



1 Mayfield's Personal Restraint Petition in consolidation with his  
2 Direct Appeal in order to address those particular grounds at issue  
3 that are not part of the record.

4 **QUESTIONS OF ERROR PRESENTED:**

5 **GROUND ONE:**

6 **1). WHETHER OR NOT PETITIONER'S (MAYFIELD) sixth and four-**  
7 **TEENTH AMENDMENT'S TO THE U.S. CONST. ART. 1 § 22 OF**  
8 **THE WASH. CONST. WERE VIOLATED BY INEFFECTIVE ASSISTANCE**  
9 **OF COUNSEL?**

10 a) Was Mayfield's counsel ineffective; when counsel allowed Mayfield  
11 to be misled, even encouraged him into pleading guilty to bail  
12 jumping. In addition **failed to object to** violations of due process  
13 when, the trial court exceeded its statutory authority and lacked  
14 jurisdiction under R.C.W. 9A.04.030 (1), state criminal  
15 jurisdiction, to punish Mayfield for bail jumping under R.C.W.  
16 9A.76.170 for failing to appear on June 2, 2004 at 8:30 a.m. as a  
17 result of the superseding order of continuance that Mayfield signed  
18 at a prior proceeding?

19 b). When counsel failed to make a preliminary showing of ineffective  
20 assistance of Mayfield's earlier counsel, under violations of the 6<sup>th</sup>  
21 amendment of the United States constitution and article 1 section 22  
22 of the Washington State constitution, when that counsel misled  
23 Mayfield as to whether he was required to appear in court. And, When  
24 counsel failed to argue against violations of due process and equal  
25 protection of the 14<sup>th</sup> amendment of the United States constitution

1 that the trial court exceeded its statutory authority and lacked  
2 jurisdiction to punish Mayfield, Because he was compliance with the  
3 affirmative defense portion of the statute, relied upon to prosecute  
4 him?

5  
6 **c)** When counsel failed to argue under due process violations that the  
7 court exceeded its statutory authority and lacked jurisdiction to  
8 punish Mayfield as a result of the final disposition of the quash  
9 proceedings held in open court?

10  
11 **d) 1)** When counsel failed to argue trial courts' abuse of discretion  
12 or misapplication of the law or both by arbitrarily counting  
13 separately Mayfield's five (5) counts of bail jumping convictions  
14 Mayfield received at sentencing for failing to appear on more than  
15 one occasion without engaging in a same criminal conduct analysis,  
16 for purposes of sentencing?

17  
18  
19 **d) 2)** When counsel failed to argue that Mayfield's five (5) counts of  
20 conviction for bail jumping that Mayfield received at sentencing  
21 encompass same criminal conduct under R.C.W. 9.94A.589 (1)(a), for  
22 sentencing purposes. Because Mayfield satisfied all three (3)  
23  
24  
25

1 elements required in accordance with the plain meaning of the langu-  
2 age ium R.C.W. §9.94A.589 same criminal conduct?

3 Or, in the alternative;

4 d) 3) When counsel failed to object to violations of the due process  
5 clause. That the R.C.W. §9.94A.589 same criminal conduct statute  
6 be struck down, void for vagueness and ambiguity? In addition,  
7 the court applies the rule of lenity to the defendant Mayfield?

8 GROUND TWO

9 (2). WHETHER THE COURT ABUSED ITS DISCRETION WHEN IT DENIED  
10 MAYFIELD SAME CRIMINAL CONDUCT FOR SENTENCING PURPOSES?

11 a). Did the trial court abuse its discretion or misapply the law  
12 or both by arbitrarily counting separately Mayfield's two counts  
13 of bail jumping convictions that he received for failing to appear  
14 on SEPTEMBER 9, 2004, without engaging in a same criminal conduct  
15 analysis?

16 b) Did the court abuse its discretion or misapply the law or both  
17 by arbitrarily counting separately, Mayfield's two counts of bail  
18 jumping convictions that he received for failing to appear on  
19 NOVEMBER 3, 2004, without engaging in a same criminal conduct analy-  
20 sis?

21 GROUND THREE

22 (3). WHETHER THE COURT LACKED JURISDICTION TO PUNISH MAYFIELD  
23 WHEN HE WAS NO LONGER LIABLE?

24 a). Did the trial court err by erroneously prosecuting Mayfield  
25 for bail jumping on June 2, 2004 when it lacked jurisdiction because  
Mayfield was no longer liable for punishment as a result of a super-  
seding order of continuance?

IV. STATEMENT OF FACTS:

1 On May 13, 2004 at 8:30 a.m., Mayfield, met with his attorney for a  
2 pre-trial conference to discuss his charge of possession of stolen  
3 property,

4 First degree, (PSP 1). It was commonplace for Mayfield, and his  
5 attorney to hold conference in the center hallway between courtrooms  
6 550, and 560, (CD1 & CD2), on the fifth floor of the county-city  
7 building at 930 Tacoma AVE. S. Tacoma, WA. 98402.

8 At which time Mayfield's, attorney informed him that his next  
9 scheduled court date was set for June 2, 2004 at 8:30 a.m.

10 Mayfield's attorney then had him sign a continuance order and  
11 informed him that his new scheduled court date was changed now to  
12 June 10, 2004, 8:30 a.m., to disregard the June 2, 2004 hearing.

13 On May 30, 2004, Mayfield, moved to just outside of Ellensburg, WA.  
14 Of which Mayfield's attorney was aware.

15 On the afternoon of June 2, 2004 Mayfield received a call at his  
16 home near Ellensburg, from his attorney to inform him that he had  
17 missed court at 8:30 a.m. that morning.

18 Mayfield's attorney advised him to come to Tacoma as soon as  
19 possible to schedule a quash hearing. Mayfield, then called his bail  
20 bonding company, who also advised him to come to Tacoma right away  
21 to schedule a quash hearing and to bring them a copy of the new  
22 court date. Mayfield immediately drove the one hundred (100) miles  
23 from Ellensburg to Tacoma. Mayfield first entered the clerk's office  
24 on the fifth floor of the courthouse in Tacoma, that same day,  
25 before 4:00 p.m.

1 The clerk advised Mayfield to leave the building because a warrant  
2 had been issued for his, (Mayfield's) arrest. Mayfield left the  
3 building and immediately drove to the department of assigned counsel  
4 (DAC) and entered their office before 5:00 p.m. of the same day  
5 he failed to appear and scheduled a quash hearing which normally  
6 takes about two (2) weeks to take place.

7 Consequently, the June 10, 2004 proceedings were canceled. On June  
8 11, 2004 at 8:30 a.m. Mayfield, appeared in open court and the  
9 matter of Mayfield's, Failure to Appear, was resolved, pursuant to  
10 the quash proceedings. On a later date the state amended information  
11 and charged Mayfield with bail jumping. Mayfield's court appointed  
12 attorney was taken off the case for purposes of testifying against  
13 Mayfield.

14 On May 24, 2004, Mayfield was charged with UPCS & UPFA 2, cause  
15 number #04-1-0255609, (COA# 33740-1-II). On July 1, 2004, the court  
16 began scheduling Mayfield, to appear simultaneously for both cases.  
17 Mayfield continued in his obligations to the court, appearing for  
18 both cases simultaneously. On two separate occasions, August 3, 2004  
19 at 8:30 a.m., and again on August 23, 2004 at 8:30 a.m., after  
20 Mayfield had driven the one hundred miles from Ellensburg to court,  
21 Upon arrival, Mayfield met with his attorney who informed him that  
22 court had been canceled that day. Then, as a result of a  
23 misunderstanding, between Mayfield and his newly appointed counsel,  
24 when Mayfield's counsel advised him that he was not required to  
25 appear to the Sep. 9, 2004 8:30 a.m. proceedings, Mayfield failed to  
appear, and he was charged with bail jumping for both cases.

1 On the afternoon of Sep. 9, 2004, Mayfield received a phone call at  
2 his home near Ellensburg, from his attorney to inform him that he  
3 had missed court at 8:30 a.m. that morning.

4 Mayfield immediately called his bail bond company. Then at the  
5 advice of both his attorney and his bail bond agent he immediately  
6 drove the one hundred miles to Tacoma, and scheduled a quash hearing  
7 before 5:00 p.m. that same day. On Sep. 28, 2004, Mayfield appeared  
8 in open court and the matter of Mayfield's failure to appear was  
9 resolved, for both cases, pursuant to the quash proceedings. On a  
10 later date the state amended the information and charge Mayfield  
11 with bail jumping for both cases. Mayfield's court appointed  
12 attorney was taken off the case for purposes of testifying against  
13 Mayfield.

14 On Oct. 27, 2004, Mayfield did not appear at 8:30 a.m. as required,  
15 resulting in a failure to appear, for both cases. Mayfield did  
16 appear at the 1:30 p.m. proceedings that same day. The matter was  
17 resolved; pursuant to an administrative quash proceeding. As a  
18 result, Mayfield was not charged with bail jumping.

19 On Nov. 3, 2004, in the early a.m. hours, Mayfield's vehicle was out  
20 of commission, due to heavy snow conditions.

21 As a result, Mayfield failed to appear simultaneously at 8:30 a.m.  
22 for both cases.

23 At his earliest opportunity Mayfield, made contact with his attorney  
24 and bail bond company. Upon their instructions, Mayfield drove to  
25 Tacoma to schedule a quash hearing.

On Nov. 19, 2004 Mayfield appeared in open court and the matter of  
Mayfield's failure to appear was resolved pursuant to the quash

1 proceedings. On a later date the state amended information, and  
2 charged Mayfield with bail jumping for both cases. While still out  
3 on bail, Mayfield continued to fulfill his obligations to the court,  
4 appearing to several more proceedings. On April 25, 2004 Mayfield  
5 began trial for cause no. #04-1-02556-9, (COA#33740-1-II). Mayfield  
6 was found guilty of all charges except intent to deliver. Mayfield's  
7 sentencing hearing was on August 12, 2005. At which time Mayfield  
8 also plead guilty to the current case on review. The court ran all  
9 of Mayfield's convictions concurrent with an offender score of  
10 twelve (12) points, four (4) prior criminal history points, and  
11 eight (8) current offense points. Five (5) of which are for bail  
12 jumping, with a standard sentencing range of 51 to 60 months.  
13 Mayfield received the low-end range of 51 months of confinement and  
14 nine (9) months community custody.

15 **V. CONSIDERATIONS OF ETHICAL JURISPRUDENCE:**

16 Mayfield humbly reminds the court that he is a layman. A member of  
17 the brotherhood of carpenters union; lath and plaster; local 1144.  
18 He has a limited education; a high school diploma, and a few credits  
19 shy of an associate's degree. Mayfield respectfully requests the  
20 court to recognize that he is not adept at the general inner-  
21 workings of the law and the artful skill of pleading. Moreover, his  
22 endeavors are without the assistance of even a jailhouse lawyer.  
23 Mayfield has pursued with painstaking effort to rise to a higher  
24 level of understanding of the law in an attempt to present his cause  
25 in a suitable manner of expression and format that he believes best  
conveys his prayer for relief from a manifestation of injustice.

1 Mayfield asks the court to apply liberal interpretation to his  
2 cause; RAP 1.2(a).

3 However, inartfully pleaded, his pro se complaint be held to less  
4 stringent standards than a formal pleading drafted by lawyers.

5 HAINES V. KERNER, 404 U.S. 519, 92 S. Ct.  
6 594, 30 L.Ed 2d 652 (1972).

7  
8 In addition, Mayfield respectfully urges the court to interject "Sua  
9 Sponte" any grounds that might prove beneficial to his case.

10 This court has authority to determine  
11 whether a matter is properly before the  
12 court to perform those acts which are  
13 proper to secure fair and orderly review  
14 and waive the rules of appellate  
15 procedure when necessary to "serve the  
16 ends of justice" R.A.P. 1.2(c).

17 STATE V. AHO, 137 wn.2d 736, 741, 975  
18 P.2d 512 (1999).

19  
20 VI. GROUND FOR RELIEF AND ARGUMENT:

21 (1). Ineffective assistance of counsel:

22 The provisions of the sixth amendment of the United States  
23 Constitution and article 1 section 22 of the Washington State  
24 Constitution guarantee effective assistance of counsel to an  
25 accused.

26 STATE V. HENDRICKSON, 129 wn.2d 61, 75,  
27 917 P.2d 563 (1996);

28 STRICKLAND V. WASHINGTON, 466 U.S. 668,  
29 689, 104 S Ct. 2052, 80 L. Ed. 2d 674  
30 (1984).

1 To show ineffective assistance of counsel, the defendant must show  
2 both deficient performance and prejudice;

3 Deficient performance occurs when counsel's performance falls below  
4 an objective standard of reasonableness.

5 Prejudice occurs when, but for the deficient performance, there is a  
6 reasonable probability the outcome of the proceedings would have  
7 been different.

8 STATE V. ROBERTS, NO.25727-1-II (2000);  
9 STATE V. STENSON, 132 wn.2d 668, 705, 940  
10 P.2d 1239 (1997);  
11 STATE V. LORD, 117 wn.2d 829, 883-84, 822  
12 P.2d 177 (1991);  
13 STRICKLAND V. WASHINGTON, SUPRA.

14 (a). On may 13, 2004 during a pretrial conference, Mayfield's  
15 counsel had him, Mayfield sign an order of continuance, and told  
16 Mayfield to disregard the hearing set for June 2, 2004 at 8:30  
17 a.m... To instead appear on June 10, 2004 at 8:30 a.m. since May-  
18 field was living so far away in Ellensburg. Even counsel did not,  
19 appear on June 2. SEE EX. (1a,b,c).

20 Mayfield had a constitutional right of reasonable expectations to  
21 rely on his attorney, and to believe that in following the advice of  
22 his attorney would be appropriate conduct.

23 Under the provisions of the sixth  
24 amendment of the United States  
25 constitution and article 1 section 22 of  
the Washington State constitution,  
guarantee effective assistance of counsel  
to an accused.  
STATE V. HENDRICKSON, 129 wn.2d 61, 75,  
917 P.2d 563 (1996)

1                    STRICKLAND V. WASHINGTON, 466 U.S. 668,  
2                    689, 104 S. Ct. 2052, 80 L. Ed. 2d 674  
                    (1984).

3                    CONTINUANCE: the adjournment or postpon-  
4                    ment of a trial or other proceedings to  
                    a future date.

5                    BLACKS LAW DICTIONARY

6                    Due process requires that a defendant be  
7                    sentenced on the basis of accurate infor-  
                    mation.

8                    U.S. V. NAPPI, 243 F.3d 758 (3rd cir.  
                    2001)

9                    U.S. V. ESCHMAN, 227 F.3d 886 (7th cir.  
                    2000).

10                   The court lacked jurisdiction and exceed its statutory authority  
11                   to punish Mayfield, because Mayfield could not however be convicted  
12                   of failing to appear for his continuance hearing "as required"  
13                   on June 2, 2004 when his continuance hearing had been continued  
14                   to June 10, 2004. He simply was not "required" to appear on June  
15                   2, 2004.

16                   R.C.W. § 9A.040.030 (1) Establishes per-  
17                   sonal jurisdiction over individuals who  
18                   commit crimes in this state.

19                   STATE V. B.P.M., NO. 43144-II at [35]  
20                   (1999).

21                   The following persons are liable to pun-  
22                   ishment (1) a person who commits in this  
23                   state any crime, whole or in part...

24                   R.C.W. § 9A.04.030 (1) STATE CRIMINAL  
25                   JURISDICTION.

                    Fisher could not however be convicted  
                    of failing to appear for trial "as requir-  
                    ed" on May 31 when trial had been conti-  
                    nued to June 27. He simply was not "re-  
                    quired" to appear on May 31.

U.S. V. FISHER, 137 F.3d 1158, at 1162  
                    (9th cir. 1998).

                    If petitioner's sentence is not authorized  
                    by statute. Failure to correct the defect  
                    could result in a denial of petitioner's  
                    due process rights.

1                    HILL V. ESTELLE, 653 F.2d 202, 204, (5<sup>th</sup>  
2                    cir.) citing  
3                    HICKS V. OKLAHOMA, 447 US 343, 65 L.Ed2d  
4                    175 100 S. ct. 2227 (1980)

5                    Since the sentencing court exceeded its  
6                    statutory authority it is necessary to  
7                    consider the appropriate remedy. It is  
8                    well established that the imposition of  
9                    an unauthorized sentence does not require  
10                    vacation of the entire judgment or  
11                    granting of a new trial.  
12                    IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293  
13                    (1980);

14                    The error is grounds for reversing only  
15                    the erroneous portion of the sentence  
16                    imposed.  
17                    STATE V. EILTS, 94 wn.2d 496, 617 P.2d  
18                    993 (1980).

19  
20  
21                    Mayfield did not know at the time he pleaded guilty that the court  
22                    lacked jurisdiction.

23                    A defendant's plea of guilty does not  
24                    waive claim that offense is one which  
25                    state may not constitutionally prosecute.  
26                    MATTER OF BUTTLER, 24 wash. App. 175, 599  
27                    P.2d 1311 (1979)

28                    We have held that a guilty plea in  
29                    Washington does not usually preclude a  
30                    defendant from raising collateral  
31                    questions such as ... sufficiency of the  
32                    information, and jurisdiction of the  
33                    court... A defendant also may challenge his  
34                    sentence if the court exceeded its  
35                    statutory sentencing authority.  
36                    STATE V. PHELPS, NO. 26076-0-II at [23]  
37                    (2002)  
38                    STATE V. MAJORS, 94 wn.2d 354, 356, 616  
39                    P.2d 1237 (1980)

40                    Mayfield's counsel's performance was deficient and fell below a  
41                    minimum, objective standard of reasonable attorney conduct when  
42                    counsel allowed Mayfield to be misled, even encouraged him on

1 several occasions, to accept a guilty plea for bail jumping, when  
2 Mayfield failed to appear in court on June 2, 2004 at 8:30 a.m.  
3 Also, failed to argue in a preliminary showing the ineffective  
4 assistance of Mayfield's earlier counsel when that counsel told  
5 Mayfield that he was not required to appear on June 2, 2004, and  
6 allowed the court without argument under violations against due  
7 process when the court exceeded its statutory authority that  
8 requires a defendant to be sentenced on the basis of accurate  
9 information, to prosecute Mayfield for bail jumping because the  
10 information relied upon to substantiate Mayfield's failure to appear  
11 in court on June 2, 2004 at 8:30 a.m. had been superseded by the  
12 court order of continuance document signed by Mayfield at a prior  
13 pre-trial conference on May 13, 2004 ordering Mayfield to disregard  
14 scheduled subsequent proceedings. No longer requiring him to appear  
15 on the date in question of June 2, 2004 at 8:30 a.m. and ordering  
16 Mayfield to instead, appear on June 10, 2004 at 8:30 a.m. and as a  
17 result the court lacked jurisdiction to punish Mayfield because he  
18 was no longer liable.

19 Prejudice occurred when, had Mayfield's first counsel NOT lead  
20 Mayfield to believe the continuance order Mayfield signed on May  
21 13, was in fact a superseding order directing Mayfield to disregard  
22 the June 2 hearing, Mayfield would have appeared on June 2, 04  
23 and would not have been charged with bail jumping. In addition,  
24 if Mayfield's trial counsel would have objected to the court and  
25 pointed out to Mayfield the courts lack of jurisdiction as a result  
of the ambiguous "continuance order" in combination with Mayfield's  
first counsel ineffectiveness, Mayfield would NOT have pleaded  
guilty to bail jumping.

22 Conclusion:

23 Wherefore, in light of the above, Mayfield respectfully requests  
24 that the court dismiss Mayfield's one count for bail jumping on June

1 2, 2004 and reverse the erroneous portion of Mayfield's sentence,  
2 remand for resentencing, or whatever action the court deems  
3 appropriate.  
4

5 (b). On two separate occasions, either intentionally or  
6 recklessly Mayfield's attorney misled him in regards to whether he  
7 was required to appear in court.

8 The first being when Mayfield's attorney had him sign the order of  
9 continuance at the May 13, 2004 pre-trial conference. Indicating to  
10 Mayfield to disregard the subsequent June 2, 2004 proceedings.

11 The second being when Mayfield's attorney stated that he, Mayfield  
12 was not required to appear at the Sep. 9, 2004 proceedings.

13 SEE EXHIBIT: (1)

14 SEE EXHIBIT: (2)

15 R.C.W. 9A.176.70 BAIL JUMPING

16 (1) Any person having been released by  
17 court order or admitted to bail with  
18 knowledge of the requirement of a  
19 subsequent personal appearance before any  
20 court of this state, or of the  
21 requirement to report to a correctional  
22 facility for service, and who fails to  
23 appear or who fails to surrender for  
24 service of sentence as required is guilty  
25 of bail jumping.

(2) It is an affirmative defense to a  
prosecution under this section that  
uncontrollable circumstances prevented  
the person from appearing or  
surrendering, and that the person did not  
contribute to the creation of such  
circumstances in reckless disregard of  
the requirement to appear or surrender,  
and that the person appeared or

1 surrendered as soon as such circumstance  
2 ceased to exist.

3 Mayfield had a constitutional right of reasonable expectations to  
4 rely on his attorney, and to believe that in following the advice of  
5 his attorney would be appropriate conduct.

6 Under the provisions of the sixth  
7 amendment of the United States  
8 constitution and article 1 section 22 of  
9 the Washington State constitution,  
10 guarantee effective assistance of counsel  
11 to an accused.

12 STATE V. HENDRICKSON, 129 wn.2d 61, 75,  
13 917 P.2d 563 (1996)

14 STRICKLAND V. WASHINGTON, 466 U.S. 668,  
15 689, 104 S. Ct. 2052, 80 L.Ed2d 674  
16 (1984).

17 Next, Mayfield's home is approximately fifteen miles outside of  
18 Ellensburg city limits.<sup>3</sup> Located in the foothills of the Wenatchee  
19 National forest, at a much higher elevation and therefore subjected  
20 to much more severe weather conditions. On the morning of Nov. 3,  
21 2004 Mayfield's car was out of commission due to heavy snow  
22 conditions; SEE EX. (3) [REDACTED]

23 Mayfield drives a rear wheel drive, two wheel drive Datson 280z,  
24 sport-car. It is not designed for heavy snow conditions.

25 A person of reasonable understanding could logically infer that,  
26 Mayfield's actions were in accordance with the provisions of the  
27 affirmative defense portion of R.C.W. 9A.76.170 (2) **where, first;**  
28 Mayfield's circumstances **were** uncontrollable. And second, from  
29 Mayfield's actions such as appearing to 45 out of 48 scheduled court  
30 proceedings over the span of a year, traveling two hundred (200)  
31 miles round trip between Ellensburg, WA. And Tacoma, WA. And

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<sup>3</sup>Mayfield's address is  
431 upper green canyon  
Ellensburg, WA. 98926

1 immediately appeared or surrendered as soon as Mayfield's  
2 uncontrollable circumstances allowed, or ceased to exist by  
3 immediately contacting his attorney and bail bonding company and  
4 upon their instructions immediately scheduled a quash hearing and  
5 appeared as required, that Mayfield held his obligations to the  
6 court in high regard? And should enjoy reasonable expectations of  
7 due process and equal protection of the law. To suggest otherwise,  
8 would create a fundamental defect which would inherently result  
9 in a complete miscarriage of justice.

10 SEE EX. (5a,b ),(7)

11 The defense provided in the statute  
12 relates to the defendant's inability to  
13 attend ...

14 STATE V. FREDRICK, 123 Wn. App. 347, at  
15 353, 97 P.3d 47 (2004).

16 The phrase uncontrollable circumstances, could imply to a reasonable  
17 mind to be an unknown factor in a given act, event, or condition not  
18 clearly defined, with unknown limits or boundaries that may arise  
19 that are unfamiliar to that person. Not necessarily life  
20 threatening.

21 Moreover, would it not depend on how that person were capable of  
22 dealing with a given circumstance that would determine whether that  
23 circumstance was in fact controllable or uncontrollable?

24 For the government to punish a person  
25 because he had done what the law plainly  
allows him to do is a due process  
violation of the most basic sort.

U.S. V. ANDERS, 211 F.3d 711, (2d cir.  
2000).

1 According to the provisions of R.C.W. 9A.76.170(2) Mayfield did not  
2 commit a crime of bail jumping in this state.  
3 On the contrary, Mayfield was in compliance with the law. Under the  
4 provisions of R.C.W. 9A.04.030 (1) the court had no jurisdiction to  
5 punish Mayfield, and exceeded its statutory authority in doing so.

6 R.C.W. 9A.04.030 (1) establishes personal  
7 jurisdiction over individuals who commit  
8 crimes in this state.  
9 STATE V. B.P.M., NO.43144-1-I at [35]  
10 (1999).

11 The following persons are liable to  
12 punishment (1) A person who commits in  
13 the state any crime, whole or in part...  
14 R.C.W. 9A.04.030 (1).

15 If petitioner's sentence is not  
16 authorized by statute, failure to correct  
17 the defect could result in denial of  
18 petitioners due process rights.  
19 HILL V. ESTELLE, 653 F.2d 202, 204, (5<sup>th</sup>  
20 cir.) citing;  
21 HICKS V. OKLAHOMA, 447 U.S. 343, 65 L.Ed2  
22 175 100 S. Ct. 2227 (1980).

23 Since the sentencing court exceeded its  
24 statutory it is necessary to consider the  
25 appropriate remedy. It is well  
26 established that the imposition of an  
27 unauthorized sentence does not require  
28 vacation of the entire judgment or  
29 granting of a new trial.  
30 IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293  
31 (1980).

32 The error is grounds for reversing only  
33 the erroneous portion of the sentence  
34 imposed.  
35 STATE V. EILTS, 94 wn.2d 496, 617 P.2d  
36 993 (1980).

1 We have held that a guilty plea in  
2 Washington does not usually preclude a  
3 defendant from raising collateral  
4 questions such as... sufficiency of the  
5 information and jurisdiction of the  
6 court... A defendant also may challenge his  
7 sentence if the court exceeded its  
8 statutory sentencing authority.

9 STATE V. PHELPS, NO.26076-0-II at [23]  
10 (2002);

11 STATE V. MAJORS, 94 wn.2d 354, 356, 616  
12 P.2d 1237 (1980).

13 A defendant's plea of guilty does not  
14 waive claim that offense is one which  
15 state may not constitutionally prosecute.  
16 MATTER OF BUTTER, 24 wash. App. 175, 599  
17 P.2d 1311 (1979).

18 A plea bargaining agreement cannot exceed  
19 the statutory authority given to the  
20 courts.

21 "There can be no restitution without a  
22 conviction."

23 IN RE GARDNER, 94 wn.2d 504, at 507, 617  
24 P.2d 1001 (1980).

25 Mayfield's counsel's performance was deficient and fell below a  
minimum objective standard of reasonable attorney conduct when  
counsel failed to point out the ineffective assistance of Mayfield's  
earlier counsel. And to make a preliminary showing that the court  
lacked jurisdiction and exceeded its statutory authority to punish  
Mayfield because he was in complete compliance with the affirmative  
defense portion of the bail jumping statute, and therefore no longer  
liable to punishment. To do so would violate Mayfield's due process  
and equal protection rights guaranteed under the 14<sup>th</sup> amendment of  
the United States constitution.

1 Therefore, Mayfield's counsel's performance was deficient when  
2 counsel allowed Mayfield to be misled into pleading guilty to bail  
3 jumping.

4 Prejudice occurred when, but for the deficient performance there is  
5 a reasonable probability that if counsel would have argued that  
6 because Mayfield relied on his earlier counsel for accurate and  
7 proper guidance in regards to his required court appearance. And had  
8 done what the law had plainly allowed him to do, in accordance with  
9 the affirmative defense portion of the statute/law. And if counsel  
10 would have made all parties aware that the court exceeded its  
11 statutory authority and lacked jurisdiction to punish Mayfield under  
12 R.C.W. 94A.04.030 (1). And that in doing so would violate Mayfield's  
13 due process and equal protection rights under the 14<sup>th</sup> amendment of  
14 the United States constitution. The court would not have prosecuted  
15 Mayfield for failing to appear in court on June 2, 2004, Sep. 9,  
16 2004, and Nov. 3, 2004.

17 Furthermore, Mayfield certainly would not have pleaded guilty to  
18 bail jumping.

19 Conclusion:

20 Wherefore, in light of the above, Mayfield, respectfully requests  
21 the court to dismiss Mayfield's three (3) counts of bail jumping  
22 convictions and reverse the trial court by reversing the erroneous  
23 portion of Mayfield's sentence and remand for resentencing, or  
24 whatever the court deems appropriate.

1 (c). Because the act of failing to appear is the essential  
2 beginning element of the warrant for failing to appear; to quash a  
3 warrant for failing to appear is to deprive it of all force and  
4 operation from its beginning or future transaction, in effect  
5 quashing the underlying offense, i.e., "failure to appear."

6 The prosecutor quashed several warrants  
7 for Davis in exchange for information.  
8 STATE V. DAVIS, 93 Wash. App. 648, 970  
9 P.2d 336 (1999).

10 The implication here is that quashing the warrants in effect quashed  
11 Davis's underlying offenses. i.e., the beginning essential elements  
12 of the warrants. Depriving the obligation of Davis for the  
13 underlying offense of all force and operation, from the beginning or  
14 future transaction.

15 QUASH: To annul; to annul a judgment or  
16 judicial proceeding is to deprive it of  
17 all force and operation either ab initio  
18 (from the beginning) or prospectively as  
19 to future transaction.  
20 BLACKS LAW DICTIONARY

21 Mayfield failed to appear at 8:30 a.m. on Oct. 27, 2004. The court  
22 issued a warrant for Mayfield. Mayfield appeared in court that  
23 afternoon at 1:30 p.m. An administrative quash hearing was held and  
24 the matter was resolved. Mayfield was not charged for bail jumping.  
25 Here Mayfield's court recognized the full force and finality of the  
quash proceedings. As a result Mayfield was not charged with bail  
jumping.

SEE EX. (5)

1 Each case of Mayfield's bail jumping convictions were identical in  
2 fact and in law as the Oct. 27, 2004 case.

3 (Mayfield failed to appear, a warrant was issued, Mayfield appeared  
4 or surrendered as soon as circumstances allowed or ceased to exist.  
5 The matter was resolved pursuant to a quash proceeding, Mayfield was  
6 not charged with bail jumping.)

7 Was the difference of a few hours the deciding factor in determining  
8 whether Mayfield be charged with bail jumping? Such as he was for  
9 June 2, 2004 when Mayfield appeared before 4:00 p.m., And had  
10 scheduled a quash hearing before 5:00 p.m.? And on Sep. 9, 2004 when  
11 he had scheduled a quash hearing before 5:00 p.m.? Or, even on Nov.  
12 3, 2004, when Mayfield's circumstances did not allow him to appear  
13 for a few days?

14 The statute does not mention as an affirmative defense any sort of  
15 time bar, with the exception of the phrase "as soon as." Which seems  
16 rather vague.

17 Based on the outcome of Mayfield's failure to appear on Oct. 27,  
18 2004, when in this particular case the court recognized the finality  
19 and force of the quash proceedings, the court should adhere to that  
20 well established jurisprudence for each failure to appear that  
21 Mayfield was ultimately charged and convicted for bail jumping.

22 **The court lacked** jurisdiction and exceed its statutory authority  
23 to punish Mayfield for bail jumping, **because** the essential  
24 element and underlying offense of failure to appear had been  
25 deprived of all force and operation as to future transaction i.e.,  
where there is no longer a crime as a result of the quash  
proceedings, making Mayfield no longer liable.

1 "There can be no restitution without a conviction."

2 IN RE GARDNER, 94 wn.2d 504, at 507, 617 P.2d 1001 (1980).

3 The following persons are liable to  
4 punishment (1) A person who commits in  
5 the state any crime, whole or in part...  
6 R.C.W. 9A.04.030 (1).

7 If petitioner's sentence is not  
8 authorized by statute, failure to correct  
9 the defect could result in denial of  
10 petitioners due process rights.

11 HILL V. ESTELLE, 653 F.2d 202, 204, (5<sup>th</sup>  
12 cir.) citing;

13 HICKS V. OKLAHOMA, 447 U.S. 343, 65 L.Ed2  
14 175 100 S. Ct. 2227 (1980).

15 Since the sentencing court exceeded its  
16 statutory it is necessary to consider the  
17 appropriate remedy. It is well  
18 established that the imposition of an  
19 unauthorized sentence does not require  
20 vacation of the entire judgment or  
21 granting of a new trial.

22 IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293  
23 (1980).

24 The error is grounds for reversing only  
25 the erroneous portion of the sentence  
imposed.

STATE V. EILTS, 94 wn.2d 496, 617 P.2d  
993 (1980).

We have held that a guilty plea in  
Washington does not usually preclude a  
defendant from raising collateral  
questions such as... sufficiency of the  
information and jurisdiction of the  
court... A defendant also may challenge his  
sentence if the court exceeded its  
statutory sentencing authority.

STATE V. PHELPS, NO.26076-0-II at [23]  
(2002);

STATE V. MAJORS, 94 wn.2d 354, 356, 616  
P.2d 1237 (1980).

1 A defendant's plea of guilty does not  
2 waive claim that offense is one which  
3 state may not constitutionally prosecute.  
4 MATTER OF BUTTER, 24 wash. App. 175, 599  
5 P.2d 1311 (1979).

6 A plea bargaining agreement cannot exceed  
7 the statutory authority given to the  
8 courts.

9 "There can be no restitution without a  
10 conviction."

11 IN RE GARDNER, 94 wn.2d 504, at 507, 617  
12 P.2d 1001 (1980).

13 Mayfield's counsel's performance was deficient and fell below a  
14 minimum objective standard of reasonable attorney conduct when  
15 counsel allowed, even encouraged Mayfield to plead guilty for bail  
16 jumping. In addition, failed to make a preliminary showing that the  
17 court lacked jurisdiction and exceeded its statutory authority to  
18 punish Mayfield for bail jumping because he was no longer liable to  
19 punishment as a result of the quash proceedings. **doing so** would  
20 violate Mayfield's due process and equal protection rights  
21 guaranteed under the 14<sup>th</sup> amendment of the United States  
22 constitution.

23 Prejudice occurred when, but for the deficient performance there is  
24 a reasonable probability that if counsel would have made all parties  
25 aware that the court lacked jurisdiction and exceeded its statutory  
authority to punish Mayfield under R.C.W. 94A.04.030 (1), pursuant  
to the quash proceedings. That in doing so would violate Mayfield's  
due process and equal protection rights under the 14<sup>th</sup> amendment of  
the United States constitution. The court would not have prosecuted  
Mayfield for failing to appear in court on June 2, 2004, Sep. 9,  
2004, and Nov. 3, 2004.

1 Furthermore, Mayfield certainly would not have pleaded guilty to  
2 bail jumping.

3 Conclusion:

4  
5 Wherefore, in light of the above, Mayfield, respectfully requests  
6 the court to dismiss Mayfield's three (3) counts of bail jumping  
7 convictions and reverse the trial court by reversing the erroneous  
8 portion of Mayfield's sentence and remand for resentencing, or  
9 whatever the court deems appropriate.

10 **(d) (1) (2) (3).** Mayfield failed to appear for court on June 2,  
11 2004 at 8:30 a.m. for cause no.04-1-01851-1 (COA #33734-7-II).  
12 Mayfield also failed to appear on Sep. 9, 2004 at 8:30 a.m.  
13 simultaneously for cause no's. COA #33734-7-II and 04-1-02556-9 (COA  
14 #33740-1-II). And again on Nov. 3, 2004 at 8:30 a.m. he failed to  
15 appear simultaneously for the same as above two cause numbers. SEE  
16 EXHIBITS: (5)

17 R.C.W. 9.94A.589 (1) (a): provides that  
18 two (2) or more crimes encompass the same  
19 criminal conduct for sentencing purposes  
20 if the crimes (1) involve the same  
21 criminal intent, (2) are committed at the  
22 same time and place, and (3) involve the  
23 same victim.

24  
25 Mayfield and his attorney always met in the center hallway on the  
26 fifth (5<sup>th</sup>) floor of the Tacoma county-city building, located at 930  
27 Tacoma AVE. S. Tacoma, WA. 98402.

1 Where he, Mayfield, and his attorney would hold conference and  
2 discuss both cases.

3 At Mayfield's sentencing, the court arbitrarily counted Mayfield's  
4 five counts of convictions for bail jumping separately without  
5 engaging in a same criminal conduct analysis. Resulting in a much  
6 higher sentencing range for Mayfield.

7 If the court arbitrarily counted the  
8 convictions separately, it abused its  
9 discretion.

10 STATE V. HADDOCK, 141 wn.2d 103; 3 P.3d  
11 733 at [3] (2000);  
12 RABON V. CITY OF SEATTLE, 135 wn.2d 278,  
13 284, 957 P.2d 621 (1998).

14 (1) Same criminal intent;

15 The court said the jury, could infer from  
16 Espey's flight from the sheriff, he  
17 knowingly failed to appear.

18 STATE V. ESPEY, NO. #22561-1-II (1999).

19 The court said Fredrick fails to provide  
20 substantial evidence to prove the  
21 affirmative defense to bail jumping  
22 because the scheduling order shows that  
23 Fredrick did not appear or surrender  
24 until 21 days after Fredrick's original  
25 court date. She also knew she failed to  
appear because she called her attorney  
two days after missing her court date.

STATE V. FREDRICK, 123 WA. App. 347, 353-  
55, 97 P.3d 47 (2004).

From Mayfield's appearance to 45 out of 48 scheduled court  
appearances over the course of a year; SEE EXHIBIT:

Traveling 200 miles round trip between Ellensburg, WA. And Tacoma,  
WA. Each time. Together with Mayfield's compliance with the

1 affirmative defense portion of the bail jumping statute, When after  
2 his attorney called him and informed him that he had failed to  
3 appear, he immediately made contact with his bail bonding company  
4 and immediately appeared, a person of reasonable understanding could  
5 logically infer that Mayfield's criminal intent be regarded as  
6 unintentional. And objectively viewed, it could be inferred that  
7 Mayfield did poses the same intent for each offense. And therefore  
8 satisfied the first required element; SEE EX. (5a,b),(7)

(2) Same time and place;

9 As required, like clock work, Mayfield appeared to 45 out of 48  
10 scheduled court proceedings at the same time and place, 8:30 a.m.,  
11 Tacoma county-city building, 930 Tacoma AVE. S. Tacoma, WA. 98402,  
12 for over the span of a year.

13 Moreover, Mayfield was in compliance as it applies to him, within  
14 the plain meaning of the statutory language of the law when he  
15 failed to appear at the same time and place, 8:30 a.m., Tacoma  
16 county-city building, 930 Tacoma AVE. S. Tacoma, WA. 98402, on more  
17 than one occasion.

18 Plain and unambiguous statutory language  
19 must be accepted on its face.

20 STATE V. JOHNSON, 66 wash. App. 297, 301,  
21 831 P.2d 1137 (1992);

22 STATE V. ROBERTS, 117 wash. App. 576,  
23 584, 817 P.2d 855 (1991).

24 Given the nature of the circumstances as they apply to  
25 Mayfield, could a reasonable mind infer the word time to mean "TIME"  
and not "DATE?" To suggest otherwise, would imply a congruous double-  
ness of meaning, to signify both "DATE" & "TIME."

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Thereby rendering the statute unconstitutionally vague and  
ambiguous. Allowing the court to act within double standards in  
which to arbitrarily enforce punishment, ending in inappropriate  
results for the defendant Mayfield.

When a statute does not define a term the  
court may ascertain its plain and  
ordinary meaning from a standard  
dictionary.

STATE V. RUSSELL, NO. #69334-0 at [74]  
(2001).

TIME: a specific hour, day, season, year,  
etc.

FUNK & WAGNALLS STANDARD DICTIONARY.

AMBIGUITY: doubleness of meaning; and  
uncertainty of meaning or intention; as  
in a statutory provision.

BLACKS LAW DICTIONARY.

VAGUE: Imprecise; not sharply outlined;  
indistinct; not clearly or concretely  
expressed.

BLACKS;

VAGUENESS: Uncertain breadth of meaning;  
(the phrase "within a reasonable time" is  
plagued by vagueness- What is  
reasonable?)

BLACKS;

VOID FOR VAGUENESS: (of a penal statute)  
Establishing a requirement or punishment  
without specifying what is required or  
what conduct is punishable and therefore  
void because volative of Due Process.

BLACKS;

VAGUENESS DOCTRINE: Constitutional law;  
The doctrine - based on the due process  
clause - requiring that criminal statute  
state explicitly and definitely what acts  
are prohibited so as to provide fair  
warning and preclude arbitrary  
enforcement.

BLACKS;

1 The doctrine of vagueness involves two  
2 due process concepts (1) Notice of  
3 conduct required and; (2) The right of a  
4 citizen not to be the subject of  
5 arbitrary enforcement of laws regulating  
6 his or her conduct.

7 STATE V. WILSON, 96 Wash. App. 382, 980  
8 P.2d (1999); citing -  
9 STATE V. MYLES, 127 wn.2d 807, 812, 903  
10 P. 2d 979 (1995).

11 The following is a list of R.C.W. Statutes that do use the word  
12 "DATE" in the phrase "SAME DATE, TIME AND PLACE" as a distinction  
13 between "DATE" and "TIME."

14 R.C.W. 7.80.080; same date time and place  
15 R.C.W. 7.84.060; same date time and place  
16 R.C.W. 9.73.230; same date time and place  
17 R.C.W. 9.73.260; same date time and place  
18 R.C.W. 9.73.30; same date time and place  
19 R.C.W. 9.41.090; same date time and place  
20 R.C.W. 9A.82.120; same date time and place  
21 R.C.W. 9A.44.130; same date time and place  
22 R.C.W. 10.79.080; same date time and place  
23 R.C.W. 10.79.150. same date time and place

24 In light of the above, could a person of reasonable understanding  
25 infer that if legislature had intended the phrase SAME TIME AND  
PLACE to mean SAME DATE TIME and PLACE, they would have included  
the word "DATE" in the statutory language, of R.C.W. § 9.94A.589?

Under the due process clause, a statute  
which criminalizes conduct may not be  
impermissibly vague in any of its  
applications.

FORBES V. NAPOLITANO, 236 F.3d 1009 (9<sup>th</sup>  
cir. 2000).

The Washington Supreme court emphasized  
that the "touch stone" of the rule of  
lenity is statutory ambiguity.

WASHINGTON V. FARMER, 100 wn.2d 334, 669  
P.2d 1240 (1983).

1 Under the rule of lenity, ambiguous  
2 criminal statutes must be strictly and  
liberally construed in favor of the  
defendant.

3 STATE V. JOHNSON, 66 wash. App. 297, 301,  
831 P.2d 1137 (1992);

4 Eg STATE V. WILBUR, 110 wn.2d 16, 19, 749  
P.2d 1295 (1988).

5 (3) Same victim;

6 Whether the victim in each case is the general public, or Mayfield's  
7 bail bonding company, with whom Mayfield has remained in good  
8 standing at all times. Or if the offense could be deduced a strict  
9 liability crime, **a reasonable mind could** logically infer that the  
10 victim in all counts are the same.

11 Mayfield sustained financial injury; i.e., court fees incurred;  
12 additional raise in bail; an additional \$2,000.00 filing fees with the  
13 bail bond company; additional prison time; emotional stress.

14 SEE EXHIBIT: (6)

15 Definition of "victim" according to the  
16 sentencing reform act of 1981 (SRA): "Any  
17 person who has sustained emotional,  
psychological, physical or financial  
injury to person or property as a direct  
result of the crime charged."

18 R.C.W. 9.94A.030 (40).

19 Mayfield's attorney allowed, even encouraged him to plead guilty. At  
20 the time Mayfield did not know the statute was vague and ambiguous.

21 We have held that a guilty plea in  
22 Washington does not usually preclude a  
23 defendant from raising collateral  
questions such as... the validity of the  
statute...

1                    STATE V. PHELPS, NO.26076-0-II at [23]  
2                    (2002);  
3                    STATE V. MAJORS, 94 wn.2d 354, 356, 616  
4                    P.2d 1237 (1980).

5                    Mayfield's counsel's performance was deficient and fell below a  
6                    minimum objective standard of reasonable attorney conduct. when  
7                    counsel failed to argue that the trial court abused its discretion  
8                    or misapplied the law or both by arbitrarily counting separately  
9                    Mayfield's five (5) counts of bail jumping convictions that he  
10                    received at sentencing without the court engaging in a same criminal  
11                    conduct analysis. And that in accordance with the plain language of  
12                    R.C.W. 9.94A.589 same criminal conduct, Mayfield satisfied all three  
13                    (3) required elements under the provisions of the statute for  
14                    purposes of determining whether two or more crimes encompass the  
15                    same criminal conduct for sentencing purposes.

16                    Or in the alternative, the statute be struck down for its congruous  
17                    doubleness of meaning. Allowing the court to act erroneously within  
18                    double standards in which to arbitrarily enforce punishment. And  
19                    should be void for being unconstitutionally vague and ambiguous. And  
20                    that the court should apply the rule of lenity in favor of the  
21                    defendant Mayfield.

22                    Prejudice occurred when, but for the deficient performance of  
23                    Mayfield's counsel there is a reasonable probability that the trial  
24                    court would have engaged in a same criminal conduct analysis to  
25                    determine whether Mayfield's conduct satisfied all three (3)  
                    elements as required by the plain meaning in the language of the

1 statute to encompass same criminal conduct. and would have applied  
2 R.C.W. 9.94A.589 to Mayfield to encompass Mayfield's five (5) counts  
3 of bail jumping as same criminal conduct. To reflect only one (1)  
4 additional current offense point, rather than five (5) additional  
5 points, for sentencing purposes.

6 Or, in the alternative:

7 In light of fundamental Due Process violations of "NOTICE" and the  
8 right of Mayfield not to be the subject of arbitrary enforcement, in  
9 the absence of an explicit and sufficiently definite warning and  
10 concretely expressed, plain and unambiguous statutory language, The  
11 court strike down and void R.C.W. 9.94A.589 same criminal conduct  
12 for being unconstitutionally vague and ambiguous. And under the rule  
13 of lenity would have applied a more liberal application of same  
14 criminal conduct to Mayfield for purposes of sentencing, to resolve  
15 the matter strictly in favor of the defendant Mayfield.

16 Finding that within a reasonable understanding of the language in  
17 the statute, Mayfield did satisfy all three (3) elements of the  
18 statute to produce congruous results. Therefore Mayfield would have  
19 been sentenced with only eight (8) total offender points, rather  
20 than twelve (12) points to reflect a standard sentencing range of 43  
21 - 57 months. Sentencing Mayfield to a low end of 43 months rather  
22 than 51 months.

23 Conclusion:

24 Wherefore, in light of the above, Mayfield respectfully requests  
25 that the court apply R.C.W. 9.94A.589 same criminal conduct to

1 Mayfield to encompass Mayfield's five (5) counts of bail jumping  
2 convictions as same criminal conduct and reverse the trial court and  
3 remand Mayfield for resentencing based on a new offender score of  
4 eight (8) points.

5 Or, in the alternative:

6 The R.C.W. 9.94A.589 statute be struck down and void for being  
7 unconstitutionally vague and ambiguous and apply the rule of lenity  
8 strictly and liberally in favor of the defendant Mayfield. To  
9 encompass Mayfield's five (5) counts of bail jumping convictions as  
10 same criminal conduct, reverse the trial court, and remand Mayfield  
11 for resentencing based on a new offender score of eight (8), or  
12 whatever action the court deems appropriate.

13 **(2). ABUSE OF DISCRETION:**

14 **(a).** The trial court abused its discretion or misapplied the law  
15 or both by arbitrarily counting separately Mayfield's two counts of  
16 bail jumping convictions without engaging in a same criminal conduct  
17 analysis.

18 Mayfield failed to appear in court on September 9, 2004 at 8:30 a.m.  
19 at 930, Tacoma AVE. S. Tacoma, WA. 98402. Simultaneously for cause  
20 No. #04-1-01851-1, (COA #33734-7-II) and cause No. #04-1-02556-9,  
21 (COA #33740-1-II). As a result Mayfield was ultimately prosecuted  
22 for bail jumping for both cases. Mayfield received one (1)  
23 additional current offense point for each cause number and therefore  
24 sentenced with two (2) additional current offender points.

25 SEE EX. (5a), (7)

1 At sentencing, Mayfield's counsel pointed out to the court, and  
2 the State also recognized in part, that several counts of Mayfield's  
3 bail jumps doubled because hearings were set on the same day [simul-  
4 aneously] for each of the cause numbers.

5 The court arbitrarily counted the convictions separately.

6 SEE EX. (8a,b5-16,c21-25,d1-7); Sentencing transcripts.

7 If the court arbitrarily counted the  
8 convictions separately, it abused its  
9 discretion.

10 STATE V. HADDOCK, 141 wn.2d 103; 3P.3d  
11 733; (2000).

12 RAVON V. CITY OF SEATTLE, 135 wn.2d 278,  
13 284, 957 P.2d 621 (1998).

14 R.C.W. 9.94A.589 (1) (a) provides that  
15 two or more crimes encompass the same  
16 criminal conduct for sentencing purposes  
17 if the crimes (1) involve the same  
18 criminal intent, (2) are committed at the  
19 same time and place, and (3) involve the  
20 same victim.

21 (1) Same criminal intent;

22 Both Mayfield's bail jumping convictions are literally a result of  
23 one overall purpose, identical, one, and the same offense. That,  
24 together, with Mayfield's efforts to comply with the affirmative  
25 defense portion of the bail jumping statute, when he appeared or  
surrendered as soon as his uncontrollable circumstances allowed, or  
ceased to exist, Mayfield's criminal intent could be inferred as  
unintentional and objectively viewed as the same intent for each  
offense.

SEE EX. (5 a),(7)

1 The fact that the two (2) charges involved different cause numbers  
2 should not by itself evidence any difference in intent.

3 "The fact that the two charges involved  
4 different drugs does not by itself  
5 evidence any difference in intent."  
6 STATE V. GARZA-VILLAREAL, 123 wn.2d 42,  
7 at 49, 846 P.2d 1378 (1993).

8 (2) Same time and place;

9 Mayfield's concurrent convictions involve simultaneous counts of  
10 bail jumping for more than one cause number, on the same date - Sep.  
11 9, 2004; at the same time - 8:30 a.m.; at the same place - Superior  
12 court, 930, Tacoma AVE. S. Tacoma, WA. 98402.

13 SEE EX. (5 a), (7)

14 Concurrent counts involving simultaneous  
15 simple possession of more than one  
16 controlled substance encompass the same  
17 criminal conduct for sentencing purposes.  
18 STATE V. VIKE, 125 wn.2d 407, at 412, 885  
19 P.2d 824 (1994).

20 (3) Same victim;

21 Whether the victim in this case is the general public or Mayfield's  
22 bail bonding company, with whom Mayfield remained in good standing  
23 at all times. Or, given the nature of the offense, and the  
24 propensity of the offense to be a strict liability crime, the victim  
25 could be Mayfield. Mayfield sustained financial injury i.e., court  
fees incurred, additional raise in bail, an additional ~~two thousand~~  
dollars \$2,000.00 filing fees with the bail bonding company, SEE  
EXHIBIT: ((6))

Definition of "victim" according to the  
sentencing reform act of 1981 (SRA): "Any

1 person who has sustained emotional,  
2 psychological, physical or financial  
3 injury to person or property as a direct  
4 result of the crime charged."  
5 R.C.W. 9.94A.030 (40).

6  
7 A reasonable mind could infer that in this case the victim is the  
8 same.

9  
10 Conclusion:

11 Wherefore, In light of the above stated reasons Mayfield  
12 respectfully requests that his two (2) counts of bail jumping  
13 convictions encompass the same criminal conduct. So that Mayfield  
14 receive only one (1) additional current offense point rather than  
15 two (2) points, for sentencing purposes, and the trial court be  
16 reversed and Mayfield be remanded for resentencing or whatever  
17 action the court deems appropriate.

18  
19 **(b).** The trial court abused its discretion or misapplied the law  
20 or both by arbitrarily counting separately Mayfield's two counts of  
21 bail jumping convictions without engaging in a same criminal conduct  
22 analysis.

23 Mayfield failed to appear in court on November 3, 2004 at 8:30 a.m.  
24 at 930, Tacoma AVE. S. Tacoma, WA. 98402. Simultaneously for cause  
25 No. #04-1-01851-1, (COA #33734-7-II) and cause No. #04-1-02556-9,  
(COA #33740-1-II). As a result Mayfield was ultimately prosecuted  
for bail jumping for both cases. Mayfield received one (1)  
additional current offense point for each cause number and therefore  
sentenced with two (2) additional current offender points.

SEE EX. (5 a)(7)

1 At sentencing, Mayfield's counsel pointed out to the court, and  
2 the State also recognized in part, that several counts of Mayfield's  
3 bail jumps doubled because hearings were set on the same day [simul-  
aneously] for each of the cause numbers.

4 The court arbitrarily counted the convictions separately.

5 SEE EX. (8a,b5-16,c21-25,d1-7); Sentencing transcripts.

6  
7 If the court arbitrarily counted the  
convictions separately, it abused its  
discretion.

8 STATE V. HADDOCK, 141 wn.2d 103; 3P.3d  
733; (2000).

9 RAVON V. CITY OF SEATTLE, 135 wn.2d 278,  
284, 957 P.2d 621 (1998).

10  
11 R.C.W. 9.94A.589 (1) (a) provides that  
12 two or more crimes encompass the same  
13 criminal conduct for sentencing purposes  
if the crimes (1) involve the same  
14 criminal intent, (2) are committed at the  
same time and place, and (3) involve the  
same victim.

15 (1) Same criminal intent;

16 Both Mayfield's bail jumping convictions are literally a result of  
17 one overall purpose, identical, one, and the same offense. That,  
18 together, with Mayfield's efforts to comply with the affirmative  
19 defense portion of the bail jumping statute, when he appeared or  
20 surrendered as soon as his uncontrollable circumstances allowed, or  
21 ceased to exist, Mayfield's criminal intent could be inferred as  
22 unintentional and objectively viewed as the same intent for each  
offense.

23 SEE EX. (5a),(7)

1 The fact that the two (2) charges involved different cause numbers  
2 should not by itself evidence any difference in intent.

3 "The fact that the two charges involved  
4 different drugs does not by itself  
5 evidence any difference in intent."  
6 STATE V. GARZA-VILLAREAL, 123 wn.2d 42,  
7 at 49, 846 P.2d 1378 (1993).

8 (2) Same time and place;

9 Mayfield's concurrent convictions involve simultaneous counts of  
10 bail jumping for more than one cause number, on the same date - Nov.  
11 3, 2004; at the same time - 8:30 a.m.; at the same place - Superior  
12 court, 930, Tacoma AVE. S. Tacoma, WA. 98402.

13 SEE EX. (5a),(7)

14 Concurrent counts involving simultaneous  
15 simple possession of more than one  
16 controlled substance encompass the same  
17 criminal conduct for sentencing purposes.  
18 STATE V. VIKE, 125 wn.2d 407, at 412, 885  
19 P.2d 824 (1994).

20 (3) Same victim;

21 Whether the victim in this case is the general public or Mayfield's  
22 bail bonding company, with whom Mayfield remained in good standing  
23 at all times. Or, given the nature of the offense, and the  
24 propensity of the offense to be a strict liability crime, the victim  
25 could be Mayfield. Mayfield sustained financial injury i.e., court  
26 fees incurred, additional raise in bail, an additional two thousand  
27 dollars \$2,000.00 filing fees with the bail bonding company, SEE  
28 EXHIBIT: (6)

29 Definition of "victim" according to the  
30 sentencing reform act of 1981 (SRA): "Any

1 person who has sustained emotional, psy-  
2 chological, physical or financial injury  
3 to person or property as a direct result  
4 of the crime charged."  
5 R.C.W. §9.94A.030 (40).

6 A reasonable mind could infer that in this case the victim is the  
7 same, "Mayfield."

8 Conclusion:

9 Wherefore, in light of the above stated reasons Mayfield respectfully  
10 requests that his two (2) counts of bail jumping convictions encompass  
11 the same criminal conduct. So that Mayfield receive only one (1)  
12 additional current offense point rather than two points, for sentenc-  
13 ing purposes, and the trial court be reversed and Mayfield be remanded  
14 for resentencing or whatever equitable action the court deems appro-  
15 priate.

16 (3). LACK OF JURISDICTION:

17 (a). On May 13, 2004, during a pretrial conference, Mayfield signed  
18 an order of continuance that ordered Mayfield to disregard the upcom-  
19 ing scheduled hearing set for June 2, 2004 at 8:30 a.m. Ordering  
20 Mayfield to instead to appear on June 10, 2004 at 8:30 a.m.

21 SEE EXHIBIT: (1)

22 The state charged Mayfield with bail jumping for failing to appear  
23 on June 2, 2004.

24 The court lacked jurisdiction and exceeded its statutory authority  
25 to punish Mayfield, because Mayfield could not however be convicted  
for bail jumping for failing to appear for his June 2, hearing as  
required, when his June 2, hearing had been continued to June 10.  
He simply was not required to appear on June 2, 2004.

Fisher could not however be convicted  
of failing to appear for trial "as requir-  
ed" on May 31, when trial had been contin-  
ued to June 27. He simply was not "re-  
quired" to appear on May 31.

U.S. V. FISHER, 137 F.3d 1158, at 1162,  
(9th cir. 1998).

1           The following persons are liable to pun-  
2           ishment (1) a person who commits in this  
3           state any crime, whole or in part...  
          R.C.W. §9A.04.030 (1) STATE CRIMINAL  
          JURISDICTION.

4       VII. FINAL CONCLUSION:

5           Wherefore, Mayfield respectfully requests this honorable court to  
6           dismiss or reverse Mayfield's multiple counts of bail jumping.

7           Or, in the alternative;

8           Encompass Mayfield's multiple counts of bail jumping as same criminal  
9           conduct to reflect only one (1) additional current offense point  
10          for sentencing purposes, and remand Mayfield for resentencing based  
11          on the corrected offender score, or any other equitable relief as  
12          may seem just to the court to correct the erroneous portion of May-  
13          field's sentence as a result of cumulative errors and excessive prose-  
14          cution.

15  
16  
17  
18          I, Charles Keith Mayfield, declare under penalty of perjury that  
19          the above is true and correct to the best of my knowledge.

20          Sworn to on this day;

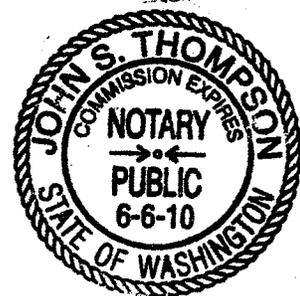
21  
22          Date: 8-7-06

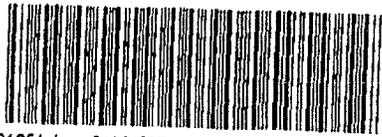
23          Charles K. Mayfield

24          X C. Mayfield

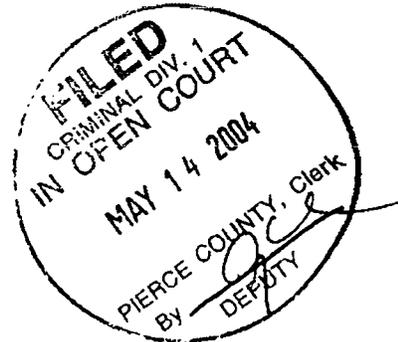
25          NOTARY PUBLIC John S. Thompson

          My commission expires 6/6/10





04-1-01851-1 21004897 ORH 05-17-04



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

vs.

*Charles Mayfield*

Defendant

NO. 04-1-01851-1

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

Approval No	Hearing Type	Date	Time	Courtroom
<input type="checkbox"/>	<input type="checkbox"/> Pretrial Conference	,20	AM/PM	
<input type="checkbox"/>	<input type="checkbox"/> Omnibus Hearing	,20	8:30 AM	
<input type="checkbox"/>	<input type="checkbox"/> Status Conference	,20	8:30 AM	CDPJ
<input type="checkbox"/>	<input type="checkbox"/> Motion:	,20	AM/PM	CDPJ
<input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated:				
<i>set</i>	<input checked="" type="checkbox"/> TRIAL	<i>6/10, 2004</i>	8:30 AM	CDPJ
<i>1212533</i>	<input checked="" type="checkbox"/> <i>continua</i>	<i>6/2, 20 04</i>	8:30 AM/PM	<i>217A</i>
<input type="checkbox"/>	<input type="checkbox"/>	,20	AM/PM	

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

3.  DAC; Defendant will be represented by Department of Assigned Counsel.

Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated 5/13/04, 20\_\_.

Copy Received:

*[Signature]*  
Defendant

*[Signature]*  
Attorney for Defendant/Bar # 1584

*[Signature]*  
KATHRYN J. NELSON  
JUDGE

*[Signature]*  
Prosecuting Attorney/Bar # 11299

*Ex. 1a*



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APPEARANCES

For Plaintiff:

Terry Lane  
Deputy Prosecuting Attorney  
Tacoma, Washington

For Defendant:

(No attorney appeared on record.)

Ex. 1c

03/08/2006	VERBATIM REPORT TRANS TO DIV II *04-11-05*	Public	
03/17/2006	Transmittal Letter VRP Copy Filed	Public	1
03/17/2006	Transmittal Letter VRP Copy Filed	Public	1
03/21/2006	VERBATIM REPORT TRANS TO DIV II 08-23-04*	Public	
03/21/2006	VERBATIM REPORT TRANS TO DIV II *11-03-04*	Public	
03/21/2006	VERBATIM REPORT TRANS TO DIV II *11-19-04*	Public	
03/21/2006	NOTICE OF FILING A VERBATIM REPORT	Public	1

**Proceedings**

Date	Judge	Dept Type	Outcome
04/27/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 CASE ISSUED-SUMM/ARRAIGN	ARRAIGN
05/13/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
06/02/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	DEF FTA, ORDEREC
06/10/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
06/11/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 QUASH	HELD
07/01/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
07/08/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
07/21/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
08/03/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	NOT HELI
08/10/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
08/12/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
08/23/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	NOT HELI
08/23/2004 09:00 AM	CRIMINAL DIVISION 1	CD1 REARRAIGNMENT	HELD
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
09/09/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	DEF FTA, ORDEREC
09/28/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 QUASH	HELD
10/13/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
10/14/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
10/27/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	DEF FTA, ORDEREC
10/27/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 QUASH - ADMINISTRATIVE	HELD
11/03/2004 08:30 AM	CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	DEF FTA, ORDEREC
11/19/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 QUASH	HELD
12/02/2004 01:00 PM	CRIMINAL DIVISION 1	CD1 PRE-TRIAL CONFERENCE	HELD
12/09/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
12/13/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
01/04/2005 08:30 AM	CRIMINAL DIVISION- PRESIDING	CDPJ JURY TRIAL	CONTINU

**Ex. 5a**

JUDGE

01/26/2005 08:30 AM CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	HELD
02/03/2005 09:00 AM CRIMINAL DIVISION 1	CD1 REARRAIGNMENT	HELD
02/16/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
02/23/2005 08:30 AM CRIMINAL DIVISION 1	CD1 RETURN WITH ATTY	HELD
02/23/2005 08:30 AM CRIMINAL DIVISION 1	CD1 OMNIBUS HEARING	CONTINU
03/02/2005 08:30 AM CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	CANCELL
03/10/2005 10:00 AM CRIMINAL DIVISION 1	CD1 PLEA DATE	CANCELL
03/14/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
03/17/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
04/01/2005 01:30 PM KATHRYN J. NELSON	13 STATUS CONFERENCE HEARING	HELD
04/11/2005 09:30 AM KATHRYN J. NELSON	13 PLEA DATE	CANCELL
04/21/2005 09:30 AM KATHRYN J. NELSON	13 MOTION-SUPPRESS (3.5,3.6,7.8)	CONTINU
04/21/2005 09:30 AM KATHRYN J. NELSON	13 MOTION (NOT CONTINUANCE)	CONTINU
04/25/2005 08:30 AM KATHRYN J. NELSON	13 JURY TRIAL	DEF FTA, ORDEREC
04/25/2005 09:30 AM KATHRYN J. NELSON	13 MOTION (NOT CONTINUANCE)	CANCELL
04/25/2005 09:30 AM KATHRYN J. NELSON	13 MOTION-SUPPRESS (3.5,3.6,7.8)	CANCELL
05/18/2005 01:30 PM KATHRYN J. NELSON	13 QUASH	CANCELL
07/15/2005 01:30 PM CRIMINAL DIVISION 2	CD2 BAIL HEARING - BENCH WARRANT	HELD
08/12/2005 01:30 PM KATHRYN J. NELSON	13 PRE-TRIAL CONFERENCE	CANCELL
08/12/2005 01:30 PM KATHRYN J. NELSON	13 PLEA DATE	PLEA & S
09/06/2005 08:30 AM KATHRYN J. NELSON	13 JURY TRIAL	CANCELL

**Incidents**

Incident Number	Law Enforcement Agency	Offense Da
032611	BONNEY LAKE POLICE DEPARTMENT	09/20/200.

**Superior Court Co-Defendants**

Cause Number	Defendant
--------------	-----------

**Judgments**

Cause #	Status	Signed	Effective	Fi
<b>05-9-09385-5</b>	OPEN as of 08/12/2005	KATHRYN J. NELSON on 08/12/2005	08/12/2005	0:

- Hearing and location information displayed in this calendar is subject to change without not changes to this information after the creation date and time may not display in current vers
- Confidential cases and Juvenile Offender proceeding information is not displayed on this cal Confidential case types are: Adoption, Paternity, Involuntary Commitment, Dependency, an
- The names provided in this calendar cannot be associated with any particular individuals wi individual case research.

**EX. 56**

**STATEMENT**  
**EXPRESS BAIL BONDS, INC.**

1112 SOUTH YAKIMA AVE.

TACOMA WA 98405

(253) 274-9999

8/18/05

TO: ROZELLE WASCELL  
431 UPPER GREEN CANYON  
ELLENSBURG WA 98926

Account Name: CHARLES KEITH MAYFIELD  
Account Balance: \$2,075.00  
Payment Terms:

Date	Activity Description	Activity Amount	Balance
4/26/02	Bond Fee: (\$10000 Bond)	\$1,000.00	\$1,000.00
4/26/02	Payment: Cash	(\$1,000.00)	\$0.00
7/16/02	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$50.00	\$50.00
8/1/02	Bond Fee: (\$2500 Bond)	\$250.00	\$300.00
8/1/02	Payment: Cash	(\$250.00)	\$50.00
12/30/02	Payment: Check#2797	(\$50.00)	\$0.00
4/28/04	Bond Fee: (\$3500 Bond)	\$350.00	\$350.00
4/28/04	Miscellaneous Fee: PAYMENT PLAN FEE	\$25.00	\$375.00
5/5/04	Payment: Cash	(\$375.00)	\$0.00
5/30/04	Bond Fee: (\$10000 Bond)	\$1,000.00	\$1,000.00
5/30/04	Payment: Check	(\$1,000.00)	\$0.00
6/2/04	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$100.00	\$100.00
9/9/04	Forfeiture Fee: FAIL TO APPEAR	\$100.00	\$200.00
9/9/04	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$100.00	\$300.00
10/17/04	Forfeiture Fee: FTA (FAILURE TO APPEAR)	\$100.00	\$400.00
10/17/04	Miscellaneous Fee: PREP. ON DOT/ OFFICE TIME	\$75.00	\$475.00
10/17/04	Miscellaneous Fee: FILING FEES	\$22.00	\$497.00
11/3/04	Forfeiture Fee: fta fee	\$100.00	\$597.00
11/5/04	Payment: Cash	(\$100.00)	\$497.00
11/19/04	Payment: Cash	(\$288.00)	\$209.00
2/10/05	Bond Fee: (\$7500 Bond)	\$750.00	\$959.00
2/10/05	Bond Fee: (\$5000 Bond)	\$500.00	\$1,459.00
2/10/05	Payment: Cash	(\$109.00)	\$1,350.00
2/10/05	Payment: Cash	(\$1,250.00)	\$100.00
5/4/05	Forfeiture Fee: fail to appear fee	\$100.00	\$200.00
7/14/05	Forfeiture Fee: OFFICE&INVESTIGATION TIME	\$250.00	\$450.00
7/14/05	Forfeiture Fee: PHONE TRACE	\$75.00	\$525.00
7/14/05	Forfeiture Fee: SURRENDER	\$1,275.00	\$1,800.00
7/15/05	Forfeiture Fee: LEGAL TO EXONERATE	\$275.00	\$2,075.00

**EX. 6**

03/06/2006	VERBATIM REPORT TRANS TO DIV II *05-06-05*VOL 9	Public
03/07/2006	Transmittal Letter VRP Copy Filed	Public 1
03/08/2006	VERBATIM REPORT TRANS TO DIV II *04-11-05*	Public
03/17/2006	Transmittal Letter VRP Copy Filed	Public 1
03/17/2006	Transmittal Letter VRP Copy Filed	Public 1
03/21/2006	NOTICE OF FILING A VERBATIM REPORT	Public 1
03/21/2006	VERBATIM REPORT TRANS TO DIV II *11-19-04*	Public
03/24/2006	STATEMENT regarding verbatim report of proceedings	Public 1
03/28/2006	VERBATIM REPORT TRANS TO DIV II *09-09-04*	Public
03/28/2006	VERBATIM REPORT TRANS TO DIV II *09-28-04*	Public
03/28/2006	VERBATIM REPORT TRANS TO DIV II *09-28-04*	Public
03/28/2006	VERBATIM REPORT TRANS TO DIV II *06-02-04*	Public

**Proceedings**

Date	Judge	Dept Type	Outcome
05/25/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 ARRAIGNMENT	ARRAIGN
06/08/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	CONTINU
06/15/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	HELD
06/22/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
07/01/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	CONTINU
07/08/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
07/08/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	HELD
07/21/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	HELD
08/03/2004 09:00 AM	CRIMINAL DIVISION 2	CD2 REARRAIGNMENT	CANCELL
08/10/2004 09:00 AM	CRIMINAL DIVISION 2	CD2 REARRAIGNMENT	CONTINU
08/12/2004 09:00 AM	CRIMINAL DIVISION 1	CD1 REARRAIGNMENT	CONTINU
08/23/2004 09:00 AM	CRIMINAL DIVISION 2	CD2 REARRAIGNMENT	CANCELL
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CONTINU
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ CONTINUANCE	HELD
08/26/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ REARRAIGNMENT	HELD
09/09/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	DEF FTA, ORDEREC
09/28/2004 01:30 PM	CRIMINAL DIVISION 2	CD2 QUASH	HELD
10/06/2004 08:30 AM	CRIMINAL DIVISION- PRESIDING JUDGE	CDPJ JURY TRIAL	CANCELL
10/14/2004 01:00 PM	CRIMINAL DIVISION 2	CD2 PRE-TRIAL CONFERENCE	HELD
10/27/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	CONTINU
11/03/2004 08:30 AM	CRIMINAL DIVISION 2	CD2 OMNIBUS HEARING	DEF FTA, ORDEREC
11/19/2004 01:30 PM	CRIMINAL DIVISION 1	CD1 QUASH	HELD

**Ex. 7**

1  
2 ORIGINAL

FILED  
IN PIERCE COUNTY SUPERIOR COURT

3  
4 A.M. JUN 06 2006 P.M.

5 PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY \_\_\_\_\_ DEPUTY

6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
7 IN AND FOR THE COUNTY OF PIERCE

8 STATE OF WASHINGTON, )

9 Plaintiff, )

10 vs. )

11 CHARLES K. MAYFIELD )

12 Defendant. )

S/C 04-1-01851-1

04-1-02556-9

COA NO. 33734-7-II

13 REPORTER'S TRANSCRIPT ON APPEAL  
14 PAGES 1-21

15 FRIDAY, AUGUST 12, 2005

16 Pierce County Courthouse

17 Tacoma, Washington

18 Before the

19 HONORABLE KATHRYN J. NELSON

20 A P P E A R A N C E S

21 For the State:

Stephen D. Trinen

Deputy Prosecuting Attorney

22  
23 For Defendant Mayfield:

Karen McCarty Lundahl

Attorney at Law

24 Carol Lynn Frederick, CCR  
25 Official Pro Tem Court Reporter  
(253) 566-1542

FILED  
COURT OF APPEALS  
JUL 20 2005  
06 JUL 20 AM 10:51  
STATE OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY

Ex. 8a

1 understanding that it would not be the equivalent  
2 of any violent offense and would not disqualify him  
3 from a DOSA sentencing alternative.

4 It's undisputed that he has a lot of points,  
5 Your Honor, but I would point out that six of those  
6 points come from basically the imposition of what  
7 would almost be a double whammy because he was  
8 charged with bail jump, Your Honor. Several counts  
9 of bail jump doubled because hearings were set on  
10 the same day for each of these cause numbers, and  
11 for each time that he failed to appear on those he  
12 ended up -- Your Honor, he was either convicted of  
13 or now has pled guilty to two offenses and gets two  
14 points basically for each one of those, and, again,  
15 a large number of the points that he has at this  
16 point come from those bail jumps and I would point  
17 out that on each and every one of those while he  
18 did fail to appear he set quash hearings and did  
19 show up eventually. He didn't skip the country.  
20 He didn't leave so I think that that needs to be  
21 taken into account.

22 The Court has had an opportunity to review the  
23 letter from Janet Macri, a person for whom he has  
24 done work very recently who obviously speaks very  
25 highly of him. I've also had the opportunity to

1            somewhere in the system or out.

2            I know you've heard these words before, Your  
3 Honor, from other men in despair and in my  
4 situation, but I have faith that God is real and he  
5 will walk with me and lead me. I turned 46 years  
6 old, Your Honor, just three days ago and this is a  
7 shameful awakening. As I stand here before you now  
8 in serious trouble, I face the truth about myself,  
9 Your Honor, and I have no choice but to change one  
10 thing in my life and that's everything.

11           I pray that it's your decision not to send me  
12 away from home for too long. My mother is sick  
13 with cancer, Your Honor, and I have had my own  
14 ongoing concerns with cancer as well. I know that  
15 I've broken my mother's heart again. Your Honor,  
16 please let me make it home before it's too late to  
17 mend her heart. I just want to show her how much I  
18 do love her and that maybe I have turned out to be  
19 a good man like she's always hoped that I would. I  
20 place myself at your mercy, Your Honor. Thank you.

21           MR. TRINEN: Your Honor, if I could  
22 have just a little rebuttal, on the case that he  
23 was convicted on at trial, there were two counts of  
24 bail jumping, so even assuming the defense's  
25 argument that as a practical matter you should kind

Ex. 8c

1 of regard those as identical offenses, that still  
2 would only reduce his score to an 11 which is still  
3 well above the maxed out point range and so I  
4 believe my argument still pertains.

5 MS. LUNDAHL: Your Honor, if I could  
6 just say one thing, I think I would put it down to  
7 a 10 rather than an 11 with that math. The other  
8 point, Your Honor, that I did not address in my  
9 argument is that on the 04-1-01851-1 case, the  
10 State's recommendation included a \$1,000 fine which  
11 it was agreed that we could argue, Your Honor, and  
12 I would ask that because he's being sentenced for  
13 both of these cases and will have legal financial  
14 obligations for both of them that you waive all or  
15 part of that fine, Your Honor.

16 He's going to have significant legal/financial  
17 obligations when he's released from custody and we  
18 would ask that with respect to the fine that you  
19 waive that, Your Honor.

20 THE COURT: Thank you. I don't find  
21 that this case is appropriate for DOSA. However, I  
22 am going to choose the low end of the range for the  
23 count that carries the most largest fine and  
24 sentence you to 51 months. With respect to the  
25 other matters, I'm going to sentence you to 43

FILED  
COURT OF APPEALS  
DIVISION II

06 AUG 14 AM 11:17

STATE OF WASHINGTON

BY \_\_\_\_\_  
DEPUTY

STATE OF WASHINGTON  
COURT OF APPEALS  
DIVISION II

State of Washington,  
Respondent.

v.

CHARLES K. MAYFIELD,  
Petitioner.

No. 33734-7-II

AFFIDAVIT OF SERVICE BY MAIL

State of Washington )  
County of \_\_\_\_\_ ) ss.

I, Charles Mayfield, depose and say:

That I am a citizen of the United States over the age of 18 and competent to make  
this affidavit.

That on this 9th day of August, 2006 I deposited in the United States mail,

Postage prepaid, addressed as follows:

THE COURT OF APPEALS  
DIVISION II  
CLERK OF COURT  
950 BROADWAY STE. 300  
TACOMA, WA. 98402-3694

PROSECUTING ATTORNEY  
GERALD A. HORNE  
930 TACOMA AVE.  
TACOMA, WA. 98402

Copies of the following documents in the above entitled cause:

STATEMENT OF ADDITIONAL GROUNDS:

PERSONAL RESTRAINT PETITION:

I declare under the penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed on AUGUST 9th 2006 Pursuant to 28 U.S.C. ss. 1746.

Signature

CHARLE K. MAYFIELD # 268840

Printed Name/DOC Number

CEDAR HALL

Washington corrections center

Address

P.O. BOX 900

SHELTON, WA. 98584

STATEMENT OF ADDITIONAL GROUNDS:

PERSONAL RESTRAINT PETITION