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SUPREME COURT
STATE OF WASHINGTON
06 MAR 10 AM 9:35
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CLERK

CASE NO. 78409-4

COURT OF APPEALS
DIVISION 2
OF THE STATE OF WASHINGTON

Michael John Reise,
Pro Se Petitioner.

State Of Washington

PERSONAL RESTRAINT PETITION

FILED
COURT OF APPEALS
DIVISION II
06 JUN -1 AM 9:39
STATE OF WASHINGTON
BY
DEPUTY

I. STATUS OF PETITIONER

I, Michael John Reise, pro se, apply for relief from confinement. I am now in custody serving a sentence upon conviction of a crime. I am now in custody because of a "Judgment and Sentence (Prison)" court order.

1. The court in which I was sentenced is Thurston County Superior Court of Washington.

2. I was convicted of the crime of murder in the second degree.

3. I was sentenced on May 12, 2005 by Judge Gary Tabor, after a plea of guilty.

4. My Lawyer for all matters at issue up to the plea, plea bargain and sentencing was James J. Dixon.

5. I did not appeal my sentence.

6. Since my conviction I have not asked a court for some relief from my sentence.

7. No attorney, no appeal for question 6.

8. I gave no notice after sentencing of intent to appeal, therefore waiving my right to direct appeal, because I possessed no knowledge of the two grounds before you today until after my right to appeal period expired. (notice of appeal after sentence)

II. GROUNDS FOR RELIEF

I claim that I have two(2) reasons for this court to grant me relief from the conviction and sentence described in: I. STATUS OF PETITIONER.

FIRST GROUND

Ineffective Assistance Of Counsel-Unknowing Plea

1. I should be given the opportunity to withdraw my plea because:

This court should permit the petitioner to withdraw his guilty plea and be tried anew on the original charges as a remedy for the petitioner entering into an involuntary guilty plea due to ineffective assistance of counsel. A plea of which petitioner never would have entered into but for counsel providing petitioner false information about the direct consequences of the plea.

Accordingly, petitioner is entitled to relief where counsels conduct at issue here resulted in a failure to provide adequate and non-prejudicial aid to the petitioner.

2. The following facts are important when considering my case:

1) Petitioners counsel, Jim Dixon, provided false information to both the petitioner and his family that he would recieve 156 months or less at sentencing. (See Exhibits A, B, C and D)

2) ---------- that he would recieve one third off his sentence. (See Exhibits A, B, C and D)

3) ..... that a parole system in Washington state still existed, and because the petitioner is a first time offender and the prison system is over crowded he would be released on parole in approximately 3 years. (See Exhibits A, B, C and D)

4) One thru three of the information provided by Jim Dixon to the petioner, as listed above, was all false. The petioner was sentenced to 180 months rather than the 156 months he was told at the most. And once petitioner was incarcerated his prison counselor informed him he would by law only be eligible for one tenth off his sentence for good-time, rather than the one third he was advised of, and that no such parole system petitioner claimed his counsel advised him of existed in Washington State. (See Exhibits A, D and E)

5) Had the petitioner correctly been informed of the time he faced in prison, rather than that which was approximately 10 years less than he was told by law and counsels assurances he faced, the petitioner would not have plead guilty pursuant to the plea agreement he now seeks to withdraw. Petitioner would have demanded a jury trial had he been informed of the true consequences of his plea. (See Exhibits A and D)

6) On 8/22/05 petitioner filed a grievance

against Jim Dixon for allegations of ineffective assistance of counsel and a number of Rules of Professional Conduct violations. This grievance was filed with the office of Disciplinary Counsel at the Washington State Bar Association in Seattle, Washington. The investigation and resolution of this grievance is still ongoing. (See Exhibits A and D)

3. The following case law and argument is in support of my case:

A claim of ineffective assistance of counsel before our courts is reviewed by looking into whether (1) defense counsels performance fell below an objective standard of reasonableness, and (2) whether this deficiency prejudiced the defendant. State V. Stowe, 71 Wn. App. 182 (1993) (citing State V. James, 48 Wn. App. 353, 359, 739 P. 2d 1161 (1987)); Strickland V. Washington, 466 U.S. 668, 80 L. Ed. 2d 674, 104 S. CT. 2052 (1984); State V. Thomas, 109 Wn. 2d 222, 743 P. 2d 816 (1987). The first prong of the Strickland test is satisfied if counsels performance falls below an objective standard of reasonableness in light of all surrounding circumstances. Strickland, 466 U.S. at 688; Thomas, 109 Wn. 2d at 226.

The Strickland test apply's to claims of ineffective assistance of counsel in the plea process. Hill

V. Lockhart, 474 U.S. 52, 57, 88 L.Ed. 2d 203, 106 S.Ct. 366 (1985). During plea bargaining, counsel has a duty to assist the defendant "actually and substantially" in determining whether to plead guilty. State V. Osborne, 102 Wn 2d 87, 99, 684 P. 2d 683 (1984) (Quoting State V. Cameron, 30 Wn. App. 229, 232, 633 P. 2d 901, review denied, 96 Wn. 2d 1023 (1981)). A guilty plea must be knowing, intelligent and voluntary in order to satisfy due process requirements. Henderson V. Morgan, 426 U.S. 637, 644-45, 49 L. Ed. 2d 108, 96 S.Ct. 2253 (1976); In re Hews, 108 Wn. 2d 579, 590, (Stowe, 71 Wn. 2d at 187) 741 P. 2d 983 (1983); In re Montoya, 109 Wn. 2d 270, 277, 744 P. 2d 340 (1987). Counsel has an obligation to inform a defendant of all direct consequences of a guilty plea. State V. Barton, 93 Wn. 2d 301, 305, 609 P. 2d 1353 (1980).

Where a withdrawal of plea request is made by a petitioner to the courts after judgment it is governed by CrR 7.8.3 and CrR 4.2(f). Per this rule the court is required to allow a petitioner to withdraw his plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice.

Two of the four non-exclusive criteria as to what constitutes manifest injustice at issue here are (1) the denial of effective counsel; (2) the plea was involuntary. State V. Walsh, 143 Wn. 2d 1 (2001) (citing State V. Wakefield, 130 Wn. 2d at 472 (1996); State V.

Sass, 118 Wn. 2d 37, 42, 820 P. 2d 505 (1991))

When a defendant completes a plea statement and admits to reading, understanding, and signing it, this creates a strong presumption that the plea is voluntary, State V. Smith, 134 Wn. 2d 849, 852, 923 P. 2d 810 (1998). But, a guilty plea is not truely voluntary "unless the defendant possesses an understanding of the law in relation to the facts". In re of Keene, 95 Wn. 2d 203, 209, 622 P. 2d 360 (1981) (quoting McCarthy V. United States, 394 U.S. 459, 466, 89 S. CT. 1166, 22 L. Ed. 2d 418 (1969).

In this instant the petitioners claim of ineffective counsel is not a mere technical violation; his counsels advice was both deficient and prejudicial. Petitioners counsel, Jim Dixon, deprived the petitioner of the necessary factual basis to make an intelligent plea when he used false information in his communications to both petitioner and his family. And doing so for the purpose of persuading petitioner to accept a plea that counsel knew he never would accept had he known the true consequences of the plea; Not going home to his family ten years longer than he understood the plea to mean. (See Exhibits A, B, C and D)

Despite Jim Dixon consistantly being informed of petitioners intent to go to trial, rather than face any significant amount of time away from his family, he

went on to violate 2.1, 4.1 and 7.1, of the Rules of Professional Conduct (RPC), by incorrectly advising the petitioner he would be home with his family in about 3 years if he signs the plea. It is surely manifestly unjust to hold the petitioner to his earlier bargain when he later learns of the additional, and unquestionably serious, consequences he had not known of when the costs and benefits of taking the plea were decided earlier. In re of Keene, Supra. (See Exhibits A, B, C and D)

The petitioner and his family specifically asked about the consequences of the plea and relied upon his counsels response in making his decision to plead guilty. Counsels response was approximately 10 years less in consequences than was actually correct by law. But for counsels erroneous, and therefore deficient, advice, petitioner would have demanded trial. (See Exhibits A,B,C & D)

Petitioners counsels performance fell below an objective standard of reasonableness and constitutes deficient performance. But for counsels unprofessional conduct petitioner would have insisted on going to trial, therefore, prejudicial to the petitioner. Strickland; Stowe; Thomas, Supra.

Petitioner has met the Strickland test for establishing ineffective assistance of counsel; He has shown that his counsels performance was

deficient and that he was prejudiced by this deficiency. (See Exhibits A and D)

4. The following constitutional provisions should be considered by this court:

1) United States Constitutional Amendment VI.. The Washington State and United States Constitutions guarantee a criminal defendant the right to effective assistance of counsel. Strickland and Thomas, supra.

2) United States Constitutional Amendment V.. Due process guarantees in the Federal and State Constitutions require that a guilty plea be made "intelligently" and "voluntarily". Montoya and Stowe, supra.

5. This petition is the best way I know to get the relief I want, and no other way will work as well because:

Allegations regarding the conduct and advice of counsel being ineffective representation to a defendant, and of which is not reflected in the record, cannot be considered on direct appeal review of a judgment. Therefore, his only remedy is by way of a personal restraint proceeding a be the subject of an evidentiary hearing under RAP. 16.3. State V. King, 24 Wn. App. 495 (1979).

SECOND GROUND

Newly Discovered Evidence

1. I should be released from confinement or tried anew because:

Petitioner has discovered exculpatory evidence, an eye witness declaration under penalty of perjury, which tends to clear petitioner of guilt, and which in the interest of justice requires an evidentiary hearing, the vacation of his conviction, and the dismissal of the criminal charges against him without a trial or further criminal proceedings.

FACTS

2. The facts important to my case are as follows:

1) On or about January 30, 2006 petitioner was in the Thurston County Jail for restitissues when he met another inmate named kenneth Gillaspie. Petitioner and Mr. Gillaspie had been housed in F unit together and one day struck up a conversation about their current circumstanees in jail. In response to petitioner's comments pertaining to his involvement in the shooting at the Bailey's Motel he was leasing in 2004, Mr. Gillaspie informed him he was an eye witness to the shooting.

(See Exhibits A and F)

2) Kenneth Gillaspie has came forward and declares under penalty of perjury he personally witnessed the petitioner shoot the deceased, Mr. Harrison, in self defense at the Bailey's Motel on October 26, 2004. (See Exhibits A and F)

3) Kenneth Gillaspie was living and also working at the Bailey's Motel on the day of the shooting at issue. He lived there for approximately 7 months in 2004. During the same period of time he was also a helper to the Baileys Motel maintenance man, Shawn. (See Exhibits A and F)

4) Carol Simmons, of Sims Pauce Service, was employed to recieve Mr. Gillaspie's Social Security income/assistance for the purpose of paying his rent by check at the Bailey's Motel. Including October of 2004. (See, Evidentiary Hearing)

5) On the same day of the shooting at issue Mr. Gillaspie was questioned by a Lacey police officer that was at the Bailey's Motel due to the shooting. However, beyond his name and whether he lived at the Motel, no questions pertaining to the shooting were ever asked and at no time since has any authority inquired whether he seen or knew anything about the shooting where he lived and worked. (See Exhibit F)

6) Prior to the petitioner meeting Kenneth

Gillaspie in January/February of 2006, he had never met, communicated to or knew anything about the man. (See Exhibit A)

3. The following case law and argument is in support of my case:

A party asserting that newly discovered evidence justifies the vacation of their conviction or sentence must demonstrate five things: (1) the evidence must be such that the results will probably change if a new trial were granted; (2) the evidence must have been discovered since the trial; (3) the evidence could not have been discovered before the trial by exercising due diligence; (4) the evidence must be material and admissible; and (5) the evidence cannot be merely cumulative or impeaching. State v. Davis, 25 Wn. App. 134, 138, 605 P.2d 359 (1980); State v. Williams, 96 Wn. 2d 215, 223, 634 P. 2d 868 (1981); In re Jeffries, 114 Wn. 2d 485, 493, 789 P. 2d 731 (1990)

RAP 16.4(c)(3) defines one form of unlawful restraint as when "material facts exist which have not been previously presented and heard, which in the interest of justice require vacation of the conviction, sentence, or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government."

In re Lee, 95 Wn. 2d 357, 623 P. 2d 687 (1980)

Petitioner was convicted of second degree murder pursuant to an unknowing and invalid plea agreement. Although petitioner had always maintained to his counsel that his actions involving the death at issue constituted the legal right of self defense, petitioner accepted the plea because the circumstances known to exist at the time lacked any exculpatory evidence to support him risking, according to his counsel, the 30 years he faced at trial. And because petitioner also lacked any reasonable or candid advice from his counsel to proceed any other way but a plea that he believed would get him home in a few years to his family. (See Exhibits A, B, C & D)

However, an eye witness to the shooting incident at issue has come forward and his exculpatory statement tends to clear petitioner of guilt, is evidence not previously presented and heard, has been discovered since his criminal court proceeding, and could not have been discovered before by petitioner exercising reasonable due diligence. (See Exhibit A & F - Evidentiary Hearing)

Had the petitioner known there existed an eye witness to the shooting, and had been made available for petitioners court proceedings, it is very probable the charges would have been dismissed, or at the very least a trial taken

place where the witnesses exculpatory testimony supported not a murder, but an act of self defense. (See Exhibits A & F)

There simply exists no bigger question of Constitutional error than that of, "the conviction of an innocent man", and the petitioner prays this court allows the necessary process to assure this pro se petitioner gets the opportunity to be judged with all the facts and evidence he was previously denied.

RECORDS OUTSIDE THE COURT AND EVIDENTIARY HEARING CONSIDERATIONS

The Supreme Court of Washinging quoted in an En Banc. ruling, State V. Harris, 114 Wn. 2d 419 (1990), "---- A personal restraint petition is required only to contain a description of the evidence upon which the petitioners claim of unlawful restraint is premised. RAP 16.7(a). An evidentiary hearing will be ordered if the pleadings raise a prima facie issue of constitutional error which cannot be resolved on the existing record. RAP 16.11(b); In re Williams, 111 Wn. 2d 253, 365, 759 P. 2d 436 (1988)

The petitioners pleadings raises a prima facie showing to justify an evidentiary hearing where this court needs further records to rule on

his two grounds before it.

III REQUEST FOR RELIEF

Petitioner requests this court to:

Vacate my conviction and dismiss the criminal charges against me; on the alternative, withdrow my plea and be tried anew.

I declare under penalty of perjury under the laws of the State of Washington, pursuant to RCW 9A.72.085, and the laws of the United States, pursuant to Title 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed On this 1st day of March 2006

Respectfully submitted

Michael Reise
MICHAEL JOHN REISE

EXHIBITS

A - F

A = 3 pgs

B = 2 pgs

C = 2 pgs

D = 17 pgs

E = 9 pgs

F = 3 pgs

EXHIBIT-A 1 of 3

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
06 MAR 10 AM 9:35
BY C. J. MERCER
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STATE OF WASHINGTON)
) DECLARATION
COUNTY OF THURSTON)

1. I, MICHAEL JOHN REISE, declare I am currently incarcerated in the Thurston county jail, I am over the age of eighteen, and competent to be a witness. I can personally attest to the following:

2. My attorney, Jim Dixon provided me false information when advising me to take a plea, rather than face trial. He assured me regardless of what is said during the plea process to just trust him and I would recieve no more than 156 months. He further advised I would recieve one third off my sentence and that a parole system still existed in Washington State and that I would be home to my family in approximately 3 years because I was a first time offender and due to the overcrowding of the prison system. All turned out false.

3. I consistantly maintained my innocence and my intention to never take a plea which resulted in my being away from my family for more than a few years to my counsel Jim Dixon.

If I had known all the advice Jim Dixon gave me to weigh my options of a plea and trial was false, as to the consequences, I would not have taken any plea and would have gone to trial.

4. On 8/22/05 I filed a grievance against Jim Dixon for the false information and rule violations of the Rules of Professional conduct. The grievance process is still ongoing.

5. On or about January 30, 2006 I met an inmate in the Thurston County Jail and soon learned he was an eye witness to the shooting I was involved with. Mr. Kenneth Gillapsie informed me he seen me shoot the deceased in self defense when I was attacked with a bat. It was the first and only time I met him.

6. While preparing this PRP at the Thurston County Jail my access to adequate and updated case law has been severally limited. There exists no available shepards to assure case law is updated. And access to law library is about every 7-10 days for a half hour at a time and they call you out at 2 or 3 am.

7. Once inquired about records access of my case file etc.etc., I was informed by the clerk of the court the process would take a couple months or more, so due to my one year

time limit for this PRP Im filing it timely and rely on an evidentiary hearing to obtain all the necassary and supportive records not already provided as exhibits now.

8. I also inquired about why Thurston County does not provide written plea agreements and was told they are done verbally in court, so I do not have that document either.

I declare under penalty of perjury under the laws of the State of Washington, pursuant to RCW 9A.72.085, and the laws of the United States, pursuant to Title 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on this 28 day of February 2006

Respectfully Submitted

Michael Reise

MICHAEL JOHN REISE

Michael Reise 882766 CB7

EXHIBIT-B 1of2

STATE OF WASHINGTON)

) ss.

County of Thurston)

I, CHERYL LYNN FAHLGREN, being first duly sworn upon oath, depose and state:

1. I am the affiant herein, over the age of eighteen, and competent to be a witness . I can personally attest to the following:

2. I am the common law wife of MICHAEL JOHN REISE and the mother of MICHAEL ROBERT REISE.

3. In October of 2004, I hired attorney at law Mr. JAMES DIXON to represent and defend my husband on a criminal charge out of Thurston County. Prior to my husband entering into a plea bargain on this charge, me and my son (MICHAEL ROBERT) met with Mr. DIXON who told us that this was a very good "deal" and my husband would be home "before you know it"... Upon information and belief, from the information explained to me by Mr. DIXON, it was my understanding that my husband would recieve one-hundred and fifty-six (156) months with one-third (1/3) off of that... Also, that my husband would be eligible for parole

Michael Keise 882766 CB57
EXHIBIT B 2002

within the next "couple of years". Because I trusted Mr. DIXON to properly advise 'us' on the law in affect, I believed what Mr. DIXON told me , as described herein... I then advised my husband that I thought it was a good 'deal' and that he (my husband) should accept this plea bargain.

4. Based on the information and belief described herein, my husband agreed to Mr. DIXON's 'deal',as also described herein.

Cheryl Fahlgren

CHERYL LYNN FAHLGREN

SUBSCRIBED AND SWORN TO before me this 7th day of October, 2005.

NOTARY PUBLIC in and for
THE STATE OF WASHINGTON
My Commission Expiress: July 29, 2007

Michael Reise 887766 CB7

EXHIBIT-C 1of2

STATE OF WASHINGTON)

) ss.

County of Thurston)

I, MICHAEL ROBERT REISE, being first duly sworn upon oath, depose and states:

1. I am the affiant herein, over the age of eighteen, and competent to be a witness . I can personally attest to the following:

2. My father is MICHAEL JOHN REISE and my mother is CHERYL LYNN FAHLGREN.

3. In late October of 2004, my mother hired the services of attorney JAMES DIXON to represent my father on a charge out of Thurston County Superior Court. Later on, I went with my mother and we met with Mr. DIXON to discuse a possible plea agreement for my father on the pending charge, as mentioned herein. Upon information and belief, it was my understanding that the plea agreement would mean that my father would recieve one-hundred and fifty-six (156) months with one-third (1/3) off, along with being eligible for parole within the next "couple of years". Mr. DIXON explained that this was a very good "deal" and my Dad would be home soon with out the risk of a trial and more time if he lost. Based on this, I encouraged my father to

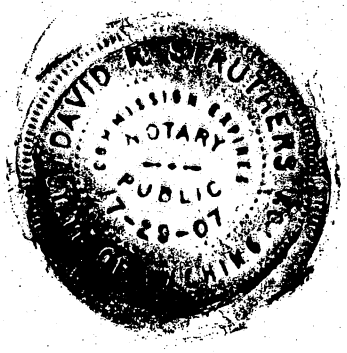
Michael Reise 88276 CBJ
EXHIBIT-C 2052

accept the 'deal' mentioned herein.

4. After my father was sent to prison, after accepting the plea agreement ("deal") described herein, I learned that my father was NOT going to recieve a reduction of a third (1/3) off his sentence, NOR is there any parole in the State of Washington. Had I of known the facts mentioned here, I would have never recommended to my father to accept Mr. DIXON's 'deal' as described herein.

MICHAEL ROBERT REISE

SUBSCRIBED AND SWORN TO before me this 7th day of October, 2005.



NOTARY PUBLIC in and for
THE STATE OF WASHINGTON
My Commission Expiress: 1/28/2007

EXHIBIT D 1 of 17

GRIEVANCE AGAINST A LAWYER

GRIEVANT	LAWYER
Name: REISE, MICHAEL, J. (Last, First, Middle Initial) #882766, C-B-7	Name: DIXON, JAMES, J. (Last, First, Middle Initial)
Address: 1830 Eagle Crest Way (Street Address) Clallam Bay Correction Center Clallam Bay, Wash. 98326 (City , State & Zip Code)	Address: 204 Pear St. N.E. (Street Address) Olympia, Wash. 98506 (City , State & Zip Code)
Phone: N/A // (Day) (Evening)	Phone: (360) 352-8311

Is or was the above-named lawyer your lawyer? Yes [XX] No [ ]
If not, how did you come into contact with this lawyer?

Have you discussed this grievance with the above-named lawyer? Yes [ ] No [XX]
If yes, what was the result of your discussion?
I have tried to contact Mr. Dixon with no avail.

Do you now have a lawyer other than the above-named lawyer? Yes [ ] No [XX]
If you do, please give his or her name, address and telephone number:

Are you involved in a lawsuit or other proceeding related to your grievance? Yes [ ] No [XX]
If yes, please identify and give the case or file name and number:
Not yet; however, I will if unable to resolve this matter thruogh these proceedings.

DESCRIPTION OF YOUR GRIEVANCE

Please concisely explain your grievance **in your own words.** Give all important dates, times, places and court file numbers. Attach relevant documents. Please send us copies, not your originals.

In late Oct. of 2004, I was charged with a crime inwhich I am NOT guilty of. I have always been a law abiding, hard-working, tax paying citizen. Being charged for a criminal offense was a totally new experience for me and my family to have to go through. Because of this, is why I whole heartedly 100% believed in and

trusted my attorney (Mr. Dixon) to do what is right...

Mr. Dixon and myself met into a legal binding contract for a sum payment of $10,000.00, inwhich Mr. Dixon agreed to do anything and everything necessary to legally vindicate me from any wrong doing. Mr. Dixon told me the first thing we would do was a stipulated ageement with the prosecution for a polygraph test- with dismissal of all charges after I passed the test... The test never took place; instead, Mr. Dixon informed me that I had better take a plea bargain because if I didn't, I would get thirty (30) years in prison- even though I am legally innocent... Then, Mr. Dixon wanted me to accept a 'deal' for one-hundred eighty (180) month in prison. I flat refused. Mr. Dixon brought me another 'deal' inwhich I was supposed to recieve one-hundred and fifty-six months (156) with a third (1/3) off my sentence and I would be eligible for parole in just a couple of years... I accepted the 'deal' for 156 months only because I believed that I would have 1/3 taken off and parole in a couple of years and I did NOT want to face the 30 years in prison Mr. Dixon told me I would surely get if I did NOT take the deal... I have sence found out this is all false...

Mr. Dixon breached our leagal binding contract, as described herein, and defrauded me out of my money and my liberty based on entirely false information.

CONSENT AND AFFIRMATION

In filing this grievance with the Washington State Bar Association (the Association), I consent to disclosure of the content of my grievance to the lawyer and to disclosure by the lawyer to the Association of any information relevant to the investigation. I understand that my grievance may become public.

In filing this grievance with the Association, I affirm that the information I am providing is true and accurate to the best of my knowledge.

Signature: Michael Paige **Date:** 8/22/05

Mail your completed and signed Grievance Against a Lawyer to:

Office of Disciplinary Counsel
Washington State Bar Association
2101 Fourth Avenue – Suite 400
Seattle, WA 98121-2330

WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

EXHIBIT-D 30f17

August 26, 2005

Michael J. Reise #882766
Clallam Bay Corrections Center
1830 Eaglecrest Way
Clallam Bay, WA 98326

Re: WSBA File: 05-01348
Your grievance against lawyer James J. Dixon

Dear Mr. Reise:

We received your grievance against a lawyer and assigned the file number indicated above. We appreciate receiving information from the public about lawyers licensed in Washington State. However, our authority and resources are limited. The Washington State Bar Association is authorized to investigate a grievance against a lawyer to determine whether the lawyer's conduct should have an impact on his or her license to practice law. We are not a substitute for protecting your legal rights. We do not and cannot represent you in legal proceedings.

We reviewed your grievance and determined that your primary concern is the manner in which your lawyer represented you in a criminal case. Ineffective assistance of counsel issues are best raised in court proceedings. Courts employ a "strong presumption that the counsel's conduct falls within a wide range of reasonable professional assistance." Strickland v. Washington, 466 U.S. 668, 689 (1984). Therefore, the general policy of this office is not to investigate claims of ineffective assistance of counsel unless there is a judicial finding of impropriety. It does not appear that the court found any impropriety. To the extent that you have a fee dispute, fee disputes are generally private matters between the parties and the Association does not discipline lawyers to settle fee disputes. The Association has two voluntary programs to assist you: mediation and fee arbitration. We are enclosing information on both programs.

We believe it is in your best interest, and in the best interest of the lawyer against whom you are complaining, that we tell you as soon as possible if it appears that the conduct you describe is not within our jurisdiction, does not violate the Supreme Court's Rules of Professional Conduct (RPC), or does not warrant further investigation by our office. Under the Rules for Enforcement of Lawyer Conduct (ELC), a lawyer may be disciplined only upon a showing by a clear preponderance of the evidence that the lawyer violated the RPC.

Based on the information we reviewed, there is insufficient evidence to warrant further action; therefore, we are dismissing your grievance under ELC 5.6(a). If you do not mail or deliver to us a written request for review of this dismissal within **forty-five (45) days** of the date of this letter, the decision to dismiss your grievance will be final. Should there be a judicial finding of impropriety, you may request that we reopen this matter. Absent special circumstances, and unless we are provided with reasons to do otherwise, we will forward to you a copy of any response we receive from the lawyer.

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure: Lawyer Discipline in Washington; Fee Arbitration Information; Mediation Program Information
cc: James J. Dixon
(with enclosure and copy of grievance)

EXHIBIT-D 4 OF 12

September 4, 2005

Ms. Felice P. Congalton
Senior Disciplinary Counsel
Washington State Bar Association
2101 Forth Ave., Suite 400
Seattle, WA. 98121-2330

RE: WSBA File No.: 05-01348
WRITTEN REQUEST FOR REVIEW OF DISSMISSAL

Dear Ms. Congalton,

Pursuant to the grievance response from your office dated August 26, 2005, I was given "forty five (45) days" to submit a written request for review of the dismissal. The reason(s) for this request are as follows:

My attorney Mr. James J. Dixon violated the Rules of Professional Conduct (RPC) when he:

1. Did NOT "abide by [my] a clients decision..." when he got me to accept a plea agreement on false information in violation of Rule 1.2(a).

2. Did NOT "keep [me] a client informed [with correct information]..." when he mislead me into a plea agreement based on false information, ALL in violation of Rule 1.4(a).

3. This grievance against Mr. Dixon is NOT a "fee dispute" within the meaning of Rule 1.5 (this grievance is for the fraudulent acts and/or omissions of getting me to accept a plea on false information to breach or legal binding contract to defend me at a trial by jury for the crime charged); however,

it should be noted that I will be paying the fee for mediation of this matter... Hopefully Mr. Dixon will take the necessary corrective action to resolve this issue and I will be willing to with-draw any and ALL complaints against Mr. Dixon.

4. Rule 2.1 states in relevant part:

> "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice."

RPC Rule 2.1.

5. Rule 4.1 states in relevant part:

> "In the course of representing a client a lawyer shall not knowingly:
>
> (a)make a false statement of material fact or law to a third person..."

RPC Rule 4.1 (a).

Here, Mr. Dixon got me to accept a plea based on false information made to my wife and son (that I would recieve a third off my sentence and be eligible for parole in the next couple of years [among other things]).

6. Rule 7.1 states in relevant part:

> "A lawyer shall not make a false or misleading communication..."

RPC Rule 7.1.

After being sent to prison I have found out that there is no parole system in place, nor am I getting a third-off my sentence as Mr. Dixon told me I would in order to get me to agree to the plea offer. If Mr. Dixon had NOT of misguided me with incorrect and/or false information , as described herein, I would have never accepted this plea- NOT to mention the fact that under the WASHINGTON STATE CONSTITUTION I

have a legal RIGHT under the Constitution to defend myself and should NOT have been charged with any crime.

As desribed herein, Mr. Dixon has violated several Rules of the RPC's. I am hoping that these issues can be addressed and corrected within these proceedings.

Thank you for your time with this matter.

Sincerely,

Michael J. Reise #882766
Clallam Bay Correction Center
1830 Eagle Crest Way
Clallam Bay, WA.
98326

EXHIBIT-D 7of17

WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

September 19, 2005

James J. Dixon
Ditlevson Rodgers Dixon PS
324 W Bay Dr NW Ste 201
Olympia, WA 98502

Re: WSBA File: 05-01348
Grievance filed by Michael J. Reise

Dear Mr. Dixon:

We received the enclosed information dated September 4, 2005 from Mr. Reise.

Under the Rules for Enforcement of Lawyer Conduct (ELC), we are providing the information to you because it disputes the dismissal of a grievance. As required by the ELC, a Review Committee of the Disciplinary Board will reconsider the dismissal. The Review Committee process normally takes four to eight weeks to complete. We strongly encourage you to respond to the grievance if you have not already done so.

If you have additional information for the Review Committee's consideration, please submit it to us within **two (2) weeks** from the date of this letter. The Review Committee will notify you and the grievant of its decision after it issues an order in this matter. In some situations, all of the information in a grievance file becomes public as a result of a Review Committee's decision. See ELC 3.1(b).

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure

cc: Michael J. Reise
(without enclosure)

EXHIBIT D 8 of 17

WSBA

LAWYER SERVICES DEPARTMENT

Talia Clever
Coordinator
Alternative Dispute Resolution Program

direct line: 206-733-5923
fax: 206-727-8320
e-mail: taliac@wsba.org

September 27, 2005

Michael J. Reise # 882766 CB 7
Clallam Bay Correction Center
1830 Eagle Crest Wy
Clallam Bay, WA 98326

Dear Mr. Reise:

Your Mediation Request and $75 filing fee was forwarded to me by the Office of Disciplinary Counsel. I am the Coordinator for the Mediation Program. The Mediation Program is separate from the grievance process and I do not have access to information about your grievance.

In your Mediation Request you indicate your dispute involves the lawyer's violations of ethical rules and laws. It is important to understand that mediation does not involve investigating a lawyer's ethical misconduct, which only occurs through the grievance process. The Mediation Program provides a mediator to meet with the parties and work with them to reach an agreement about the conflict or dispute they are having. Both parties must agree to participate in mediation before a mediator is assigned. Mediation is effective when both parties participate in good faith to find a mutually agreeable solution to their dispute.

If you wish to proceed with mediation, please write a letter to indicate what you wish to achieve in mediation (for example: a refund of a portion of the lawyer's fees, acknowledgement from the lawyer regarding the handling of your case, an apology) and sign the Mediation form in Agreement to Mediate. Also helpful will be a contact person at the prison with whom the mediator can arrange a conference call with you.

If I do not hear from you within 30 days or you find that you do not wish to request Mediation, I will return your filing fee of $75.

If you have questions, please write to me.

Sincerely,

Talia Clever
ADR Program Coordinator

EXHIBIT-D 9of12

October 2, 2005

Ms. Talia Clever, Coordinator
Alternative Dispute Resolution Program
WASHINGTON STATE BAR ASSOCIATION, LAWYER SERVICE DEPARTMENT
2101 Fourth Avenue, Fourth Floor
Seattle, Washington
98121-8200

Dear Ms. Clever,

I recieved your correspondence dated September 27, 2005. Enclosed please find the 'signed' AGREEMENT TO MEDIATION FORM.

Through the mediation process I will ask that Mr. Dixon, as the attorney of record, correct his mistake by withdrawing the guilty plea entered under CrR 4.2 (f) ~ through CrR 7.8, and submit an ORDER of transport to have me brought back to the county on the original charge... Then, Mr. Dixon can go ahead and remove himself from the case pursuant to RPC Rule 1.15. I will write-off the $10,000.00 paid to Mr. Dixon as an expense of learning, and hire a new attorney.

In the event that you still believe that a conference call is necessary, you should contact Scott Osborne here at CBCC to arrange such; however, I do not see any reason why this matter cannot be resolved by the terms mentioned herein. I will also withdraw any and ALL complaints against Mr. Dixon

if he is willing to correct this matter within the terms and agreements described herein.

In closing, I would just like to express that I have never been in trouble with the Law and still believe that my acts and/or omissions were legally justified inwhich I have been charged for. I was naive about the legal process and believed & trusted my attorney to tell my correct information and give me sound advise; however, this was NOT the case here. Now, ALL I want is for this error to be corrected so I can have my day in court ~ with an attorney working on my behalf...

I thank you for your time with this matter.

Sincerely,

Michael Reise

MICHAEL J. REISE
#882766, C-B-7
Clallam Bay Correction Center
1830 Eagle Crest Way
Clallam Bay, Washington
98326

EXHIBIT 7 11 of 17

DITLEVSON RODGERS DIXON, P.S.

ATTORNEYS AT LAW
324 West Bay Drive NW, Suite 201
Olympia, Washington 98502

360/352-8311
FAX 352-8501
www.BuddBayLaw.com
Email: JamesDixon@BuddBayLaw.com

Richard L. Ditlevson
G. Saxon Rodgers
James J. Dixon
C. Scott Kee
Bruce R. Busch
Jennifer A. Pearson
Steven M. Sayre

Legal Assistants:
Victoria Lynch Kimball
Maralyn C. Ditlevson
Melissa Shumway
Genie K. Paquin
Cathy Hitchman
Julie Alexander
JJ Child

October 3, 2005

RECEIVED
OCT 05 2005
WSBA OFFICE OF
DISCIPLINARY COUNSEL

Ms. Felice P. Congalton, Senior Disciplinary Counsel
Washington State Bar Association
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330

Dear Ms. Congalton:

I am in receipt of your letter dated September 19, 2005, and the enclosed grievance filed by Mr. Reise.

Mr. Reise's grievance is totally without merit. I represented Mr. Reise on a murder in the first degree while armed with a deadly weapon charge. I never advised Mr. Reise that there was a "parole system in place." My practice is limited to criminal defense and I have been practicing in this area for fifteen years. Obviously, I am intimately aware of criminal law, criminal procedure and the Sentencing Reform Act. I am also aware of the law with respect to "earned early release." I did advise Mr. Reise, and his family, that, in my personal opinion, the laws with respect to sentencing might change at some point in the future due to the severe overcrowding problem in our institutions. However, again, I never advised him that he was entitled to 1/3 off of his sentence for "good time," or that he would be released on "parole."

This appears to be the only complaint lodged against me from Mr. Reise. If there are others, please let me know and I will timely respond.

Sincerely,

James J. Dixon

JJD/gkp

EXHIBIT D 12 of 17

WSBA

Talia Clever
Coordinator
Alternative Dispute Resolution Program

direct line: 206-733-5923
fax: 206-727-8320
e-mail: taliac@wsba.org

October 5, 2005

James J. Dixon
Ditlevson Rodgers Dixon PS
324 West Bay Dr NW Ste 201
Olympia, WA 98502

Dear Mr. Dixon:

Recently the Mediation Program was contacted by Michael J. Reise who was interested in using our services to help resolve a dispute between the two of you regarding his case. We are contacting you to let you know about the possible benefits of using our program to resolve this dispute.

The Mediation Program is offered by the WSBA to help settle disputes informally and promptly with the assistance of a neutral third-party mediator. Disputes resolved by the WSBA Mediation Program include disputes between lawyers and lawyers, disputes between lawyers and clients, and other disputes between lawyers and other professionals. Mediation is non-disciplinary and confidential with the exception that a party is not precluded from filing a grievance. Participation is voluntary for both parties. Mediation does not occur unless both parties agree to mediate.

Mr. Reise has included a description of what he wishes to negotiate with you. If you wish to respond to his letter I can convey your response to Mr. Reise or you may wish to respond to him directly. If you wish to have the assistance of a mediator you may agree to participate in mediation through our program.

We will contact you by telephone in about a week. We are interested in hearing your concerns and issues, and want to work with you to see if our Mediation Program can be of service to you. Or, if you would like to call us, you can reach us at 206-733-5923 (or toll free at 800-945-WSBA ext 5923). Office hours are 8:30 a.m. to 5:00 p.m. If you reach our voice mail, please leave a message and we will return your call as soon as possible.

If you have decided to participate in mediation, please sign the enclosed Mediation Request form in agreement and return it to this office with the $75.00 filing fee by November 4, 2005. We will then assign a mediator to schedule a meeting with both parties.

Sincerely,

COPY

Talia Clever
ADR Program Coordinator

CC: Michael J. Reise

EXHIBIT D 13 of 17

WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

October 6, 2005

Michael J. Reise
#882766
Clallam Bay Corrections Center
1830 Eaglecrest Way
Clallam Bay, WA 98326

Re: WSBA File: 05-01348
Your grievance against lawyer James J. Dixon

Dear Mr. Reise:

We received the enclosed information dated October 3, 2005 from Mr. Dixon.

Under the Rules for Enforcement of Lawyer Conduct, we are providing the information to you. A Review Committee of the Disciplinary Board will consider the information.

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure

cc: James J. Dixon
(without enclosure)

EXHIBIT-D 14 of 12

WSBA

Talia Clever
Coordinator
Alternative Dispute Resolution Program

206-733-5923
fax: 206-727-8320
e-mail: taliac@wsba.org

October 12, 2005

Michael J. Reise
882766 CB 7
Clallam Bay Correction Ctr
1830 Eagle Crest Wy
Clallam Bay, WA 98326

Re: Request for Mediation

Dear Mr. Reise:

Enclosed you will find a copy of a letter from James J. Dixon in which he responds to the request made in your letter and indicates that he believes the matter cannot be mediated. Without Mr. Dixon's agreement to participate I must close the mediation file. Your original check is enclosed.

Sincerely,

Talia Clever
ADR Program Coordinator

Enclosure

Copy to Respondent

EXHIBIT D 15 OF 12

October 16, 2005

Felice P. Congalton
Senior Disciplinary Counsel
OFFICE OF DISCIPLINARY COUNSEL
Washington State Bar Association
2101 Fourth Avenue, Suite 400
Seattle, WA.
98121-2330

Re: WSBA File No.: 05-01348
Grievance against James J. Dixon

Dear Ms. Congalton,

I am submitting this reply to Mr. Dixons response:

Mr. Dixon admits that he also informed my family the same as he informed me (see Response of James J. Dixon). Enclosed please find the two affidavits of my family that describes what information (that was false) was given to my family used in the facilitation of getting me to accept the 'deal'. These acts and/or omissions of Mr. Dixon constitute misrepresentation and/or fraud. Mediation of this matter was fruitless and so this complaint should go forward.

Thank you.

Sincerely,

Michael Reise

MICHAEL REISE
882766, CB7
Clallam Bay Correction Center
1830 Eagle Crest Way
Clallam Bay Wash. 88326

WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

October 25, 2005

James J. Dixon
Ditlevson Rodgers Dixon PS
324 W Bay Dr NW Ste 201
Olympia, WA 98502

Re: WSBA File: 05-01348
Grievance filed by Michael J. Reise

Dear Mr. Dixon:

We received the enclosed information dated October 16, 2005 from Mr. Reise.

Under the Rules for Enforcement of Lawyer Conduct, we are providing the information to you. A Review Committee of the Disciplinary Board will consider the information.

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure

cc: Michael J. Reise
(without enclosure)

EXHIBIT-D 17 of 17

WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

November 30, 2005

James J. Dixon
Ditlevson Rodgers Dixon PS
324 W Bay Dr NW Ste 201
Olympia, WA 98502

Re: WSBA File: 05-01348
Grievance filed by Michael J. Reise

Dear Mr. Dixon:

We received the enclosed information dated November 20, 2005 from Mr. Reise.

Under the Rules for Enforcement of Lawyer Conduct, we are providing the information to you. A Review Committee of the Disciplinary Board will consider the information.

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure

cc: Michael J. Reise
(without enclosure)

EXHIB - E 1 of 9

FILED
SUPERIOR COURT
THURSTON COUNTY, WASH.
05 MAY 12 AM 10: 15
BETTY J. GOULD, CLERK
BY _____
DEPUTY

SUPERIOR COURT OF WASHINGTON
COUNTY OF THURSTON

STATE OF WASHINGTON, Plaintiff,

v.
MICHAEL JOHN REISE,
Defendant.
PCN: 766810926
SID: UNKNOWN FBI: 958941P8
DOB: 10-21-1957
BOOKING: C0127968

No.04-1-1962-5
(FOR CRIMES COMMITTED ON OR AFTER 7-1-00)
JUDGMENT AND SENTENCE (JS)
[x] Prison
[ ] Jail One Year or Less
[ ] First-Time Offender
[ ] Special Sexual Offender Sentencing Alternative
[ ] Special Drug Offender Sentencing Alternative

I. HEARING

1.1 A sentencing hearing was held on May 12, 2005 and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on May 12, 2005 by [X] plea [ ] jury-verdict [ ] bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
I	MURDER IN THE SECOND DEGREE	9A.32.050(1)(a)	October 26, 2004

as charged in the FIRST AMENDED Information.

[ ] The court finds that the defendant is subject to sentencing under RCW 9.94A.712

[ ] A special verdict/finding for use of **firearm** was returned on Count(s) _____. RCW 9.94A.602, .510.

[ ] A special verdict/finding for use of **deadly weapon other than a firearm** was returned on Count(s) _____. RCW 9.94A.602, .510.

[ ] A special verdict/finding of **sexual motivation** was returned on Count(s) _____. RCW 9.94A.835.

[ ] A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s)_____ _____,RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

[ ] A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine **when a juvenile was present in or upon the premises of manufacture** was returned on Count(s) _____. RCW 9.94A.605, RCW 69.50.401(a), RCW 69.50.440.

COPY TO SHERIFF 471

EXHIBIT-E 2 of 9

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

[ ] This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9.44.130.

[ ] The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

[ ] The crime charged in Count(s) _____ involve(s) **domestic violence.**

[ ] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):

[X] The Court finds that none of the above convictions constitute same criminal conduct.

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

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1	N/A					
2						
3						
4						
5						

[ ] Additional criminal history is attached in Appendix 2.2.

[ ] The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.

[ ] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

[X] The Court finds that none of the above listed prior convictions constitutes same criminal conduct.

[X] The Court finds that the above federal and/or out of state prior convictions are properly classified under the laws of this state as a felony for purposes of criminal history and offender score.

[ ] The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS -NESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	0	XIV	123 - 220 months	N/A	123-220 months	Life

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

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

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

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

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

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

_____

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [ ] attached [X] as follows: 156 months

III. JUDGMENT

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

3.2 [ ] The Court DISMISSES Counts _____ [ ] The defendant is found NOT GUILTY of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court:

	$ To be determined	Restitution to: To be determined	
JASS CODE			
	$ _____	Restitution to: _____	
RTN/RJN			
	$ _____	Restitution to: _____ (Name and Address--address may be withheld and provided confidentially to Clerk's Office).	
PCV	$ 500.00	Victim assessment	RCW 7.68.035
CRC	$ 110.00	Court costs, including	RCW 9.94A.760, 9.94A.505, 10.01.160
		Criminal filing fee $ 110.00	FRC
		Witness costs ____ $ _____	WFR
		Sheriff service fees $ _____	SFR/SFS/SFW/WRF
		Jury demand fee __ $ _____	JFR
		Extradition costs __ $ _____	EXT
		Other _____ $ _____	
PUB	$ _____	Fees for court appointed attorney	RCW 9.94A.760
WFR	$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM/MTH	$ _____	Fine RCW 9A.20.021; [ ] VUCSA additional fine deferred due to indigency	RCW 69.50.430
CDF/LDI/FCD NTF/SAD/SDI	$ _____	Drug enforcement fund of THURSTON COUNTY	RCW 9.94A.760
CLF	$ _____	Crime lab fee [ ] deferred due to indigency	RCW 43.43.690
	$ 100.00	Felony DNA collection fee [ ] not imposed due to hardship	RCW 43.43.754
	$ _____	Emergency response costs (Vehicular Assault, Vehicular Homicide only, $1000 maximum)	RCW 38.52.430
	$ _____	Other costs for: COSTS OF INCARCERATION FEE	
	$ 710.00	TOTAL	RCW 9.94A.753

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

[X] shall be set by the prosecutor

's scheduled for _____

EXHIBIT F 4 of 9

[ ] RESTITUTION. Schedule attached.

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

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

RJN

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

[X] All payments shall be made in accordance with the policies of the clerk and on a schedule established by DOC, commencing immediately, unless the court specifically sets forth the rate here: Not less than $_____ per month commencing _____ . RCW 9.94A.760.

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

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

[X] The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.2 DNA TESTING. For anyone convicted on or after July 1, 2002, regardless of when the crime occurred, of a felony, stalking, harassment, or communicating with a minor for immoral purposes, the defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to defendant's release from confinement. RCW 43.43.754.

[ ] HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340

4.3 The defendant shall not have contact with Austin Harrison's Family (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for Life years (not to exceed the maximum statutory sentence).

[ ] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.4 **OTHER:** _____

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

180	months on Count	I.	_____	months on Count	_____
_____	months on Count	_____	_____	months on Count	_____
_____	months on Count	_____	_____	months on Count	_____

Actual number of months of total confinement ordered is: 180 MOS.

EXHIBIT E 5 of 9

(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).
All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

_____

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

_____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589

Confinement shall commence immediately unless otherwise set forth here: _____

_____

(b) **CONFINEMENT.** RCW 9.94A.712: The defendant is sentenced to the following terms of confinement in the custody of Department of Corrections:
Count _____ minimun term _____ maximun term
Count _____ minimun term _____ maximun term
Count _____ minimun term _____ maximun term

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

4.6 [ ] **COMMUNITY CUSTODY** for count(s)_____, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.
[ ] **COMMUNITY PLACEMENT** is ordered as follows: Count _____ for _____months; Count _____for _____months; Count _____ for _____months;
[X] **COMMUNITY CUSTODY** is ordered as follows:
Count I for a range from 24 to 48 months;
Count _____for a range from _____ to _____months;
Count _____for a range from _____ to _____months;
or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offensese committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]
While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.
[ ] The defendant shall not consume any alcohol.
[X] Defendant shall have no contact with: VICTIM'S FAMILY .
[ ] Defendant shall remain [ ] within [ ] outside of a specified geographical boundary, to wit: _____
_____ .

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

_____ .

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

[ ] The defendant shall comply with the following crime-related prohibitions: Not possess controlled substances without a valid prescription. Not associate with those who use, sell, possess, or manufacture controlled substances. Randum U.A.'s at CCO direction.
Other conditions may be imposed by the court or DOC during community custody, or are set forth here: _____

[ ] For sentences imposed under RCW 9.94A.712, other conditions may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven (7) working days.

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

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

V. NOTICES AND SIGNATURES

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

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 **RESTITUTION HEARING.**
[X] Defendant waives any right to be present at any restitution hearing (sign initials): mk

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634.

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

5.8 **OTHER**: Bail previously posted, if any, is hereby exonerated and shall be returned to the posting party.

[ ] The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

EXHIBIT F 7059

DONE in Open Court and in the presence of the defendant this date: May 12, 2005.

JUDGE:

Senior Deputy Prosecuting Attorney	Attorney for Defendant	Defendant
WSBA #18181	WSBA #20257	
Print name: STEVEN E. STRAUME	Print name: JAMES J. DIXON	MICHAEL JOHN REISE

Interpreter signature/Print name:_____

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

CAUSE NUMBER of this case:04-1-1962-5

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

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

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

EXHIBIT E 8 of 9

IDENTIFICATION OF DEFENDANT

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

Date of Birth 10-21-1957

FBI No .958941P8

Local ID No. C0127968

PCN No.766810926

Other_____

Alias name, SSN, DOB: _____

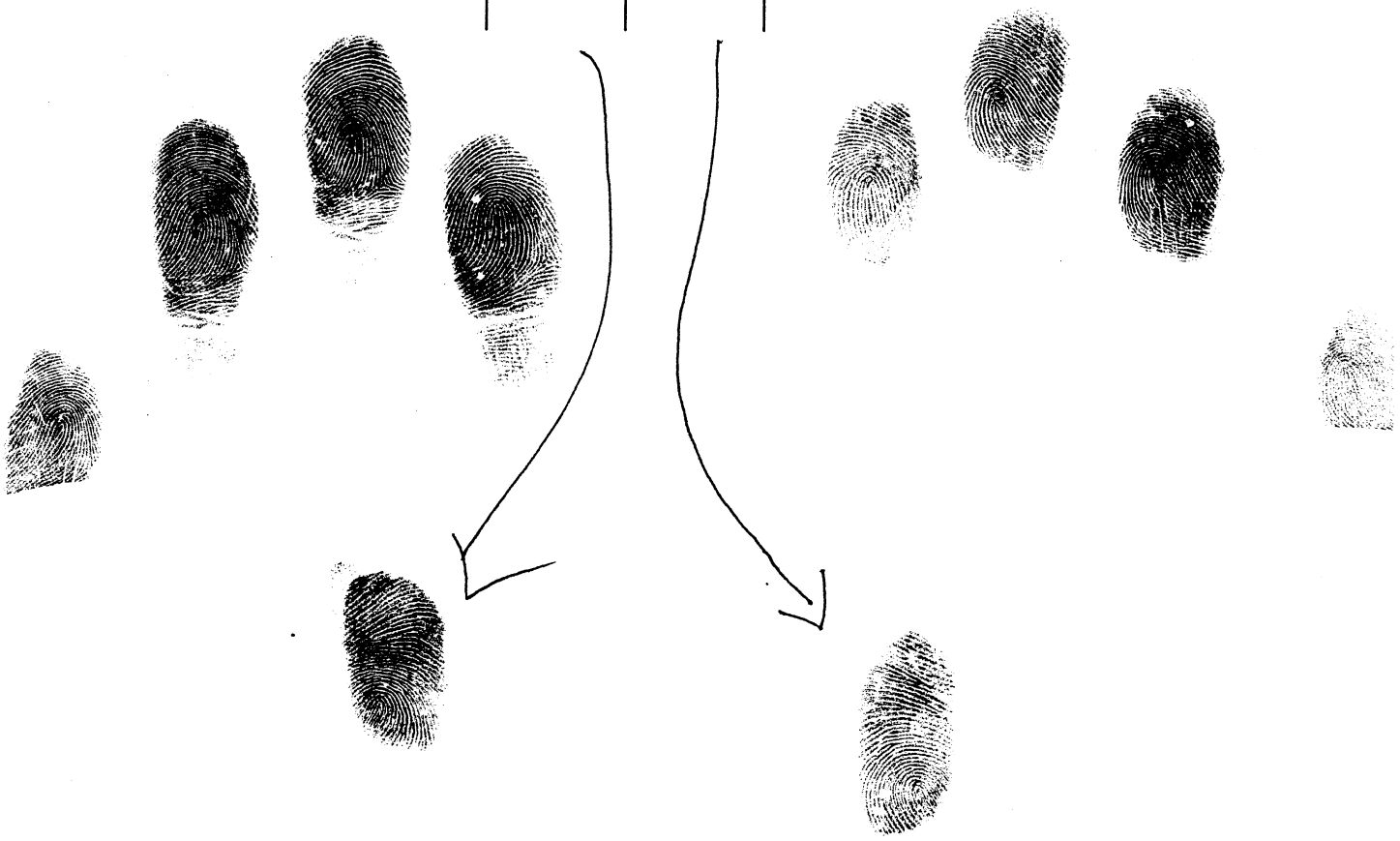
Race:

			Ethnicity:	**Sex:**
[ ] Asian/Pacific Islander	[ ] Black/African-American	[X] Caucasian	[ ] Hispanic	[X] Male
[ ] Native American	[ ] Other:_____		[ ] Non-Hispanic	[ ] Female

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto. Clerk of the Court:, Deputy Clerk. _____ Dated: 5-12-05

DEFENDANT'S SIGNATURE: X Michael Rees

Left four fingers taken simultaneously	Left Thumb	Right Thumb	Right four fingers taken simultaneously



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON

Plaintiff,

vs.

MICHAEL JOHN REISE,

Defendant.

NO. 04-1-1962-5

WARRANT OF COMMITMENT ATTACHMENT TO JUDGMENT AND SENTENCE (PRISON)

DOB: 10-21-1957
SID: UNKNOWN FBI: 958941P8
PCN: 766810926
RACE: W
SEX: M
BOOKING NO: C0127968

THE STATE OF WASHINGTON TO:

The Sheriff of Thurston County and to the proper officer of the Department of Corrections.

The defendant MICHAEL JOHN REISE has been convicted in the Superior Court of the State of Washington for the crime(s) of: MURDER IN THE SECOND DEGREE

and the court has ordered that the defendant be sentenced to a term of imprisonment as set forth in the Judgment and Sentence.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

By direction of the Honorable:

BETTY J. GOULD
CLERK

By:
DEPUTY CLERK

EXHIBI F 1of3

STATE OF WASHINGTON)
) DECLARATION
COUNTY OF THURSTON)

I, KENNETH B. GILLASPIE, declare I am currently incarcerated in jail and attest to the following:

1. I am the affiant herein, over the age of eighting, and competent to be a witness. I can personally attest to the following:

2. I was a resident at the Bailey's motel for approximately seven(7) months in 2004. I also worked as an assistant to the maintenance man at Bailey's motel. I only remember his first name, Shawn, and his basses name as Mr. Kim, the manager of Bailey's.

3. On October 26, 2004, at approximately 3:30 pm to 4:00 pm, I was in the back of Bailey's motel blowing leaves off the driveway of Building 501. At this time I noticed a really big man with reddish curly hair holding a bat raised over his head and moving towards another smaller black haired man about eight(8) to ten(10) feet away from him. I than seen the black haired man raise what appeared to be a gun and heard, "Stop" yelled out. Than I heard, "shoot me motherfucker," yelled out as the reddish haired big man continued moving forward until what appeared to be close enough to bring the bat down on the black haired mans head. It was at this moment I heard one shot ring out and I immediately turned and ran.

4. Due to my having a warrant out for my arrest, for failure to report in Lewis county, I left the area of the shooting without reporting what I saw. But at approximately 7:00 pm to 8:00 pm. that same night I returned to Bailey's motel believing the authorities would have concluded their business and no longer be there. However, as soon as I pulled up to the hotel a Lacey police officer stepped up to the vehicle and asked my name and if I lived at the hotel. I told him my name and answered yes, I did live there. He than wrote something down on a note pad and let me continue on without any further inquiries. I was never questioned by any authorities about any-thing pertaining to what happened at Bailey's hotel to this present day.

5. On December 31, 2006 I was booked into the Thurston county jail and after five (5) days in the intake unit I was classified for the medium F tank and moved that day. Approx-imately thirty (30) days into being housed in F unit I was in a conversation with a prisoner named Michael Reise when he commented that after leasing Bailey motel he got into a conflict which resulted in him being arrested and why he was in jail. I than realized who he was and informed him that I was a witness to what happened that day. I than offered to come forward to tell the truth knowing he shot that man in self defense and because I did not come forward when I should have he was now doing time for a crime he did not even commit.

EXH: IT-F 3 of 3

I declare under penalty of perjury under the laws of the state of Washington, pursuant to RCW 9A.72.085, and the laws of the United States, pursuant to Title 28 U.S.C. § 1746, that the foregoing in true and correct.

Executed on this 15 day of February, 2006

Respectfully Submitted,

Kenneth Gillaspie

kenneth B. Gillaspie