

1. The Court in which I was sentenced is: Pierce County Superior Court,
Tacoma, Washington.

2. I was convicted of the crime(s) of: Assault, 9A.36.021(1)(c), 9.41.010,
9.94A.310, 9.94A.370, Robbery, 9A.56.190, 9A.56.200(1)(A),
9.41.010, 9.94A.310, 370.

3. I was sentenced after trial , after plea of guilty on _____, _____,
(Date of sentence) (Year)

The judge who imposed the sentence was Rudy Tollefson.
(Name of trial court judge)

4. My lawyer at trial court was: N/A

(Name and address if known; if none, write "none")

5. I did did not appeal from the decision of the trial court (if the answer is that I
did), I appealed to: Court of Appeals Division II.

(Name of court or courts to which appeal was taken)

My lawyer on appeal was: N/A

(Name and address if known, if none, than write "none")

The decision of the appellate court was was not published. If the answer is that
it was published, and I have this information), the decision is published in: _____

N/A

(Volume number, Washington Appellate Reports or)

(Washington Reports and page number)

6. Since my conviction I have have not asked a court for some relief from my
sentence other than I have already written above. (If the answer is that I have asked)

The court I asked was: N/A

(Name of court or courts in which relief was sought)

Relief was denied granted _____

(Date of decision, if more than one, dates of all decisions)

7. (If I have answered in question 6 that I have asked for relief), the name of my lawyer in the proceedings mentioned in question 6 was: N/A

(Name and address if known; if none, write "none")

8. If the answers to the above questions do not really tell about the proceedings and the court, judges and attorneys involved in your case, tell about it here: _____

 N/A

B. Grounds for Relief

(If I claim more than one reason for relief from confinement, I attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground," "Second Ground," "Third Ground." Etc.), I claim that I have (number) 1 reason(s) for this court to grant me relief from the conviction described in part A.

 FIRST Ground

(First, Second, etc.)

1. I should be given a new trial or released from confinement because [Here state legal reasons why you think that there was some sort of error made in your case which gives you right to a new trial or release from confinement.]:
Please see ATTACHMENT-A, First Ground.

2. The following facts are important when considering my case [After each fact statement, put the name of the person or persons who know the facts and will support your statement of the fact. If the fact is already in the record of your case, indicate that also.]: Facts to the case are within the entire record.

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

3. The following reported court decisions [include citations if possible] in cases similar to mine show the error I believe happened in my case [if none are known, state "None Known"]: Please see Attachment-A for reported Court decisions
Cases in support are cited in the First Ground.

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

4. The following statutes and constitutional provisions should be considered by the court [if none are known, state "None Known"]: Please See Attachment-A, all U.S. Constitutional provisions and Statutes are cited therein.

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

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

I have exhausted all available Washington State Department of Corrections Administrative Remedies and have been denied.

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

C. Statement of Finances

If you cannot afford to pay the filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form

- 1. I do do not ask the court to file this without making me pay the filing fee because I am so poor I cannot pay the fee.
- 2. I have \$ 4.07 in my prison or institution account. ✓
- 3. I do do not ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.
- 4. I am am not employed. My salary or wages amount to \$ 30.00 a month. My employer is:

W.S.P. / D.O.C.

(Name and address)

- 5. During the past 12 months I did did not get any money from a business, profession, or other form of self-employment. If I did, it was:

N/A

(Kind of self employment)

The total income I got was \$ 0.

- 6. During the past 12 months, I:

DID	DID NOT		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Get any rent payment. If so, the total amount I got was	\$ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Get any interest. If so, The total amount I got was	\$ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Get any dividends. If so, the total amount I got was	\$ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Get any other money. If so, the amount of money I got was	\$ _____

11/14/2006

• CMUNDEN

DEPARTMENT OF CORRECTIONS
WASHINGTON STATE PENITENTIARY

Page 1 of 1

OIRPLRAR

6.03.1.0.1.2

PLRA IN FORMA PAUPERIS STATUS REPORT
FOR DEFINED PERIOD : 05/01/2006 TO 10/31/2006

DOC : 0000743150

NAME : MONTA JOHNATHON

ADMIT DATE :09/15/1998

DOB : 04/19/1977

ADMIT TIME :00:00

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
41.69	8.34	4.07	0.81



Concya Munder
11/14/06

E. Oath of Petitioner

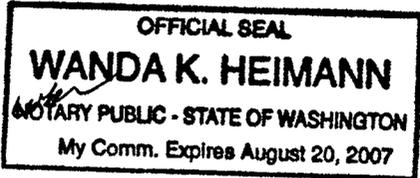
THE STATE OF WASHINGTON)
) SS
COUNTY OF WALLA WALLA)

After being first duly sworn, on oath, I dispose and say, That I am the petitioner, that I have read the petition. I know it's contents, and believe that the petition is true.

Nov. 11, 2006
Date

[Signature]
Signature of petitioner Johnathon
North
743150

SUBSCRIBED AND SWORN to me this 11th day of Nov., 2006.



Wanda K. Heimann
NOTARY PUBLIC in and for the State of Washington
Residing at Walla Walla, WA

My commission expires: 8/20/06

If a Notary is not available, explain why none is available and indicate who can be contacted to help you find a Notary:

Then sign below:

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

Dated at _____ on this _____ day of _____,
(City and State)

Signature of Petitioner

Print/Type Name

ATTACHMENT-A

FIRST GROUND

Mr. Jonathan Monta, alleges a violation of the United States Federal Constitutions Fourteenth Amendment of § 1, (Liberty); without being provided procedural due process of law.

Mr. Monta was not afforded all requisite due process of law at his Prison Disciplinary Hearing held on May 22, 2006.

On February 21, 2006, Mr. Monta was accused of committing a Serious Disciplinary Infraction of: "Possession, introduction, or transfer of any Narcotic, Controlled Substance, illegal drug, unauthorized drug or drug Paraphernalia," Under the Washington Administrative Code (WAC) 137-28-260, (#603).

Violation of this Code can result in a number of Sanctions including "Loss of Good Conduct Time" and disciplinary Segregation. WAC 137-28-350.

1. Facts pertaining to the challenged disciplinary proceedings.

On April 18th, 2006, Mr. Monta signed a Hearing Notice/Appearance Waiver Form which informed him of the upcoming hearing and his procedural rights. See: EXHIBIT-1, Hearing Notice/Appearance Waiver. Mr. Monta also requested witness statements from: Chief investigator Mr. Gilbert George, and from Confidential informant's. See: EXHIBIT-2, (a)(b) and (c). Statements from Gilbert George, and from Family members, Mr. Larry Monta and Johnna Hibon.

Mr. Monta also requested for two Continuance's See: EXHIBITS-3, (a)(b) and (c). Request for Continuance and two memorandum's Granting Continuances.

During the course of the Hearing Proceeding's Mr.Monta, was informed by the hearings officer that he would have to file a "Public Disclosure" to see any and all evidence. See: EXHIBIT-4, (a)(b) and (c). Three letters, Responses from the Public Disclosure Department.

Along with the above mentioned documents and Request's he received a copy of the notice of the infraction and summary of the Confidential information which formed the basis for the infraction. See: EXHIBIT-5, Initial Serious Infraction Report.

The disciplinary hearing took place on May 22,2006. See: EXHIBIT-6, (a)(b), Disciplinary Hearing Minutes and Findings.

During the hearing Mr.Monta Plead not Guilty to the WAC 137-28-260, (#603), Rule Violation, and was given an opportunity to contest the charge. However, Mr.Monta was denied to review any evidence used against him because no evidence supporting the infraction report was present at the hearing, and he was denied all reports from the Confidential Sources during the disciplinary proceedings.

The hearing officer found Mr.Monta Guilty of the Violation based upon the Confidential information summarized in the notice of the infraction, In addition to other reports and statements reviewed by the hearing officer after the hearing, ("DAYS LATER"). See: EXHIBIT-6, (a) and (b). Disciplinary Hearing Decision.

The identities of the Confidential informant's were not revealed due to safety concerns and Confidential information recieved was determined by the hearing officer to be Credible and Reliable, contrary to Mr.Monta's Procedural Rights. See: EXHIBIT-6,(a)and (b).

Mr.Monta's hearing was a complete "SHAM" and was not held at the McNeil Island Correctional Center (MICC), But instead at the Washington State Penitentiary (WSP).

Mr.Monta alleges that the hearing officer informed him by stating: Confidential Information-Source of Confidential Information Works at another Facility and is "UNABLE" to attend the hearing. See: EXHIBIT-6,(a) and(b).

The hearing officer imposed disciplinary Sanctions of:

1. Loss of 30 days Confined to Quarters, (CTQ),
2. Loss of 90 days of Good Conduct Time (GCT),
3. Mr.Monta was transferred to Closed Custody due to this Disciplinary Infraction.

Mr.Monta appealed the finding of Guilt to the Washington State Penitentiary (WSP); Superintendent. See: EXHIBIT-7, (a) and (b). Appeal. See: WAC 137-28-380 (1).

On June 6th,2006, Mr.Monta's Appeal was denied by the Superintendent's designee, Mr.Ron Van Boening, Associate Superintendent. See: EXHIBIT-8, (a) and (b), Disciplinary Appeal Decision.

Mr.Monta challenges the disciplinary proceedings for several stated reasons:

1. Mr.Monta was denied to prepare a defense;
2. Denied to present documentation, forced to file Public disclosure request, and denied all documents until disciplinary hearing was final;
3. Denied to have witnesses interviewed or attend the hearing in person;
4. No-Evidence presented at the hearing linking Mr.Monta to any Guilt of a (#603);

5. The record does not contain any factual information from which the hearing officer can reasonably conclude that the source of the Confidential information was Reliable. The Four general recognized ways of establishing the reliability of a Confidential Prison informant was not met.

2. Mr.Monta was improperly found Guilty.

An inmate subjected to a disciplinary hearing resulting in a loss of liberty, unlike the accused in a Criminal trial, is entitled only to minimal due process protection. In re Plunkett, 57 Wn.App.230,235, 788 P.2d 1090 (1990).

In Wolff V. McDonnell, 418 U.S.539,94 S.Ct.2963,41 L.Ed.2d 935 (1974); The Supreme Court set forth the due process rights of a Prison inmate at a disciplinary proceeding where State created liberty is at issue. See: Wolff, 418 U.S. at 563-66, 94 S.Ct. at 2978-79.

In the instant case, Specific requirements for due process was not met at Mr.Monta's disciplinary hearing.

First: Mr.Monta was denied to prepare a defense.

In Wolff V. McDonnell, The Court held that in cases involving disciplinary proceedings, due process required Prison Officials to give the accused inmate at least (24) hours notice of the charges to allow him to prepare for the hearing. Id. 418 U.S. at 564, 94 S.Ct. at 2978-79.

See: Grillo V. Coughlin, 31 F.3d 53 (2nd Cir. 1994) at 56,[2], a hearing in which the false accusation or evidence is shown to the fact-finder but concealed from the accused would not comport with the due process standard of Wolff V. McDonnell,

See also: Koenig V. Vannelli, 971 F.2d 422 (9th Cir. 1992) at 423, and Young V. Kann, 926 F.2d 1396 (3rd Cir. 1991);

1. Inmate facing disciplinary charges must have opportunity to marshal facts and prepare defense;
2. When Prison Officials limit inmates efforts to defend himself, they must have legitimate penological reasons.

Here, Mr.Monta was denied to apprise the contents of the evidence. See: WAC 137-28-300,(3), Conduct of hearing.

The inmate shall be apprised of the content of that evidence and shall be allowed to rebut that evidence during the hearing. See also: WAC 137-28-290,(2);(c), To present written statements from other inmates, Staff, or other persons only if those statements would be relevant to the infraction and have a tendency to demonstrate his/her innocence; (f); To have access to non-Confidential reports and records used by the hearing officer during the fact finding stages.

Mr.Monta was denied to review the claimed "Checks".

Secondly: Mr.Monta was denied to present documentation of the requested statements of the Confidential Informant's (Sources).

Mr.Monta was told by the hearing officer to file a Public disclosure request. Mr.Monta did as informed and was denied all documents until the disciplinary hearing is completed. See: EXHIBIT-4,(a) and EXHIBIT-7,(a)and (b).

In Wolff V. McDonnell,418 U.S. 539, 94 S.Ct.2963 (1974); Prisoner's at these disciplinary hearings are entitled to: (2) An opportunity to call witnesses and present documentary evidence in thier defense.

Thirdly: Mr.Monta claims the hearing officer failed to personally interview or call any witnesses or Confidential informant's.

Mr.Monta has a conditional Constitutional right to call witnesses to testify. " The hearing officer is required to personally ascertain the reason for the... unwillingness to testify ". Instead the hearing officer wrote in the disciplinary hearing minutes and findings. See: EXHIBIT-6,(a) and (b), which states: " Confidential information works at another facility and is unable to attend the hearing ".

Mr.Monta's Right to call witnesses was not adequately protected ...because the hearing officer lacked the opportunity to judge the authenticity of the witnesses' refusals ". See: Hill V. Selsky, 19 AD.3d 64, 795 NYS.2d 794 (NY S.Ct. App. Div.3rd Dept. 2005); Hearing officer erred in refusing to personally interview potential witnesses. See also: WAC 137-28-290 (2),(d).

Fourth: Mr.Monta alleges that there was no evidence presented at the hearing.

Nothing stated within the infraction report was presented at the hearing.

Implicit in the due process requirement of a written decision is the requirement that the disciplinary finding be supported by " some evidence in the record ". See: Superintendent V. Hill, 472 U.S.445, 455,105 S.Ct.2768,2773-74 (1985); The "some evidence" standard was further refined by the Washington State Supreme Court in In re Reismiller, 101 Wn.2d 291. Reismiller, held that when a Prison disciplinary Committee finds an inmate Guilty of the infraction, that finding must be based on some evidence which "LINKS" the inmate to the infraction. Id. at 297; See also: In re Burton, 80 Wn.App.573.

In this case, Mr.Monta received a written decision that was not supported by any evidence in the record. There is absolutely "No-Shred " of any evidence that link's Mr.Monta to a Violation of (#603).

Mr.Monta attaches a Sworn Affidavit in support of his contentions that there is absolutely no evidence linking him to a violation of WAC 137-28-260, (#603). See:EXHIBIT(J.M.).

Because the Department of Corrections has not shown that he received the process due him at the challenged hearing, he respectfully requests that the hearing Officer's decision should be dismissed.

Review of disciplinary proceeding is limited to determining whether the action taken was 'so arbitrary and capricious as to deny the Petitioner a fundamentally fair proceeding. In re Personal Restraint of Reismiller, 101 Wn,2d 291,294,678 P.2d 323 (1984).

Mr.Monta contends among other things, that his due process rights were violated when the hearing officer "relied " on Confidential information in finding him Guilty of the charged infraction. Because nothing in the record "clearly establishes" that the source of the Confidential information was reliable.

When a Prison disciplinary proceeding is based on Confidential information, the record must contain some factual information from which the hearing officer can reasonably conclude that the source of the Confidential information was reliable. See: Zimmerlee V. Keeney,831 F.2d 183, 186 (9th Cir.1987); Cert.denied, 487 U.S.1207,108 S.Ct. 2851,101 L.Ed.2d 888 (1988); Wells V. Israel, 854 F.2d 995,999 (7th Cir.1988).

There are Four General recognized ways of establishing the reliability of a Confidential Prison informant:

1. The oath of the investigating officer as to the truth of his report containing Confidential information;
2. Corroborating testimony;
3. A statement on the record by the hearing officer that he had firsthand knowledge of the source of the information and considered it reliable based on a past record of reliability; or
4. In Camera review of the material documenting the investigator's assessment of the informant's Credibility.

See: Wells, 865 F.2d at 999.

A Court's review of a Prison official's determination of reliability should be deferential. See: Zimmerlee, 831 F.2d at 186.

Here, the hearing officer stated on the record that he reviewed the Confidential information and found it to be Credible and Reliable. But these conclusory assertions of reliability, by themselves, are not sufficient to support a finding that the information was reliable. Nowhere does the record state nor does the hearing officer, state, that the informant had personal knowledge and personal reliability in the past either.

In, Sira V. Morton, 380 F.3d 57 (2nd Cir.2004), at 79-80, (citing, United States V. Razor, ~~500~~ 500 F.2d 1330,1332 (5th Cir.1979)(holding that corroboration of information that " was readily available to many persons " does not demonstrate reliability). at page 80, [19]; As the Supreme Court has long cautioned, a conclusory statement of culpability provides " Virtually no basis at all" for a reviewing officer to make a reasoned and independent judgment on the matter at issue. Illinois V. Gates, 462 U.S. at 239,103 S.Ct.2317. Due Process does not permit a hearing officer simply to ratify the bald conclusions of others; it requires some inquiry

to determine whether the totality of facts and circumstances reasonably supports the proffered conclusion. at page 80,[20]; We today hold that the reliability of evidence is always properly assessed by reference to the totality of the circumstances and that an informant's record for reliability can not by itself, establish the reliability of bald conclusions or third party hear-say.

The hearing officer "did-not" interview the informant's privately nor confirm that he made an independent determination regarding the reliability of the Confidential Source's Credibility of the information, other than accepting the investigator's secondary report.

Mr.Monta suffers from a denial of due process violation by being convicted on a misconduct charge, when the only evidence offered against him is a hearsay recital, by the charging officer, of an uncorroborated report of----unidentified informant's in this case.

Mr.Monta claims he was denied due process when his conviction of the disciplinary charge rested soley on a hearsay report with absolutely not a shred of any evidence of Violating Prison Rule (#603), or of an unidentified informant's account which offered no basis for an independent assessment of the informant's "Credibility or Reliability".

Confidential informant's Reliability alone,is insufficient to support "Hearsay" or conclusionary statements, resulting in Mr.Monta's United States Federal Constitutional Rights of Procedural Due Process of Law to be violated of the Fourteenth Amendment Clause.

A Court reviewing a Habeas Petition that challenges a Prison disciplinary action must determine whether there is "Some Evidence" to support the action. Superintendent V. Hill , 472 U.S.445,456 (1985). In addition,the evidence must possess "Some indicia of Reliability". Cato V. Rushen, 824 F.2d 703,705 (9th Cir.1987).

CONCLUSION/RELIEF

Therefore, because the evidence is demonstrably insufficient to support the hearing officer's decision, the Respondent must be ordered to expunge the infraction and restore Petitioner's Good Time Credits and restore Petitioner's Security Classification to what it would be without the infraction.

RESPECTFULLY SUBMITTED This _____ day of _____ 2006.

Mr. Johnathon Monta, #743150
Washington State Penitentiary
1313 N. 13th Street
Walla Walla, Wa 99362

EXHIBIT 1.

FORM 6

Hearing ID#: 9126



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

Evidence#: Cell#: RB2071

CellTag:

HEARING NOTICE / APPEARANCE WAIVER

OFFENDER NAME	MONTA, JOHNATHON	DOC NUMBER	743150	FACILITY	WSP	DATE	4/17/2006
TYPE OF REVIEW	DISCIPLINARY	HEARING SCHEDULED FOR	4/24/2006	LOCATION	Hearings Office- B40-	TIME	8:00 AM

REASON FOR HEARING (INCLUDING ALL ALLEGATIONS OF MISCONDUCT IF APPROPRIATE):

603 Posses/intro or transfer of narcotic/controlled sub/illegal drug/unauthorized drug or paraphernalia

I HAVE BEEN PROVIDED A CERTIFIED SIGN LANGUAGE INTERPRETER

INTERPRETER NAME/DATE

I HAVE BEEN PROVIDED WITH A SPANISH TRANSLATION OF THE CHARGES AGAINST ME OR SE ME HA DADO UNA TRADUCCION AL ESPAÑOL DE LOS CARGOS ENI ME CONTRA EL LIA

OFFENDER RIGHTS: DATE/FECHA AT TIME/HORA OFFENDER SIGNATURE/FIRMA DE OFENSOR

YOU HAVE THE RIGHT TO REMAIN SILENT AT THE HEARING, IF YOU CHOOSE TO REMAIN SILENT, YOUR SILENCE MAY BE USED AGAINST YOU AND THE DECISION WILL BE BASED ON THE EVIDENCE PRESENTED.

YOU MAY WAIVE YOUR APPEARANCE AT THE HEARING.

YOU MAY REQUEST WITNESS STATEMENTS: (List Witnesses Below)

YOU DO NOT HAVE THE RIGHT TO CROSS EXAMINE WITNESSES, HAVE THE INFRACTING STAFF PRESENT AT THE HEARING, OR HAVE A POLYGRAPH OR OTHER SUPPLEMENTAL TESTS.

STAFF NAME	POSITION	OFFENDER NAME	DOC NUMBER
<i>Gilbert George</i>		<i>Confidential Informant</i>	

CRIMINAL CHARGES MAY BE PENDING. ANYTHING YOU SAY HENCEFORTH MAY BE USED AGAINST YOU IN A COURT OF LAW

STATUS OF CRIMINAL CHARGES: NONE UNKNOWN PENDING IN

COUNTY CHARGES

YOU HAVE THE RIGHT TO REVIEW ALL RELATED REPORTS AND A SUMMARY OF ANY CONFIDENTIAL INFORMATION.

YOU MAY REQUEST A STAFF ADVISOR (If approved by the Hearing Officer). REQUESTED WAIVED

YOU MAY REQUEST AN INTERPRETER (if unable to speak and/or understand the English language). REQUESTED WAIVED

YOU MAY REQUEST A CERTIFIED SIGN LANGUAGE INTERPRETER IF YOU ARE HEARING IMPAIRED. REQUESTED WAIVED

YOU MAY APPEAL THE DECISION AND/OR SANCTIONS TO THE FACILITY SUPERINTENDENT/SUPERVISOR (within 15 working days)

IF YOU ARE AN INDETERMINATE SENTENCE CASE AND WITHIN 60 DAYS OF AN ESTABLISHED RELEASE DATE, A GUILTY FINDING COULD RESULT IN THE CANCELLATION OF YOUR RELEASE DATE.

I, ~~DOC#~~ WAIVE MY RIGHT TO THE REQUIRED 48 HOURS NOTICE PRIOR TO BEING SEEN BY THE (CLASSIFICATION/ADMINISTRATIVE/SEGREGATION) HEARING OFFICE AND AUTHORIZE THE HEARING OFFICER TO MAKE A DISPOSITION REGARDING THE INFORMATION AND EVIDENCE PRESENTED TO THE HEARING OFFICER AS PERTAINS TO MY PARTICULAR SITUATION.

I, MONTA JOHNATHON DOC 743150, WAIVE MY RIGHT TO THE REQUIRED 24 HOURS NOTICE PRIOR TO BEING SEEN BY THE (DISCIPLINARY) HEARING OFFICER AND AUTHORIZE THE HEARING OFFICER TO MAKE A DISPOSITION REGARDING THE INFORMATION AND EVIDENCE PRESENTED TO THE HEARING OFFICER AS PERTAINS TO MY PARTICULAR SITUATION.

COPY OF THIS FORM AND INFRACTION, WITH ATTACHMENTS, RECEIVED.

[Signature] 4-19-06 *[Signature]* 4-18-06 1538

OFFENDER/WITNESS SIGNATURE DATE TIME STAFF SIGNATURE DATE TIME

I received a request to submit a witness statement to you regarding the infraction submit on inmate Johnathon Monta # 743150.

The infraction submitted stand as my witness statement.

EXHIBIT-2, A

George Gilbert
Chief Investigator
McNeil Island Corrections Center
253.589.4490 office
253.589.4491 fax

DOC CONFIDENTIALITY: This transmission may contain confidential information protected by state or federal law. The information is intended only for use consistent with the state business discussed in this transmission. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents is strictly prohibited. If you have received this transmission in error, please notify the sender immediately to arrange for return, destruction or deletion of the transmission. Thank you and your cooperation is appreciated.

AFFIDAVIT

EXHIBIT-2B

STATE OF WASHINGTON)

) ss:

COUNTY OF

I, Larry Monta, declare under penalty of perjury that the following statements within this affidavit are true and correct to the best of my knowledge and has been executed on this 10 day of MAY, 2006, at

in the County of PEIRCE, Washington:

I have recently been a resident of the address 18829 Pacific Ave. Spanaway Washington 98387.

At no time during my residence at this address did I send any money order to any residence in the Lakewood Community.

Johnathon Monta #743150 is a member of my family. I have written many letters to the Penitentiary, to him.

The address that is in question is a Trailer Court, we have many residents that use this address.

There were no "Money Orders" sent from this address for Johnathon Monta, to any address.

Larry Monta
(Affiant's Name)

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Wainwright, 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.

AFFIDAVIT

STATE OF WASHINGTON)

) ss:

COUNTY OF

EXHIBIT-2-C

I, Johnna Hibdon, declare under penalty of perjury that the following statements within this affidavit are true and correct to the best of my knowledge and has been executed on this _____ day of May, 2006, at

in the County of PEIRCE, Washington:

I am a resident of the address 18829 Pacific Ave. Spanaway Washington. 98387

At no time during my residence at this address did I send any money orders to any residence in the Lakewood Community.

Johnathon Monta #743150 is a member of my family. I have written many letters to the Penitentiary, to him.

The address that is in question is a Trailer Court, we have many residents that use this address.

There were no "MONEY ORDERS" sent from this address for Johnathon Monta, to any address.

In fact any money orders that were sent from this address were sent to Johnathon Monta in Prison and that is the only time.

Johnna Hibdon
Johnna Hibdon

Affidavit pursuant to 28 U.S.C. 1746, Dickerson v. Wainwright, 626 F.2d 1184 (1980); Affidavit sworn as true and correct under penalty of perjury and has full force of law and does not have to be verified by Notary Public.

REQUEST FOR CONTINUANCE

3
EXHIBIT-A

WAC 137-28-420 (1) At any time during the disciplinary process, the hearing officer may continue the hearing for any reasons, including the following:

(h) To obtain crime lab reports or other documentation.

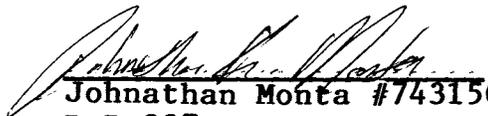
(k) A reasonable request by the inmate.

(2) Continuances shall be for no longer than necessary, but shall not exceed twenty working days, unless approved by the superintendent.

WAC 137-28-430 EVIDENCE. (1) Physical evidence of infractions shall be secured and protected from contamination, loss, or damage, when possible.

(2) A documented record of the chain of custody of physical evidence shall be maintained by the evidence custodian. The evidence custodian shall be supervised by the hearing officer.

Under the WAC rules I am requesting a continuance until May 22, 2006. During this time I would ask that I be provided with any and all reports, and or evidence. The name(s) of any informant redacted to comply with WAC 137-28-270(g). I request this time so that I may review any evidence, such as envelopes that these alleged money orders came in; the actual money orders themselves. Are these relevant documents, reports, supplemental reports available at the present time for review? This will also give me time to contact witnesses who live at the address listed as the sending address and present my finding to this hearing as to the facts of this hearing. Having this hearing now will not allow me to completely present the truth of the matter which will exonerate me completely.


Johnathan Monta #743150
R-B-207
Wa.State Pen.
1313 N.13th
Walla Walla, Wa.99362

WASHINGTON STATE PENITENTIARY
Walla Walla, Washington



EXH-3B

MEMORANDUM

TO: KEN JURGENSEN
MSCAMU Major Hearings Lt.

DATE: April 24, 2006

FROM: J. Hoppen
Major Hearings Clerk

SUBJECT: Continuance of a
Disciplinary Hearing

I am requesting a continuance of the DISCIPLINARY HEARING on 04/24/06, due to inmate request for witness statements.

<u>Unique #</u>	<u>Inmate Name</u>	<u>Inmate Number</u>	<u>Inmate Housing</u>	<u>Disciplinary Hearing Date Rescheduled</u>
9128	MONTA, Johnathon	743150	RB2071	Within 20 days

Approved:


Ken Jurgensen, Hearings Lt.

jh
CC: Inmate

WASHINGTON STATE PENITENTIARY
Walla Walla, Washington

EXH-3, C



MEMORANDUM

TO: KEN JURGENSEN DATE: May 2, 2006
MSC/IMU Major Hearings Lt.

FROM: J. Hoppen SUBJECT: Continuance of a
Major Hearings Clerk *Disciplinary Hearing*

I am requesting a continuance of the DISCIPLINARY HEARING on 04/26/06, due to inmate request to obtain documents.

<u>Unique #</u>	<u>Inmate Name</u>	<u>Inmate Number</u>	<u>Inmate Housing</u>	<u>Disciplinary Hearing Date Rescheduled</u>
9128	MONTA, Johnathon	743150	RB2071	Within 20 days

Approved:

Ken Jurgensen, Hearings Lt.

jh
CC: Inmate



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
MCNEIL ISLAND CORRECTIONS CENTER
P.O. Box 88900 • Steilacoom, Washington 98388-0900 • (253) 588-5281

EXHIBIT-4, A

May 8, 2006

Johnathon Monta, DOC 743150
Washington State Penitentiary
PO Box 2019 K-B-55
Airway Heights, WA 99001

Dear Mr. Johnathon Monta:

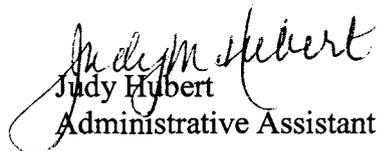
Re: PUBLIC DISCLOSURE REQUEST #048

I received your Public Disclosure Request for a copy of the Major Infraction, No. 9128 received at McNeil Island Corrections Center regarding envelope(s) and Money Order(s).

I am forwarding your request to the department that retains these records. We will require an additional 10 business days from the date of this letter to conclude our document search. At that time, I will notify you of the number of documents available and the cost for processing your request.

Thank you for your cooperation in this matter.

Sincerely,


Judy Hubert
Administrative Assistant 4

JH:slw 048

cc: Disciplinary Hearings Unit
Records Unit
Central File
File

"Working Together for SAFE Communities"



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
WASHINGTON STATE PENITENTIARY
1313 N. 13th Avenue • Walla Walla, Washington 99362-1065 • (509) 525-3610

EXHIBIT-4, B

May 10, 2006

Inmate Johnathon K. Monta #743150
Rainier B-207-1
Washington State Penitentiary
1313 N. 13th Ave.
Walla Walla, WA 99362

Dear Mr. Monta:

This letter is in response your request dated May 1, 2006 for a copy of evidence pertaining to Major Infraction Hearing ID #9128. Your request was received in this office on May 8, 2006 for response in accordance with WSP 280.510, Public Disclosure of Records.

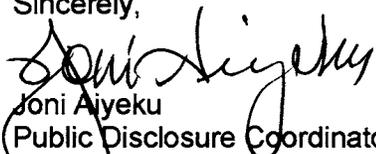
I have contacted the Hearings Lieutenants at WSP. According to their records, this is a hearing that has been continued twice to allow you the opportunity to obtain documentation. You will be able to review the evidence, if any, at the hearing that is scheduled for May 17, 2006. The evidence contains confidential information and you will be given a summary, but will not be given the documents at the hearing.

I will obtain copies of the documents after your hearing. At that time, I will contact you with cost and postage information. Please be aware however, that per RCW 42.17.310(1)(e), victims and witnesses to crimes where disclosure of the information would endanger the life, liberty and personal property of any individual is exempt from disclosure. RCW 42.17.310(1)(d) exempts specific intelligence and investigative records for ongoing investigations.

I anticipate that it will take approximately 10 business days after the date of your hearing to gather and process any responsive documents for this request. Per WAC 137-08-110, there will be a charge of 20 cents per copy. Per RCW 42.17.260, the agency will charge for the actual postage used to mail the public records to you. At that time (on or before June 1, 2006) I will contact you with copy cost and postage information.

Please refer to Public Disclosure Request #263-050806 in any future correspondence regarding this request.

Sincerely,


Joni Aiyeku
Public Disclosure Coordinator

WSP-PD 263

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DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
WASHINGTON STATE PENITENTIARY
1313 N. 13th Avenue • Walla Walla, Washington 99362-1065 • (509) 525-3610

EXHIBIT-4, C

June 6, 2006

Inmate Johnathon K. Monta #743150
Rainier B-207-1
Washington State Penitentiary
1313 N. 13th Ave.
Walla Walla, WA 99362

Dear Mr. Monta:

This letter is in response your request dated May 1, 2006 for a copy of evidence pertaining to Major Infraction Hearing ID #9128. Your request was received in this office on May 8, 2006 for response in accordance with WSP 280.510, Public Disclosure of Records.

I have located nine pages of documents responsive to your request. However, I have been informed that you have an appeal pending on this infraction. This means that the investigation of this matter is still ongoing. Therefore, at this time the documents are exempted from disclosure under RCW 42.17.310(1)(d). That RCW exempts specific intelligence and investigative records for ongoing investigations.

This request is now closed. You may request the same documents after your hearing process is concluded.

If you wish to appeal this decision, you may do so by sending a written appeal to the Department of Corrections Public Disclosure Administrator, Ms. Kay Wilson-Kirby. The address is P.O. Box 41114, Olympia, WA 98504-1114.

Please refer to Public Disclosure Request #263-050806 in any future correspondence regarding this request.

Sincerely,


Joni Aiyeku
Public Disclosure Coordinator

WSP PD 263

cc: Lt. Chuck Pease, Hearing Lt.

"Working Together for SAFE Communities"



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

RECEIVED
APR 07 2006
MICC
HEARING OFFICE

H
9128
4/19/07
W
RMA

FORM A

INITIAL SERIOUS INFRACTION REPORT

EXHIBIT 5

DATE OF INFRACTION 04-06-2006	OFFENDER NAME (LAST, FIRST) Monta, Jonathan	DOC NUMBER 743150	HOUSING ASSIGNMENT D-313-2
RULE VIOLATION #(S) 603 - Possession, introduction, or transfer of any narcotic controlled substance, illegal drug, unauthorized drug or drug paraphernalia.			
TIME OCCURRED 8:00am	PLACE OF INCIDENT (BE SPECIFIC) McNeil Island Corrections Center	DATE OCCURRED 02-21-2006	
WITNESS (1)	DAYS OFF	WITNESS (3)	DAYS OFF
WITNESS (2)	DAYS OFF	WITNESS (4)	DAYS OFF

MICC IIU obtained several envelopes that contained money orders, which were mailed to a person in the Lakewood Washington area from offenders and offender's family members. The person in the community who received the money orders turned them over to the Lakewood Police Department. Additional envelopes were received and turned over to MICC IIU. One envelopes received from the person in the community was post marked January 24, 2006 with a return address of 18829 Pacific Ave. Spanaway WA 98387. During the course of this investigation, I was able to link the return address to inmate Jonathan Monta #743150. The envelop contained two \$50.00 money orders. One dated November 21, 2005 and the other dated January 10, 2006. Information received from a confidential informant states the address in Lakewood Washington was for inmates to send money to, which was payment for drugs that were being brought into the facility. Inmate Jonathan Monta #743150 had a family member send money to an address in the Lakewood Washington area, which information received indicates the address to be a money drop for drugs. Inmate Jonathan Monta #743150 took substantial steps with another person to conspire, promote and facilitate the introduction of illegal drugs into a correctional facility.

The above information is a summary of confidential information which was received and deemed reliable and creditably.

REPORTING STAFF NAME (LAST, FIRST) Gilbert, George	SHIFT Days	DAYS OFF Sat/Sun
EVIDENCE TAKEN <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	EVIDENCE CASE NUMBER	EVIDENCE LOCKER NUMBER
DISPOSITION OF EVIDENCE (IF NOT PLACED IN LOCKER)		PHOTO SUBMITTED <input type="checkbox"/> YES <input type="checkbox"/> NO
		PLACED IN PRE-HEARING CONFINEMENT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
NAME(S) OF ALLEGED VICTIMS OF THIS INCIDENT		
LAST, FIRST 1)	Staff <input type="checkbox"/>	Volunteer/Visitor/Other <input checked="" type="checkbox"/> Inmate <input type="checkbox"/> DOC#
LAST, FIRST 2)	Staff <input type="checkbox"/>	Volunteer/Visitor/Other <input type="checkbox"/> Inmate <input type="checkbox"/> DOC#
RELATED REPORTS ATTACHED	<input checked="" type="checkbox"/> SUPPLEMENTAL	<input type="checkbox"/> BACKGROUND MEMOS
	<input type="checkbox"/> STAFF WITNESS STATEMENTS	<input checked="" type="checkbox"/> MEDICAL
	<input type="checkbox"/> TELE-INCIDENT	<input type="checkbox"/> USE OF FORCE
	<input type="checkbox"/> OTHER (SPECIFY)	

REPORTING STAFF SIGNATURE <i>George Gilbert</i>	DATE 4-6-06
INFRACTION REVIEW OFFICER SIGNATURE <i>D Simons</i>	DATE 040606

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

COPY OF :

Disciplinary Hearing Minutes and Findings:

PAGE 1-2.

Infraction Reports Confidential information Monta submitted a taped request for continuance, Granted. 4-24-06, Cont-I/m request to obtain documents.

5-2-06, Cont-I/m request for time to obtain documents + prepare a defense.

5-22-06, Monta submitted statements for Larry Monta =Johnna Hibdon. Another statement by George Gilbert.

Confidential Information-Source of Confidential Information Works at another Facility and is unable to attend the (Continued page 2) Hearing. In my review of this Confidential information, I determined that: 1. The Source will not be revealed to protect thier Safety and well being; 2. The information is Credible Reliable and Consistent, and 3. A summary of the Confidential information was provided.

No where does any the information state if my name on it, was on the money orders or envelopes. The return address listed is a trailer Court with many residents in it. There is nothing to connect me to any of these Money orders, Other my living in the trailer Court. I did not have any involvement with any drugs at M.I.C.C. or to introduce drugs into M.I.C.C.



DISCIPLINARY HEARING MINUTES AND FINDINGS (continued)

INMATE NAME (LAST, FIRST) MONITA, JOANNA-HON	DOC NUMBER 742150	DATE OF HEARING 12-22-6	PAGE 2 OF
---	----------------------	----------------------------	-----------

SUMMARY OF TESTIMONY (LIST WITNESSES TESTIFYING)/EVIDENCE USED/FINDING/REASONS FOR CONTINUANCES, DECISIONS AND SANCTIONS/ANY RELEVANT INFORMATION:

Hearing. In my review of the confidential information, I determined that: 1. the sources will not be revealed to protect their safety and well being. 2. the information is credible, reliable and consistent. and 3. a summary of the confidential information was provided.

So where does any the information that state I am some sort, was on the money orders or employed. The return address listed is a trailer court with many residents in it. There is nothing to connect me to any of these money orders, other my living in the trailer court. I did not have any involvement with any drugs at MICG or in the past.

[Faint handwritten notes and signatures]

Johnathon Monta # 145100

W.S.P. M

R.B-207-1

- 5/24/06 10:30am -

Johnathon K. Monta # 743150

EXHIBIT-~~7~~ A3B

Hearing ID # 9128

I would like to appeal the 603 major infraction I was found guilty of on 5/23/06. I was found guilty of an infraction that supposedly contained evidence.

The evidence being (1) Envelope & (2) money orders. (137-28-300 #3) An inmate shall be apprised of the content of that evidence and shall be allowed to rebut that evidence during the hearing.

During the course of this major infraction (4) weeks I asked the Lt. (Jorgensen) to see the evidence. Lt. Jorgensen was unable to provide evidence: (1) Envelope & (2) money orders. Lt. Jorgensen told me I would have to file a public disclosure to see any and all evidence. 5/2/06 I sent to W.S.P. & M.I.C.C. requesting any and all evidence. I never received any information pertaining to evidence from Lt. Jorgensen, W.S.P. or M.I.C.C.

On 5/22/06 I went in front of Lt. Jorgensen for a hearing on a (603). Lt. Jorgensen clearly stated he had no evidence pertaining to the matter at hand, and asked M.I.C.C. to send it to him. (Infraction clearly states Evidence Taken), they did not.

During the course of the hearing, I introduced (2) witness affidavits from the Pierce County area. (1) from a lady named Phanna Hibdon presently of (18829 Pacific Ave (Sp#1) Spanaway WA. 98387) The other was from my father Larry Monta, that no longer resides at (18829 Pacific Ave (Sp#1) Spanaway WA. 98387). They state at no time did anybody from that address send any money orders to another address for me. These affidavits were sworn to true and correct under penalty of perjury and has full force of law and does not have to be verified by notary public 28 U.S.C. 1746, Dickerson v. Wainwright

Also the witness affidavits go on to testify that the address in question (major infraction 603 Hearing ID # 9128 - 18829 Pacific AVE, Sparroway WA 98387) is a trailer court with many residents.

After the hearing was heard by LT. Jorgensen he said that he would send me the findings in the mail within (72) hrs. He needed to review the confidential info. without myself being present LT. Jorgensen reviewed evidence off the record. Evidence I was not able to rebut (WAC 137-28-300 #3)

On 5/22/06 (9:00 pm) mail call I received a letter from W.S.P. public disclosure office. Letter went on to say that (Joni Aiyaku, public Disclosure Coordinator) talked to LT. Jorgensen and that I would be able review the evidence (if any) at the hearing scheduled for May 17th 2006. The next paragraph says that (Joni Aiyaku) will obtain copies of the documents (After) the hearing. At that time I will be contacted with the cost and postage info. (WAC 137-28-300 #3)

On 5/23/06 at (10:30 AM) I was called into LT. Jorgensen's office. Off the record LT. Jorgensen found me guilty of a 603.

(WAC 137-28-310 #2) In reaching a decision of guilt or Innocence, Hearing officer must rely Solely on Evidence considered at hearing. No Evidence was obtained by myself or LT. Jorgensen.

LT. Jorgensen's reason for a guilty finding was: Did conspire to introduce drugs into MICE. A (603) says that I possessed a narcotic or paraphernalia. I did not. It says that I introduced a narcotic or paraphernalia. I did not. It says that I transferred a narcotic or paraphernalia. I did not. (WAC 137-28-310 #2)

Abraham Morale #743150 5/23/06 10:30 AM



EXHIBIT-8A

To: Monta, Johnathon	Number 743150	Date: 06/06/06
From: Charles Pease, Unit Manager	Superintendent's Designee Ron Van Boening, Associate Superintendent	

On 05/22/06 a DOC Hearing was held for the WAC violation(s) listed: 603

The hearing officer found you guilty of committing one or more infractions and imposed the following sanction (s): 90 days Loss of Good Conduct Time, 30 days CTQ

On 05/31/06 an appeal of this hearing was received from you in which you requested review of the hearing officer's decision and /or sanction. 90 days Loss of Good Conduct Time, 30 days CTQ

You appealed:
Your finding of Guilty for a 603 and sanctions imposed; 90 days Loss of Good Conduct Time, 30 days CTQ

- The finding(s) of guilt
- The sanction(s) imposed

In summary, your appeal states:

You are not guilty of the 603 infraction based upon your interpretation of WAC 137-28-300 #3 and WAC 137-28-310 #2. Your reasoning is you did not see the evidence present to the Hearing Officer for him to make his finding, which you feel you are entitled to see during the hearing based on the two above mentioned WAC's. You explained the contacting of WSP Public Disclosure Coordinator to see any evidence related to your infraction could be seen, of which you received a reply. You explain the witness affidavits submitted during the hearing and the reason they were submitted. Closing your appeal, you again state you had no evidence present at your disciplinary infraction hearing that you feel would allow the Hearing Officer to make the finding of guilty on said infraction of WAC 603.

In reviewing your appeal, I have made the following determination(s):

- The disciplinary hearing process was conducted in accordance with Due Process and WAC 137-28.
- At least 24 hours advance written notice was provided or you waived the 24 hour advance notice in writing/with witness.
- You were provided an opportunity to call witnesses and present documentary evidence on your behalf. If witness(es) were denied, the Hearing Officer provided you with written reason(s) for the denial.
- The finding was made by an impartial (not viewed as biased or having witnessed the incident being heard) Hearing Officer.
- A written statement of the finding(s) and sanction(s) imposed was provided to you and includes the evidence relied on and the reason(s) for the decision.
- Sanction(s) are in accordance with Presumptive Sanction Guidelines WAC 137-28.

If confidential information was submitted, I have confirmed:

- The Hearing Officer made an independent determination regarding reliability of the confidential source(s), credibility of the information and, safety concerns that justify non-disclosure of the confidential source(s) of information.
- The above information was documented on DOC form 21-962, Confidential Information Review Checklist.

On behalf of the Superintendent, I have investigated your appeal and find that:
Your infraction hearing for the WAC 603 was conducted by policy by the Hearing Officer. Investigation of material related to this infraction supports the major hearing finding. Your appeal letter provided information that supported the Hearing Officer's decision. You provided no information or evidence to change that decision. By policy, while you are still in the infraction appeal process and may have pending issues, per the WSP Public Disclosure Coordinator, your request for viewable information that you may receive by policy from them is currently on hold. There will be a letter sent to you explaining those details. Therefore, it is the finding of this investigator that your Disciplinary Hearing was conducted by policy and procedures outlined in WAC Title 137, Charter 137-28, and the decision of the Hearing Officer is affirmed.

- You were found guilty as explained above;
- There was insufficient evidence for a finding of guilt as explained below;
- A procedural error occurred as explained below;
- The sanction was appropriate, and you were provided with the Hearing Officer's written report;

EXHIBIT-8B.

AND THEREFORE, the decision of the Hearing Officer is:

Affirmed the finding of Guilty of WAC 603; Sanctions of 90 days Loss of Good Conduct Time, 30 days CTQ

- Affirmed
- Remanded for a new hearing. (You will be notified of the hearing date).
- Reversed
- Modified as follows:

Distribution: Original (W)- Offender, Superintendent (P) - Central File CUS/Counselor (G) D. Seg. CUS (if in segregation)

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

DOC 09-197 Rev (11/16/05)POL

DOC 461.000



To: Monta, Johnathan	Number 743150	Date: 6/6/06
From: BAR Unit Manager <i>Chuck Pease</i>	Superintendent's Designee	

On 2/21/06 a DOC Hearing was held for the WAC violation(s) listed: 603

The hearing officer found you guilty of committing one or more infractions and imposed the following sanction (s): Guilty 603, Loss of Good Time 90 Days and 30 Days Confinement to Quarters

On 5/31/06 an appeal of this hearing was received from you in which you requested review of the hearing officer's decision and /or sanction. Guilty 603, Loss of Good Time 90 Days and 30 Days CTQ

You appealed:
Your finding of Guilty for a 603 and Sanction imposed: Loss of Good Time 90 days and 30 Days CTQ.

- The finding(s) of guilt
- The sanction(s) imposed

In summary, your appeal states:

Your not guilty of the infraction 603 is based on your interpretation of WAC 137-28-300 #3 and WAC 137-28-310 #2. Reasoning is you did not see the evidence present to Hearing Officer for him to make his finding, which you feel you are entitled to see during the hearing based on the two above mentioned WAC's. You explained the contacting of WSP Public Disclosure Coordinator to see any evidence related to your infraction could be seen, of which you received a reply. You explain the witness affidavits submitted during the Hearing and the reason they were submitted. Closing your appeal; you again state you had no evidence present at your Disciplinary Infraction Hearing that you feel would allow the Hearing Officer to make the finding of Guilty on said infraction of WAC 603.

In reviewing your appeal, I have made the following determination(s):

- The disciplinary hearing process was conducted in accordance with Due Process and WAC 137-28.
- At least 24 hours advance written notice was provided or you waived the 24 hour advance notice in writing/with witness.
- You were provided an opportunity to call witnesses and present documentary evidence on your behalf. If witness(es) were denied, the Hearing Officer provided you with written reason(s) for the denial.
- The finding was made by an impartial (not viewed as biased or having witnessed the incident being heard) Hearing Officer.
- A written statement of the finding(s) and sanction(s) imposed was provided to you and includes the evidence relied on and the reason(s) for the decision.
- Sanction(s) are in accordance with Presumptive Sanction Guidelines WAC 137-28.

If confidential information was submitted, I have confirmed:

- The Hearing Officer made an independent determination regarding reliability of the confidential source(s), credibility of the information and, safety concerns that justify non-disclosure of the confidential source(s) of information.
- The above information was documented on DOC form 21-962, Confidential Information Review Checklist.

On behalf of the Superintendent, I have investigated your appeal and find that:
Your Infraction Hearing for the WAC 603 was conducted by policy by the Hearings Officer. Investigation of material related to this infraction supports the Major Hearing Finding. Your Appeal Letter provided information that supported Hearing Officers decision. You provided no information or evidence to change that decision. By policy while you are still in the Infraction Appeal Process and may have pending issues per the WSP Public Disclosure Coordinator your request for Viewable Information that you may receive by policy from them is currently on hold. There will be letter sent to you explaining those details. Therefore it is the finding of this investigator that your Disciplinary Hearing was conducted by policy and procedures outlined in WAC Title 137, Charter 137-28. and the decision of the Hearing Officer is affirmed.

- You were found guilty as explained above;
- There was insufficient evidence for a finding of guilt as explained below; *as*
- A procedural error occurred as explained below;
- The sanction was appropriate, and you were provided with the Hearing Officer's written report;

AND THEREFORE, the decision of the Hearing Officer is:

Affirmed the finding Guilty of WAC 603, and Sanctions: Loss of Good Time 90 Days and 30 Days CTQ

- Affirmed
- Remanded for a new hearing. (You will be notified of the hearing date).
- Reversed
- Modified as follows:

Distribution: **Original (W)**– Offender, **Superintendent (P)** - Central File **CUS/Counselor (G)** D. Seg. CUS (if in segregation)

The contents of this document may be eligible for public disclosure. Social Security Numbers are considered confidential information and will be redacted in the event of such a request. This form is governed by Executive Order 00-03, RCW 42.17, and RCW 40.14.

DOC 09-197 Rev (11/16/05)POL

DOC 461.000

On (5-23-06) I was found guilty of a (wae violation #603)

The infraction stated that I (possessed/introduced or transferred a narcotic/controlled substance/illegal drug/ unauthorized drug or paraphernalia.

During this (4-5) week infraction hearing, myself and Lt. Juergensen tried to find this Evidence. None was found. The infraction report has an (evidence taken box) it is clearly filled in/checked.

At the time of the hearing Lt. Juergensen states in the infraction minutes, that he was unable to obtain any evidence for the hearing.

Because of the statements in the (#603) infraction report (see infraction report) "Return Address of 18829 Pacific Ave Spanaway, Wa. 98387, During the course of this investigation, I was able to link the return address to inmate Johnathon Montz #743150"

I tried multiple times to obtain any and all originals, copies or photo/printed copies of this evidence, I was unable.

On (5-23-06) Lt. Juergensen found me guilty of the (wae violation #603) by stating: Did conspire to introduce drugs into MFC.

Because Lt. Jorgensen found me guilty of the (wac violation #603) I loss (90) days good conduct time - (20) security custody points - (30) days confined to quarters. Also because of this infraction the Washington State Penitentiary/D.O.C. has taken from myself and my family, my contact visits for an indifinet time.

This (wac violation # 603) was held without any evidence. It was unfair and unprofessional

Johnathon K. Montz

Johnathon K. Montz 743150

W.S.P. B-D-15-2

1313 Nth 13th AVE

WALLA WALLA WA 99362

Affidavit present to 28 D.S.C. 1746, Dickson v. Wainwright,
626 F.2d 1184 (1980); Affidavit sworn as true and correct
under penalty of perjury and has full force of law and
does not have to be verified by Notary Public.