161-62, 178, 198-99. Both Kershaw and Piirainen testified that McGill became angry, repeatedly stating he was going to kill Piirainen before even entering the apartment. 2RP 162, 198-200. Kershaw, Martineau, and Piirainen testified that McGill then pushed past Kershaw and ran into Bishop. 2RP 162-63, 180, 200. McGill then began assaulting Piirainen, repeatedly telling Piirainen he would kill her. 2RP 163. After being scared off by a threat of police, McGill immediately went around back, threw a cinderblock through Kershaw's back door, and entered the apartment again. RP 202. He immediately chased after Piirainen, grabbing her by the throat and assaulting her further. RP 202-05. Both Kershaw and Piirainen testified that McGill repeated his death threats to Piirainen. 2RP 168, 202.

McGill claims his two unlawful entries into Kershaw's apartment had different objectives. McGill alleges he first entered the apartment intending to store his luggage—and claims he was permitted to enter—at which time he was hit in the head with a wine bottle by Bishop. Br. of App't at 9; 2RP 273. McGill alleges he then went around back, threw a cinderblock through the sliding door, and entered the apartment intending

to find and assault Bishop. Br. of App't at 9. However, the sole testimony to this series of events came from the defendant and is contradicted by the other eye witnesses.

McGill acknowledged that the evidence supported a single objective in his presentence report when asking the court to consider the two offenses as the same offense for purposes of the offender score. CP 53-54. In that report, McGill claimed that the burglary charge and the assault charge should be considered one offense. McGill acknowledged that he announced his intention to assault Piirainen before forcing entry into the apartment, and demonstrated his intention by immediately continuing his assault on Piirainen when he entered the apartment a second time. CP 54.

The circumstances of this case show that both burglaries were part of a continuous course of conduct. Both occurred at the same place around the same time, both were perpetrated by McGill against the same victims, and both were intended for the same ultimate purpose: to seriously injure or kill Emilee Piirainen. Therefore, the trial court did not need to provide a unanimity instruction nor did the State need to elect

which threat was the basis for the charge. McGill's right to a unanimous jury was not violated.

2. THE TRIAL COURT PROPERLY CALCULATED MCGILL'S OFFENDER SCORE BASED ON THE STATE'S REPRESENTATIONS AND MCGILL'S AFFIRMATIVE ACKNOWLEDGMENT THAT HIS OFFENDER SCORE WAS SEVEN.

McGill argues that the trial court erred by calculating his offender score. Specifically, he claims that the State adduced insufficient evidence to support this finding. But the State made adequate representations of McGill's criminal history and he affirmatively acknowledged that the State's calculation of his offender score was correct. McGill's sentence should be affirmed.

a. Additional Facts.

Prior to sentencing, the State filed a presentence statement that included a document referred to colloquially as an "Appendix B," which listed McGill's felony and misdemeanor criminal history. Supp. CP ___ (Sub No. 73, Statement of Prosecuting Attorney at 11-12) (attached at Appendix A). The document listed McGill's five prior felony convictions with the date of offense:

Controlled substance violation	02/09/2000
Controlled substance violation	02/09/2000
Controlled substance violation	02/09/2000
Assault in the second degree	01/06/1994
Assault in the third degree	01/06/1994

Supp. CP __ (Sub No. 73, Statement of Prosecuting Attorney at 11)
(App. A at 11).

The "Appendix B" also identified McGill's ten misdemeanor prior convictions, committed in 1992, 1994, 1999, and 2005. Supp. CP __ (Sub No. 73, Statement of Prosecuting Attorney at 11-12) (App. A at 11-12). The State initially concluded that McGill's offender score was eight, but after examining his conviction for assault in the third degree, the State concluded that the conviction should "wash" for purposes of calculating the offender score and recalculated the offender score as seven. CP 74-75.

McGill filed his own presentence report, in which he affirmatively acknowledged that he had an offender score of seven. CP 48. McGill requested to have his two current offenses considered the "same criminal conduct" for purposes of his offender score. CP 55. McGill requested an offender score of five, based solely on the five prior convictions, rather than the offender score of seven. CP 55. The document also affirmatively

acknowledged that his standard range for his burglary conviction was 67-89 months, based on his offender score of seven. CP 48.

At sentencing, the prosecutor stated that McGill had an offender score of seven on both counts under the anti-merger statute. 3RP 336, 338. Defense counsel again urged the sentencing court to find McGill's crimes part of the "same criminal conduct," thereby reducing his offender score from seven to five. 3RP 341. McGill spoke on his own behalf, acknowledging that he made a bad choice. 3RP 346. The sentencing judge rejected McGill's argument, concluded that the offenses were not the same criminal conduct, and found that McGill's offender score was seven based on McGill's prior criminal history. 3RP 347.

b. The Trial Court Properly Calculated McGill's Offender Score Because The State Represented That McGill Had Three Prior Felony Convictions And McGill Affirmatively Acknowledged That His Offender Score Was Seven.

The State agrees with McGill that the SRA generally requires the sentencing court to calculate an offender score by taking three steps: "(1) identify all prior convictions; (2) eliminate those that wash out; (3) 'count' the prior convictions that remain in order to arrive at an

offender score.” *State v. Moeurn*, 170 Wn.2d 169, 175, 240 P.3d 1158 (2010); *see* RCW 9.94A.525.

To satisfy the SRA and constitutional requirements, the sentencing court must find that a defendant’s criminal history has been proven by a preponderance of the evidence. *State v. Ford*, 137 Wn.2d 472, 479-80, 973 P.2d 452 (1999); RCW 9.94A.500(1). The burden of proof is upon the State. *Ford*, 137 Wn.2d at 479-80.

A prosecutor’s summary of a defendant’s history of criminal convictions is prima facie evidence of the existence and validity of those convictions.⁴ RCW 9.94A.500(1). Generally, the State must further prove the convictions by a preponderance of the evidence. *Ford*, 137 Wn.2d at 479-80; RCW 9.94A.500(1). However, where a defendant affirmatively acknowledges his criminal history as presented by the State, the State is *not required* to further prove that history by a preponderance of the evidence. *State v. Ross*, 152 Wn.2d 220, 232-33, 95 P.3d 1225 (2004); *Ford*, 137 Wn.2d at 482-83; *State v. McCorkle*, 88 Wn. App. 485, 494 n.5, 945 P.2d 736 (1997), *aff’d*, 137 Wn.2d 490, 973 P.2d 461 (1999); *State v. Thomas*, 57 Wn. App. 403, 410, 788 P.2d 24 (1990), *overruled on other*

⁴ The prosecutor’s summary alone is insufficient to establish criminal history, unless a defendant affirmatively acknowledges his criminal history. *State v. Hunley*, 175 Wn.2d 901, 917, 287 P.3d 584 (2012). Such affirmative acknowledgement relieves the State of its burden further to prove criminal history by a preponderance of the evidence. *Id.*

grounds by State v. Parker, 132 Wn.2d 182, 937 P.2d 575 (1997). In other words, a defendant's affirmative acknowledgment of his criminal history, as presented by the State, is sufficient to satisfy a sentencing court's duty under the SRA and due process to find that the criminal history is valid. *Ford*, 137 Wn.2d at 482-83; *see Hunley*, 175 Wn.2d at 917; *Ross*, 152 Wn.2d at 233.

In this case, the State represented to the sentencing court that McGill's offender score was seven. McGill affirmatively acknowledged the State's calculation of his offender score, by submitting his own pleadings, stating that his offender score was seven. The State thus was not required to submit any further evidence of his prior criminal convictions, nor was the court required to make any additional findings. McGill's claim should be rejected.

McGill also asserts that the trial court made insufficient findings that his criminal convictions had *not* washed out, under RCW 9.94A.525(2). Br. of App't at 12-17. McGill's argument fails under the plain language of that section and turns the presumption arising under the SRA washout provision—that prior convictions count toward an offender score unless shown otherwise—on its head.

The statute begins by providing that a defendant's "offender score" is "the sum of points accrued under this section[.]" RCW 9.94A.525. The

statute then defines “[a] prior conviction” as “a conviction which exists before the date of sentence for the offense for which the offender score is being computed.” RCW 9.94A.525(1). Having defined the terms “offender score” and “prior conviction,” the statute then provides that certain prior convictions will not be included in the offender score, *if* certain conditions are met:

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

(c) . . . class C prior felony convictions . . . shall not be included in the offender score *if*, since the last date of release from confinement . . . pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

RCW 9.94A.525(2)(b), (c) (emphasis added). The plain language and structure of these provisions thus establishes that a prior conviction counts toward an offender score *unless* certain conditions precedent have been satisfied.

McGill urges an opposite reading of the SRA washout provision. He claims that RCW 9.94A.525(2) provides that prior convictions “shall not be included’ *unless they have been shown to have not washed out.*”

Br. of App't at 15 (emphasis added). Neither the plain language of the SRA washout provision nor any authority supports McGill's reading, that the default status of a prior conviction is that it has washed out. Indeed, case law establishes that a sentencing court's first step is to identify all prior convictions and then secondly to eliminate those that wash out. *See Moearn*, 170 Wn.2d at 175 (“[T]he legislature intended the rules for calculating offender scores to be applied in the order in which they appear.”). If the legislature intended a prior conviction to wash out by default, it would have stated so. Because McGill's interpretation is at odds with the plain meaning of the statute, it should be rejected.

In this case, there were no facts upon which to find that McGill's 2000 controlled substance convictions, class B felonies, had washed.⁵ The current offense was committed on January 23, 2015. CP 1-2. McGill was convicted for a misdemeanor offense committed in June 15, 2005. CP 49. He did not spend ten years in the community without committing a crime. In his presentence report, McGill affirmatively acknowledged that only his 1994 conviction for Assault 3 washed, and “but for this 2005

⁵ Because McGill initially received an 87-month sentence for these crimes, they could not have been class C felonies.

misdemeanor,” McGill’s 2000 controlled substance convictions could have washed. CP 49-50. So even if the State would normally have had a duty to prove—and the trial court to find—by a preponderance of the evidence that a conviction had *not* washed out, McGill relieved the State and the trial court of this duty by affirmatively agreeing to his offender score. *Hunley*, 175 Wn.2d at 917; *Ross*, 152 Wn.2d at 233; *Ford*, 137 Wn.2d at 482-83. McGill’s sentence should be affirmed.

Finally, should this Court agree with McGill that insufficient evidence supported the trial court’s calculation of his offender score, the appropriate remedy is to remand this case to give the State an opportunity to provide sufficient proof of McGill’s prior convictions. RCW 9.94A.530(2) dictates that “[o]n remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.” The Washington Supreme Court expressly has upheld this provision. *See State v. Cobos*, 182 Wn.2d 12, 15-16, 338 P.3d 283 (2014); *State v. Jones*, 182 Wn.2d 1, 11, 338 P.3d 278 (2014).

3. APPELLATE COSTS SHOULD NOT BE FORECLOSED.

McGill asks this Court to rule that, should the State prevail on appeal, he should not be required to repay appellate costs on the grounds that he is currently indigent. This claim should be rejected. It is a defendant's future ability to pay costs, rather than his present ability, that is most relevant in determining whether it would be unconstitutional to require him to pay appellate costs. *See State v. Blank*, 131 Wn.2d 230, 241, 930 P.2d 1213 (1997) (indigence is a constitutional bar to the collection of monetary assessments only if the defendant is unable to pay at the time the government seeks to enforce collection of the assessments). Because the record contains no information from which this Court could reasonably conclude that McGill has no likely future ability to pay, this Court should not foreclose the imposition of appellate costs.

As in most cases, McGill's ability to pay was not litigated in the trial court because it was not relevant to the issues at trial. As such, the record contains almost no information about McGill's financial status or employment prospects, and the State did not have the right to obtain information about his financial situation. However, the record is also devoid of any information that would support a finding that there is "no realistic possibility" he will be able in the future to pay appellate costs. In

such circumstances, appellate costs should be awarded. *State v. Caver*, No. 73761-9-1, slip op. at 10-14 (filed Sept. 6, 2016).

In *State v. Sinclair*, 192 Wn. App. 380, 393, 367 P.3d 612, *review denied*, 185 Wn.2d 1034 (2016), this court held that costs should not be awarded because the defendant was 66 years-old and was facing a 24-year sentence, meaning there was “no realistic possibility” that he could pay appellate costs in the future. This Court also recognized, however, that “[t]o decide that appellate costs should never be imposed as a matter of policy no more comports with a responsible exercise of discretion than to decide that they should always be imposed as a matter of policy.” *Sinclair*, 192 Wn. App. at 391.

Here, McGill has demonstrated the ability to obtain employment and improve himself. After being released from prison in 2003, McGill worked for a roofing company until he tore his ACL. CP 50. He then obtained his Commercial Driver’s License. CP 50. In 2009, McGill purchased a truck with a plan to become an independent trucking subcontractor, working in this business until 2011. CP 50-51. From 2012-2013, McGill worked temporary jobs while working the Salvation Army’s residential drug rehabilitation program at the Adult Rehabilitation

Center in Seattle. CP 51. In August 2013, McGill was hired as a support employee in the North Dakota oil fields. CP 51. McGill lost his job due to drug use in July 2014. CP 51. McGill then returned to Seattle where he collected unemployment. CP 51.

During his incarceration for the present offense, McGill participated in Seattle Central College's Adult Basic Education program and completed the Seattle Goodwill New Connections Class. CP 53. McGill is 44 years old, and received a 67-month sentence. CP 63. He has demonstrated an ability to obtain employment and improve his educational and employment opportunities, suggesting the ability to pay costs after he is released. Because the record in this case contains no evidence from which this Court could reasonably conclude that the defendant has *no* future ability to pay appellate costs, any exercise of discretion by this Court to prohibit an award of appellate costs in this case would be unwarranted.

D. CONCLUSION

For the foregoing reasons, the State respectfully asks this Court to affirm McGill's convictions and sentence for burglary in the first degree – domestic violence and assault in the second degree – domestic violence,

and to deny McGill's preemptive request for non-imposition of costs on appeal.

DATED this 24th day of October, 2016.

Respectfully submitted,

DANIEL T. SATTERBERG
King County Prosecuting Attorney

By: 
WESLEY C. BRENNER, WSBA #41343
Deputy Prosecuting Attorney
Attorneys for Respondent
Office WSBA #91002

Appendix A

FILED

15 SEP 17 AM 9:38

KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE NUMBER: 15-1-00775-7 SEA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
v.)	No. 15-1-00775-7 SEA
)	
OKEITH MCGILL,)	
)	
)	PRESENTENCE STATEMENT OF
)	KING COUNTY PROSECUTING ATTORNEY
)	

CCN: 1628151 DOB: 04/30/1972 SEX: Male

<u>CNT</u>	<u>Charge</u>	<u>Crime Date</u>
1	Burglary in the First Degree - DV Conviction Date: 08/17/2015	01/23/2015
2	Assault in the Second Degree - DV Conviction Date: 08/17/2015	01/23/2015

SENTENCING DATE: September 18, 2015

SENTENCING JUDGE: The Honorable Ronald Kessler

DEFENSE ATTORNEY: David Hammerstad / PRI

ATTACHMENTS: THE FOLLOWING ATTACHMENTS ARE INCORPORATED BY REFERENCE INTO THIS PROSECUTOR'S STATEMENT:

- INFORMATION
- CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE
- PROSECUTING ATTORNEY SUMMARY AND REQUEST FOR BAIL
- PLEA AGREEMENT
- SENTENCING REFORM ACT SCORE SHEET
- APPENDIX B
- STATE'S SENTENCE RECOMMENDATION

DANIEL T. SATTERBERG
Prosecuting Attorney

BY: _____
Deputy Prosecuting Attorney

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)	
)	
)	No. 15-1-00775-7 SEA
v.)	
)	
OKEITH MCGILL,)	INFORMATION
)	
)	
)	
)	
)	
)	

I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse OKEITH MCGILL of the following crime[s], which are of the same or similar character, and which are based on the same conduct or a series of acts connected together or constituting parts of a common scheme or plan: **Burglary In The First Degree - Domestic Violence, Assault In The Second Degree - Domestic Violence**, committed as follows:

Count 1 Burglary In The First Degree - Domestic Violence

That the defendant OKEITH MCGILL, in King County, Washington, on or about January 23, 2015, did enter and remain unlawfully in a building located at 17202 Aurora Ave N., #6, in said county and state, with intent to commit a crime against a person or property therein, and in entering, and while in such building and in immediate flight therefrom, the defendant did assault a person, to-wit: Emilee Rebecca Piirainen:

Contrary to RCW 9A.52.020, and against the peace and dignity of the State of Washington,

And further do accuse the defendant, Okeith McGill, at said time of committing the above crime against a family or household member: a crime of domestic violence as defined under RCW 10.99.020.

INFORMATION - 1

Daniel T. Satterberg, Prosecuting Attorney
CRIMINAL DIVISION
W354 King County Courthouse
516 Third Avenue
Seattle, WA 98104-2385
(206) 296-9000 FAX (206) 205-6104

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Count 2 Assault In The Second Degree - Domestic Violence

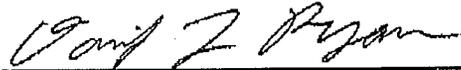
That the defendant OKEITH MCGILL in King County, Washington, on or about January 23, 2015, did intentionally assault another and thereby recklessly inflict substantial bodily harm upon Emilee Rebecca Pirrainen:

Contrary to RCW 9A.36.021(1)(a), and against the peace and dignity of the State of Washington.

And further do accuse the defendant, Okeith McGill, at said time of committing the above crime against a family or household member; a crime of domestic violence as defined under RCW 10.99.020.

DANIEL T. SATTERBERG
Prosecuting Attorney

By:



David L. Ryan, WSBA #21997
Senior Deputy Prosecuting Attorney

CERTIFICATE OF PROBABLE CAUSE

1
2
3 That Thien Do is a detective with the King County Sheriff's Office and
4 has reviewed the investigation conducted in the King County Sheriff's case
5 number(s) 15-022310;

6 There is probable cause to believe that OKEITH MCGILL DOB 04/30/1972
7 committed the crime(s) of Borglary First Degree; Assault Second degree.

8 This belief is predicated on the following facts and circumstances

9 In King County, on January 23, 2015, at about 2251hrs, deputies from the
10 King County Sheriff's Office responded to a call of a burglary in progress.

11 They were dispatched to the address of 17202 Aurora Ave N Unit #6.

12 Upon arrival, the deputies found a male, later identified as MCGILL, sitting
13 outside to the door of unit 6. The deputies also saw that the rear sliding
14 glass door was shattered.

15 The deputies found the occupants inside the apartment and learned the
16 following:

17 The apartment is rented by JAMES KERSHAW. Previously, KERSHAW has allowed
18 MCGILL to be a houseguest for about a month. MCGILL is not currently a
19 houseguest.

20 MCGILL and a woman, later identified as EMILEE PIIRAINEN, had been
21 romantically involved.

22 PIIRAINEN was at KERSHAW's apartment when there was a knock on the door.

23 KERSHAW asked who it was and the reply was "DON". KERSHAW opened the door and
24 recognized MCGILL. KERSHAW tried to close the door on MCGILL because MCGILL

25 had earlier told KERSHAW that MCGILL was coming over to "beat" PIIRAINEN.

MCGILL pushed the door open and shoved KERSHAW aside. MCGILL chased after

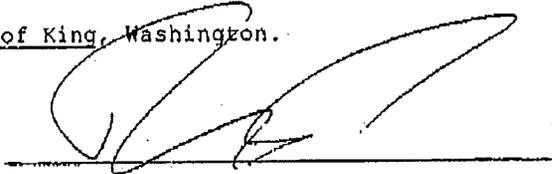
1 PIIRAINEN and caught her. He then began to punch and kick her. She fell to
2 the floor and he continued his assault. The other witnesses, SHAUN TEBEGE and
3 GILLES MARTINEAU, intervened and TEBEGE struck MCGILL over the head with a
4 wine bottle. MCGILL stopped beating on PIIRAINEN and they got MCGILL out the
5 front door. The front door was then locked. The occupants to Unit 6 were
6 trying to call 911 but there was no phone in the house. The rear sliding
7 glass door window shattered and broke. MCGILL entered through the broken
8 sliding glass door and chased after PIIRAINEN again. TEBEGE ran out the front
9 door. MCGILL caught up to PIIRAINEN in a bedroom and began to punch her face
10 again. All while beating her, KERSHAW stated that he saw MCGILL smiling.
11 MCGILL finally stopped and went to a bathroom to get a towel since his head
12 was bleeding from being struck on the head with a wine bottle. He went out
13 the front door and sat down
14 MCGILL was read his constitutional rights which he said he understood and
15 waived. He told the deputy the following:
16 MCGILL stated that he was angry with PIIRAINEN for talking about him to
17 others so he moved out. He came back tonight to get the rest of his things
18 and saw PIIRAINEN in the apartment. He was talking to KERSHAW who was trying
19 to get him to leave but he refused. TEBEGE then struck MCGILL over the head
20 with a wine bottle. TEBEGE then ran off. This infuriated MCGILL so he
21 admitted to breaking the sliding glass door and beating PIIRAINEN.
22 He also admitted to the deputy that he had PIIRAINEN's cell phone in his
23 pocket and wanted to give it back to her.

24

25

1 PIIRAINEN was transported to Swedish Hospital where she would be admitted to
2 be treated for a reported broken nose, orbital facial bones, torn ear lobe
3 and possibly broken ribs.

4 Under penalty of perjury under the laws of the State of Washington, I certify
5 that the foregoing is true and correct. Signed and dated by me this 26 day
6 of JAN 2015, at County of King, Washington.



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10 Dan Satterberg
11 Prosecuting Attorney
12 W 554 King County Courthouse
13 Seattle, WA 98104-2312
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1
2 CAUSE NO. 15-1-00775-7 SEA

3 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
4 CONDITIONS OF RELEASE

5 The State incorporates by reference the Certification for Determination of Probable Cause
6 prepared by Detective Thien Do of the King County Sheriff's Office for case number 15-022310.

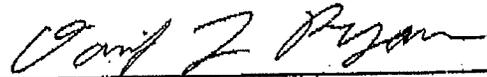
7 The State requests bail remain set in the amount of \$50,000.00.

8 Incident: The detective's Certification outlines how on 1-23-15 the defendant went looking for
9 his former girlfriend Emilee Piirainen at the apartment where he had previously lived with 67
10 year old James Kershaw. Mr. Kershaw did not want to let the defendant in but he barged in
11 anyway, found Ms. Piirainen, and beat her until another resident fended him off by hitting him
12 with a wine bottle. But the defendant returned around the back of the residence, smashed
13 through the glass door, and resumed beating Piirainen to the point that she had to be taken to the
14 hospital for a broken nose, an orbital fracture, a ripped ear lobe, and possible broken ribs. The
15 defendant was still just outside the apartment when Deputies arrived. He later admitted post-
16 Miranda that he returned a second time to Kershaw's apartment, broke through the sliding door,
17 and beat Piirainen. He described his own motivation as anger over his belief that Piirainen had
18 been telling lies to others about him.

19 Other Crim Hx: Theft of Rental Property 2006, VUCSA (x3) 00-1-01738-0 SEA, Refusal to
20 Provide Information 1997, Assault 2 and Assault 3 94-1-00290-9 SEA, Breach of Peace 1994,
21 and several instances of DWLS in the 1990s.

22 Individual Order History (IOH): Courts have previously issued 7 orders for the protection of 7
23 other people under 4 case numbers.

24 Signed and dated by me this 27th day of January, 2015.



David L. Ryan, WSBA #21997
Senior Deputy Prosecuting Attorney

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

Daniel T. Satterberg, Prosecuting Attorney
CRIMINAL DIVISION
554 King County Courthouse
516 Third Avenue
Seattle, WA 98104-2385
(206) 296-9000 FAX (206) 205-6104

POST-TRIAL STATEMENT: CONVICTIONS AND PENALTIES

Date: September 15, 2013

Defendant: OKEITH MCGILL Cause No.: 15-1-00775-7 SEA
Trial Judge: Judge Ronald Kessler Verdict Date: 8/17/15

Jury trial Bench trial VERDICT(S):

Count I Burglary in the First Degree Count III Count V
Count II Assault in the Second Degree Count IV Count VI

SPECIAL FINDING(S)/ VERDICT(S):

- Firearm, RCW 9.94A.533 Count(s)
Deadly Weapon other than firearm, RCW 9.94A.533 Count(s)
Sexual Motivation, RCW 9.94A.835 Count(s)
Domestic Violence, RCW 10.99.020 Count(s) I & II
Aggravating circumstances, RCW 9.94A.535 Count(s)
Methamphetamine Offense, Minor Present, RCW 9.94A.605 Count(s)
Other: Count(s)
DISMISSAL Upon sentencing for Count(s) the State moves to dismiss Count(s) in this cause.

CONDITIONS OF RELEASE ON APPEAL: Pursuant to CrR 3.2(h) and RCW 9.95.062 the State recommends
denial of conditions of release/ stay of sentence pending appeal. Reasons: Nature of offenses
that appeal bond be set at \$ cash or surety and the following additional conditions: supervision by the Department of Corrections subject to standard Dept. of Corrections rules, appropriate no contact provisions, not possess any firearms, no law violations, other:

MAXIMUM TERMS:

Maximum on Count(s) I is not more than Life in prison years each and \$ 550,000 fine each.
Maximum on Count(s) II is not more than 10 years each and \$ 520,000 fine each.
Maximum on Count(s) is not more than years each and \$ fine each.

- MANDATORY MINIMUM TERM(S) pursuant to RCW 9.94A.540 only for Count(s) is years each.
MANDATORY ENHANCEMENT TERM(S) pursuant to RCW 9.94A.533 for Count(s) is months each; for Count(s) is months each. This/these additional term(s) must be served consecutively to each other and to any other term.
MANDATORY DRIVER'S LICENSE REVOCATION, RCW 46.20.285; RCW 69.50.420.

SENTENCE RECOMMENDATION is incorporated in attached form(s).

Handwritten signature of Wesley C. Brenner

Wesley C. Brenner, WSBA #41343
Deputy Prosecuting Attorney

GENERAL BURGLARY FIRST DEGREE OFFENSE

WHERE DOMESTIC VIOLENCE HAS BEEN PLEAD AND PROVEN

VIOLENT

OFFENDER SCORING RCW 9.94A.525(21)

OFFENDER'S NAME: O'KEITH MCCOILL	OFFENDER'S DOB 04/30/1972	STATE ID# WA 16328718
JUDGE	CAUSE # 15-1-00775-7 SEA	FBI # 393458WA2

DOC # 718298

ADULT HISTORY:

Enter number of domestic violence felony convictions as listed below* x 2 = _____

Enter number of repetitive domestic violence offense convictions (RCW 9.94A.030(41)) x 1 = _____

plead and proven after 8/1/11 x 1 = _____

Enter number of Burglary 2 and Residential Burglary felony convictions x 2 = _____

Enter number of serious violent and violent felony convictions x 2 = 2

Enter number of nonviolent felony convictions x 1 = 4

JUVENILE HISTORY:

Enter number of subsequent domestic violence felony dispositions as listed below* x 1 = _____

Enter number of Burglary 2 and Residential Burglary felony dispositions x 1 = _____

Enter number of serious violent and violent felony dispositions x 2 = _____

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

OTHER CURRENT OFFENSES: Count II: Assault 2nd - dv

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

Enter number of other domestic violence felony convictions as listed below* x 2 = 2

Enter number of repetitive domestic violence offense convictions plead and proven after 8/1/11 x 1 = _____

Enter number of Burglary 2 and Residential Burglary felony convictions x 2 = _____

Enter number of other serious violent and violent felony convictions x 2 = _____

Enter number of other nonviolent felony convictions x 1 = _____

STATUS:

Was the offender on community custody on the date the current offense was committed? + 1 = _____

*If domestic violence was plead and proven after 8/1/2011 for the following felony offenses:
Violation of a No-Contact Order, Violation of a Protection Order, Domestic Violence Harassment, Domestic Violence Stalking, Domestic Violence Burglary 1, Domestic Violence Kidnapping 1, Domestic Violence Kidnapping 2, Domestic Violence Unlawful Imprisonment, Domestic Violence Robbery 1, Domestic Violence Robbery 2, Domestic Violence Assault 1, Domestic Violence Assault 2, Domestic Violence Assault 3, Domestic Violence Arson 1, Domestic Violence Arson 2.

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

8

STANDARD RANGE CALCULATION

Count I				
Burglary 1 st -dv	VII	8	77	102
CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	LOW to HIGH STANDARD RANG	

- ✓ For attempt, solicitation, conspiracy (RCW 9.94A.593) see page 62 or for gang-related felonies where the court found the offender involved a minor (RCW 9.91A.833) see page 218 for standard range adjustments.
- ✓ For deadly weapon enhancement, see page 222.
- ✓ For sentencing alternatives, see page 209.
- ✓ For community custody eligibility, see page 219.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 214.

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.

GENERAL VIOLENT OFFENSE WHERE DOMESTIC VIOLENCE HAS BEEN PLEAD AND PROVEN
VIOLENT
OFFENDER SCORING RCW 9.94A.525(21)

OFFENDER'S NAME O'KEITH MCGILL	OFFENDER'S DOB 04/30/1972	STATE ID# WA16328718
JUDGE	CAUSE # 15-1-00775-7 SEA	FBI # 393458WA2
DOC # 718298		

ADULT HISTORY:

Enter number of domestic violence felony convictions as listed below* x 2 = _____
 Enter number of repetitive domestic violence offense convictions
 (RCW 9.94A.030(41)) plead and proven after 8/1/11 x 1 = _____
 Enter number of serious violent and violent felony convictions 1 x 2 = 2
 Enter number of nonviolent felony convictions 4 x 1 = 4

JUVENILE HISTORY:

Enter number of subsequent domestic violence felony dispositions as listed below* x 1 = _____
 Enter number of serious violent and violent felony dispositions x 2 = _____
 Enter number of nonviolent felony dispositions x 1/2 = _____

OTHER CURRENT OFFENSES: Count 1: Burglary 1st-dv

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

Enter number of other domestic violence felony convictions as listed below* 1 x 2 = 2
 Enter number of repetitive domestic violence offense convictions plead and
 proven after 8/1/11 x 1 = _____
 Enter number of other serious violent and violent felony convictions x 2 = _____
 Enter number of other nonviolent felony convictions x 1 = _____

STATUS:

Was the offender on community custody on the date the current offense was committed? + 1 = _____

*If domestic violence was plead and proven after 8/1/2011 for the following felony offenses:
 Violation of a No-Contact Order, Violation of a Protection Order, Domestic Violence Harassment, Domestic Violence Stalking,
 Domestic Violence Burglary 1, Domestic Violence Kidnapping 1, Domestic Violence Kidnapping 2, Domestic Violence Unlawful
 Imprisonment, Domestic Violence Robbery 1, Domestic Violence Robbery 2, Domestic Violence Assault 1, Domestic Violence
 Assault 2, Domestic Violence Assault 3, Domestic Violence Arson 1, Domestic Violence Arson 2.

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

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STANDARD RANGE CALCULATION

Count II				
Assault 2 nd -dv	IV	6	53	70

CURRENT OFFENSE BEING SCORED **SERIOUSNESS LEVEL** **OFFENDER SCORE** **LOW to HIGH STANDARD RANG**

- ✓ For attempt, solicitation, conspiracy (RCW 9.94A.595) see page 62 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.433) see page 218 for standard range adjustments.
- ✓ For deadly weapon enhancement, see page 222.
- ✓ For sentencing alternatives, see page 209.
- ✓ For community custody eligibility, see page 219.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 215.

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

DEFENDANT: OKHITH MCGILL

FBI No: 393458WA2 State ID No.: WA16328718 DOC No.: 718298

This criminal history was compiled on: January 29, 2015

- None known. Recommendations and standard range assumes no prior felony convictions.
- Criminal history not known and not received at this time. WASIS/NCIC last received on:

Offense	Score	Disposition	Type*
00-1-01738-0 02-09-2000 cont subst viol - section (a)	1	King Superior Court WA - 11-17-2000 87m doc eti, 87m doc ctii, 87m doc ctiv, cts i,ii & iv are conc. 07 15 02 mandate 47686-6- i/reversed & remand fr resent 01-13-03 resentencing. 46m doc ct i. 46m doc ct ii. 46m doc ct iv, cts i ii &	AF
00-1-01738-0 02-09-2000 cont subst viol - section (a)	1	King Superior Court WA - 11-17-2000 87m doc eti, 87m doc ctii, 87m doc ctiv, cts i,ii & iv are conc. 07 15 02 mandate 47686-6- i/reversed & remand fr resent 01-13-03 resentencing. 46m doc ct i. 46m doc ct ii. 46m doc ct iv, cts i ii &	AF
00-1-01738-0 02-09-2000 cont subst viol - section (a)	1	King Superior Court WA - 11-17-2000 87m doc eti, 87m doc ctii, 87m doc ctiv, cts i,ii & iv are conc. 07 15 02 mandate 47686-6- i/reversed & remand fr resent 01-13-03 resentencing. 46m doc ct i. 46m doc ct ii. 46m doc ct iv, cts i ii &	AF
94-1-00290-9 01-06-1994 assault 2nd	1	King Superior Court WA - 03-03-1994 p/guilty eti & ii. 6m kc jail ct i & 3m kc jail ctii conc. 30d converted to 240hrs comm serv. 12m comm supv. pay cv/pen asst \$100.00.	AF
94-1-00290-9 01-06-1994 assault 3rd		King Superior Court WA - 03-03-1994 p/guilty eti & ii. 6m kc jail ct i & 3m kc jail ctii conc. 30d converted to 240hrs comm serv. 12m comm supv. pay cv/pen asst \$100.00.	AF
06-1-00660-1 06-15-2005 attempt theft rental leased property		Snohomish Superior Court WA - 04-27-2007 attempted theft of rental, leased or lease- purchased property of \$250 or more; 365 days jail all suspended upon conditions.	AM
CQ0022584 02-21-1999 dwls 3		SeaTac Municipal Court WA -	AM

*AF - Adult Felony
AM - Adult Misdemeanor
JF - Juvenile Felony
JM - Juvenile Misdemeanor

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

DEFENDANT: OKEITH MCGILL

FBI No: 393458WA2 State ID No.: WA16328718 DOC No.: 718298

This criminal history was compiled on: January 29, 2015

10344 11-18-1998 dwls 3		Kirkland Municipal Court WA -	AM
4176 10-31-1997 refuse to give info		South Division Snohomish County District Court WA -	AM
C00007807 03-15-1997 dwls 3		Lynnwood Municipal Court WA -	AM
M00026022 08-29-1994 dwls 3		Bellevue District Court WA -	AM
J00108092 01-01-1994 breach of peace		Renton Municipal Court WA - Bail Forfeiture	AM
K00091034 05-27-1992 willful non-appearance a/writt		Shoreline Div King Co District Ct WA -	AM
K00091310 05-26-1992 willful non-appearance a/writt		Shoreline Div King Co District Ct WA -	AM
59472 03-10-1992 fail to comply - 2 or more ft		Edmonds Municipal Court WA -	AM

Comments:

Prepared by: _____
Chantavy San

*AF - Adult Felony
AM - Adult Misdemeanor
JF - Juvenile Felony
JM - Juvenile Misdemeanor

STATE'S SENTENCE RECOMMENDATION
(USE FOR NON-SEX OFFENSE, NON-DOSA SENTENCES OF OVER ONE YEAR ONLY)

Date of Crime: January 23, 2015
Defendant: KEITH MCGILL

Date: September 15, 2015
Cause No: 15-1-00775-7 SEA

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

95 Months on Count I ; _____ Days/months on Count _____ ;
70 Months on Count II ; _____ Days/months on Count _____ ;

with credit for time served as provided under RCW 9.94A.505. Terms to be served *concurrently* with each other. Terms to be served *concurrently/consecutively* with: _____. Terms to be consecutive to any other term(s) not specifically referred to in this form.

WEAPONS ENHANCEMENT - RCW 9.94A.533: The above recommended term(s) of confinement do not include the following weapons enhancement time: _____ months for Ct. _____, _____ months for Ct. _____, _____ months for Ct. _____; which is/are mandatory, served without good time and served consecutive to any other term of confinement.

_____ ENHANCEMENT _____ months for Ct. _____.

TOTAL LENGTH OF CONFINEMENT recommended in this cause, including all counts and enhancements is 95 months.

This is an agreed recommendation.

NO DRUG OFFENDER SENTENCE ALTERNATIVE (DOSA) - RCW 9.94A.660:

- Defendant is not legally eligible for DOSA because current sex or violent offense; prior violent offense within 10 years or any prior sex offense; weapon enhancement; subject to final deportation order; not small quantity of drugs; more than one prior DOSA within 10 years; felony DUI or physical control.
- Defendant is eligible but DOSA is not recommended because _____.

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

NO CONTACT: For the maximum term, defendant shall have no contact, direct or indirect, in person, in writing, by telephone, or through third parties, with: Emilee Pitruinen (RCW 10.99).

MONETARY PAYMENTS: Defendant shall make the following monetary payments pursuant to RCW 9.94A.753 and RCW 9.94A.760.

- Restitution as set forth in the "Plea Agreement" page and _____.
- Court costs, mandatory \$500 Victim Penalty Assessment and \$100 DNA collection fee; recoupment of cost for appointed counsel.
- King County Local Drug Fund \$ _____; _____ \$100 lab fee (RCW 43.43.690).
- Fine of \$ _____, _____ \$1,000 fine for VU/CSA; _____ \$2,000 fine for subsequent VU/CSA.
- Costs of incarceration in K.C. Jail at \$50 per day (RCW 9.94A.760(2)).
- Emergency response costs \$ _____ (RCW 38.52.430); Extradition costs of \$ _____;
- Other: _____.

COMMUNITY CUSTODY: for qualifying crimes the defendant shall serve a term of community custody set forth below.

- Serious violent offense: 36 months (a range of 24 to 36 months if crime committed before 8/1/2009).
- Violent offense: 18 months
- Crimes against persons or violation of Ch. 69.50 or .52: 12 months (a range of 9 to 12 months if crime committed before 8/1/2009).

Community Custody includes mandatory statutory conditions as well as discretionary conditions set by the court or Dept. of Corrections. The State recommends the court impose these discretionary conditions:

- Obtain an alcohol substance abuse evaluation within 30 days of release and follow all treatment recommendations.
- Enter into within 30 days of release, make reasonable progress in, and successfully complete state-certified Domestic Violence treatment
- Other: _____.

MANDATORY CONSEQUENCES: HIV blood testing (RCW 70.24.340) for any prostitution related offense, or drug offense associated with needle use, DNA testing (RCW 43.43.754), Revocation of right to possess a FIREARM (RCW 9.41.040), DRIVER'S LICENSE REVOCATION (RCW 46.20.285; RCW 69.50.420), REGISTRATION: Persons convicted of some kidnap/unlawful imprisonment offenses are required to register pursuant to RCW 9A.44.130.

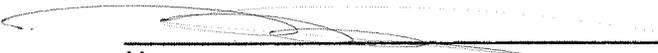
Wesley C. Brenner, WSBA#41343
Deputy Prosecuting Attorney

Certificate of Service by Electronic Mail

Today I directed electronic mail addressed to Jan Trasen, the attorney for the appellant, at Jan@washapp.org, containing a copy of the Brief of Respondent, in State v. Okeith McGill, Cause No. 74123-3, in the Court of Appeals, Division I, for the State of Washington.

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

Dated this 24 day of October, 2016.


Name:
Done in Seattle, Washington