

07 MAR 20 PM 1:21

STATE OF WASHINGTON

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION Two

NO. 36189-2

PERSONAL RESTRAINT PETITION

Donald E. Jefferson
Petitioner's Full Name

If there is not enough room on this form, use the back of these pages or use other paper. Fill out all of the form and other papers you are attaching before you sign this form in front of a notary.

A. STATUS OF PETITIONER

I, Donald Edward Jefferson - Reside at the Washing-
(Full name and current address)
ton Correction Center PO Box 900, Shelton Wa. 98584. Mason County.

Apply for relief from confinement. I am am not _____ now in custody serving a sentence upon conviction of a crime. (If not serving a sentence upon conviction of a crime) I am now in custody because of the following type of court order: _____
(Identify type of court order)

1. The court in which I was sentenced is: Thurston County Superior Court
2. I was convicted of the crime of: Identity Theft 1^o, Theft 1^o, Criminal Impersonation, Possession of cocaine, 2 counts of Witness Tampering.
3. I was sentenced after (check one) Trial Plea of Guilty _____ on Feb. 15, 2007
Date of Sentence
4. The Judge who imposed sentence was Christine A. Pomeroy
5. My lawyer at trial court was Richard Woodrow, 3732 Pacific
Name and Address if known

CERTIFICATE OF SERVICE
I certify that I mailed _____
copies of PRP & attachments
to 1 court & Thurston
& Colt Pros
57407 CA
Date: _____ Signed: _____

PETITIONER MAY FILE THE
PETITION WITHOUT PAYMENT OF
A FILING FEE
[Signature]
COURT CLERK 4/3/07

6. I did did not _____ appeal from the decision of the trial court. (If the answer is that I did), I appealed to: My attorney filed notice of appeal to Court of Appeals Div. 2.
Name of court or courts to which appeal took place on Feb 26, 2007

7. My lawyer for my appeal was: None, not appointed yet
Name and address if known or 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 _____

NOTE: Direct appeal in process. Requesting Accelerated review here.

8. 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 _____
Name of court N/A

N/A
Date of Decision or, if more than one, all dates)

(If you have answered in question 7 that you did ask for relief), the name of your lawyer in the proceedings mentioned in my answer was _____
Name and address if known N/A

N/A

9. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here: My attorney filed for notice of direct appeal. However, he did not file for accelerated review as my circumstances require. My direct appeal is of conviction and sentence. This PRP and supplemental motion is just for sentence. (See supp. motion attached)

B. GROUNDS FOR RELIEF:

(If I claim more than one reason for relief from confinement, I will 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 2 reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

_____ Ground See: Supplement Motion
(First, Second, etc) for accelerated review at
Argument I and II, pg's 4-8

1. I should be given a new trial or released from confinement because (State legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement):

My sentence was unconstitutionally imposed and the lawful sentence I'm requesting would release me in 4 months, rather than unlawful confinement to 9/17/08. (See supp. motion attache

2. The following facts are important when considering my case. (After each fact statement put the name of the person or persona who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that also)

See Facts 1-8 and all relevant information in the supplemental motion attached to this PRP.

3. The following reported court decisions (indicate citations if possible) in cases similar to mine show the error I believed happened in my case. (If none are known, state "None Known")

(see case law w/ argument in supp. motion attached to this PRP)
2006 WL 3438048, Personal Restraint of Vandelft, In re (Wash. 2006) / Blakely v. Wash-
ington, 542 U.S. 296 (2004) / State v. Washington, 143 P.3d 606 (2006) / State v. Hughes, 154 Wn.
2d 118, 110 P.3d 192 (2005) / State v. Batista, 116 Wn. 2d 777, 808 P.2d 1141 (1991) / State v. Tunell
51 Wn. App. 274 (1988) / State v. Henshaw, 62 Wn. App. 135, 813 P.2d 146 (1991) / State v. Scott, 72
Wn. App. 207 (1993) / State v. Ritchie, 126 Wn. 2d 388 (1995) / State v. Gardenas, 129 Wn. 2d 1 (1996)

4. The following statutes and constitutional provisions should be considered by the court. (If none are now, state, "None Known")

U.S. Constitutional Amendment 6. Laws of 2005,
ch. 68. RCW 9.94A.535 & RCW 9.94A.589

5. This petition is the best way I know to get the relief I want, and not other way will work as well because: The time restraint circumstances and the failure of trial attorney to take action to accelerate review on direct appeal on illegal sentence on its face.
(see supp. motion attached for details)

C. STATEMENT OF FINANCES:

If you cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help you, fill out this form. If you have enough money for these, do not fill this part of the form. If currently in confinement you will need to attach a copy of your prison finance statement.

1. I do do not ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.

2. I have \$ 0 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 and cannot afford to pay a lawyer.

4. I am am not employed. My salary or wages amount to \$ N/A a month. My employer is N/A.
Name and address of employer

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)
Type of self-employment
And the total income I received was \$ N/A.

6. During the past 12 months I:

Did Did Not Receive any rent payments. If so, the total I received was \$ N/A

Did Did Not Receive any interest. If so, the total I received was \$ N/A

Did Did Not Receive any dividends. If so, the total I received was \$ N/A

Did Did Not Receive any other money. If so the total I received was \$ _____

Do Do Not Have any cash except as said in question 2 of Statement of Finances. If so the total amount of cash I have is \$ N/A.

Do Do Not Have any savings or checking accounts. If so, the total amount in all accounts is \$ N/A

Do Do Not Own stocks, bonds or notes. If so, their total value is: \$ N/A.

7. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item or property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
<u>N/A</u>	<u>N/A</u>

8. I am am not married. If I am married, my wife or husband's name and address is:

9. All of the persons who need me to support them are listed below:

Name & Address	Relationship	Age
<u>Julian Jefferson</u> <u>4770 Lippitt Ln. Sac. Ca. 95820</u>	<u>Son</u>	<u>7</u>
<u>Brianna Alvarez Jefferson</u> <u>5717 Seyferth Way Sac. Ca. 95820</u>	<u>Daughter</u>	<u>8</u>

10. All the bills I owe are listed here:

Name & Address of Creditor	Amount
<u>Thurston County Court for fine/resitution</u> <u>2000 Lakeridge Dr. SW</u> <u>Olympia, Wa. 98502</u>	<u>Approx. \$3000.00</u>

D. REQUEST FOR RELIEF:

I want this court to:

Vacate my conviction and give me a new trial

Vacate my conviction and dismiss the criminal charges against me without a new trial

Other: Vacate my Unconstitutionally imposed consecutive sentences and resentence
(Please Specify)
me to concurrent sentences. Additionally, to accelerate review to
avoid unlawful restraint beyond 4 months from today. And if this time
for review cannot occur to release Petitioner by August/2007 until
a decision is made. (See: supp. motion attached to this PRP)

AFFIDAVIT

STATE OF WASHINGTON)

) ss:

COUNTY OF MASON)

I, Donald E. Jefferson, 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 _____, 2007, at Washington Corrections Center, PO Box 900 Shelton, Washington 98584 in the County of MASON, Washington:

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


(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.

CERTIFICATE OF SERVICE BY MAIL

07 MAR 20 PM 1:20

This is to certify and state under the penalty of perjury under the laws of the State of Washington that I have mailed a true and correct copy of the following document(s)

STATE OF WASHINGTON
DEPUTY

PRP w/ Supp. Motion for accelerated
review pursuant to RAP 18.15

By depositing in the United States mail, marked *Legal Mail*, postage prepaid, on
this 17 day of March, 2007 to the following: County Clerk,
Thurston County, 2000 Lotteridge Drive SW,
Blde 2, Olympia, Wa. 98502 - 6001

Respectfully Submitted,


Signature
Donald Jefferson
Printed/Typed Name
D.O.C.# 303406 Unit # R-1 Cell # B-5

DONALD E. JEFFERSON
petitioner

DIVISION TWO

NO. _____

SUPPLEMENTAL MOTION WITH
PERSONAL RESTRAINT PETITION

COURT OF APPEALS
DIVISION II

07 MAR 21 AM 10:31

STATE OF WASHINGTON
BY _____
DEPUTY

MOTION FOR ACCELERATED REVIEW

Pursuant to RAP 18.15

Comes now the Petitioner, Donald Jefferson, Pro-Se, and moves the court for accelerated review of an exceptional sentence imposed in violation of the United States Constitution Amendment 6 and the Washington state statute, Laws of 2005, ch. 68, § 4(2), and other current law.

Petitioner is currently confined in the department of corrections (DOC) at the Washington Corrections Center (WCC) under the term of imprisonment imposed and authorized pursuant to the lower courts sentence Petitioner now seeks review of and relief from.

LOWER COURT DECISION

On Feb. 2, 2007 Petitioner was convicted in a Thurston County Superior court of multiple non-violent felony offenses by a jury trial verdict. (see: Felony Judgment And Sentence (FJS), pg's 1+2)

On Feb. 15, 2007 Petitioner was sentenced to concurrent sentences for counts 1 thru 4, 29 months total, and concurrent sentences for counts 5 and 6 for 22 months total. However, the court then imposed an exceptional sentence by ordering the 29 month sentence and the 22 month sentence consecutive for a total of 51 months confinement. (see: FJS., pg's 3+6 and Findings OF Fact AND CONCLUSIONS OF LAW) (FF&CL)

Petitioner's attorney, Richard Woodrow, objected twice to the court's sentence and provided the court argument supporting why she was not legally authorized to impose it. The court acknowledged Mr. Woodrow may be correct, but overruled his objection and said the Defendant can appeal it up. (NOTE: A copy of this motion has been served upon the lower court clerk to obtain the Sentence Hearing Record (SHR) pursuant to Rule 18.15(c))

ISSUES FOR REVIEW

First, Petitioner asks this court to review the issue of whether or not the lower court's reliance on RCW 9A.04.035(2)(c) as the aggravating factor used to justify the exceptional sentence imposed is in fact supported by the record.

Second, even if the aggravating factor presented at issue above was found to be supported by the record, Petitioner would further ask this court to review the issue of whether the aggravating factor cited by the lower court is a factual determination that is required by law to be made only by a jury.

Finally, Petitioner asks this court to consider the issue of whether an accelerated review alone will be an adequate remedy to prevent the unlawful confinement he faces in approximately 120 days. And if not, to review the issue whether pursuant to RAP 16.15(b) Petitioner should be released on bail or personal recognizance, before this court decides the questions at issue, to prevent further unlawful confinement and unjust delay to his release until the petition is determined.

STATEMENT OF FACTS

1) The 6 offenses Petitioner was convicted of in this case are all nonviolent. (see: FJS, pg's 1-3)

2) The lower court departed from the presumption of concurrent sentences for nonserious violent felonies and sentenced the Petitioner to an exceptional sentence by imposing a consecutive sentence pursuant to RCW 9.94A.589(1)(a). (see: FJS, pg's 3 & 6)

3) The lower courts exceptional sentence imposed on the Petitioner was assessed pursuant to RCW 9.94A.535(2)(c). (2) reads, "Aggravating Circumstances - Considered and imposed by the court." And (c) reads, "The Defendant has committed multiple current offenses and the Defendants high offender score results in some of the current offenses going unpunished." The court further found ".... in light of the factors of contempt of court resulting in convictions of tampering with a witness, (2) counts." (see: FJS, pg. 3 and FF/CL)

4) The exceptional sentence imposed here is not reflected in the jury verdict, the special interrogatories procedure was not used by the court and the Petitioner did not stipulate to any aggravating facts. (see: SHR and FJS, pg. 3)

5) For offender score calculation purposes all of the Petitioner's prior felony offenses washed out pursuant to law. However, the state mistakenly recorded the Petitioner's offender score as 12 until being informed of his error prior to the court imposing sentence. The correction was done in court and in pen on page 2 & 3 of the FJS. Though the offender score in the FJS still reads 12, the standard ranges for all offenses found on pages 3 & 6 of the FJS reflect the correct score, and this at 5. (see: FJS, pg's 1-3 & 6 and the SHR)

6) The Petitioners offender score of 5 stems from his "Other Current Offenses". Each of the 5 added 1 point to his offender score and this resulted in an increased punishment for all 5 of his other current offenses, including both counts of the Tampering with a witness the lower court refers to in her FF/CL. And the 6th and highest range offense also resulted in punishment. (see: FJS pg's 3 & 6 and SHR)

7) While the consecutive sentence at issue still stands the Petitioners release date is September 17, 2008. If this court concludes, as the Petitioner does, his consecutive sentence is required by law to be corrected to concurrent, his release date would be approximately 4 months from the day of this writing. (see FJS, pg's 3 & 6)

8) On Feb. 26, 2007 Petitioners lower court trial attorney filed notice of appeal seeking review of both conviction and sentence. However, the attorney failed to file for an accelerated review as needed under the time restraint issue the Petitioner faces. (see: Notice of Appeal)

ARGUMENT - I

A trial courts reasons for imposing an exceptional sentence must be supported by the record to withstand an Appellate review. State v. Scott, 72 Wn. App. 207, 866 P. 2d 1258, Aff'd sub. nom (1993) State v. Ritchie, 126 Wn. 2d 388, 894 P. 2d 1308 (1995); State v. Corderas, 129 Wn. 2d 1, 914 P. 2d 57 (1996).

Prior to sentencing Petitioner, the state and the court both concurred to the fact he has no prior crimes/history to be used for his

offender score. Further, all parties and the court agreed that the Petitioner's offender score was increased from a 5 solely due to his 5 other current offenses. And further agreed the high offender score of 12 recorded on the FJS was in error. (see: HSR)

It is disingenuous of the lower court to assert on the record, for the purpose of supporting her sentence, that the Petitioner had a "high offender score" that resulted in some of the current offenses going unpunished. The facts that clearly prove otherwise were well established and acknowledged in open court prior to the sentence being imposed. (see: HSR & FF/CL)

The lower courts reliance on RCW 9A.04A.035(2)(c) to justify the exceptional sentence she imposed on Petitioner is simply not supported by the record. Petitioner's offender score is a 5, not the "High Offender Score" that generally relates to a "9 or more" score, and all of his other current offenses and highest standard range convictions each increased his punishment. (see: Fact 5 & 6, FJS, pg's 1-3 & 6 SHR)

The trial courts factual findings do not support her conclusion of law. Additionally, it fails to identify the harm or culpability as a result of the offense that is beyond what is accounted for already in presumptive sentencing. State v. Batista, 116 Wn. 2d 777, 808 P. 2d 1141 (1991); State v. Tunell, 51 Wn. App. 274, 753 P. 2d 543, review denied, 110 Wn. 2d 1036 (1988).

Further, under the real facts doctrine the additional crime of tampering with a witness cannot be a basis for an exceptional sentence. State v. Hepshaw, 62 Wn. App. 135, 813 P. 2d 146 (1991)

ARGUMENT - II

Both parties and the lower court are in agreement the consecutive sentence at issue here is an exceptional sentence pursuant to RCW 9.94A.589(1)(a). The lower courts FF & CL and the FJS clearly indicates the sentence imposed on Petitioner is an exceptional one and subject to the provisions of RCW 9.94A.535.

On Nov. 30, 2006 the Supreme Court of Washington decision, cited as, (2006 WL 3438048, Personal Restraint of Vandelft, In re (Wash. 2006)), confirms Petitioner's assertion above. "... there is no dispute that the legislature has characterized consecutive sentences imposed under (1)(a) as exceptional, requiring a finding of an aggravating factor for support. RCW 9.94A.535. In fact, in order to overcome the presumption of concurrent sentencing in (1)(a), the sentencing judge in this case employed the very exceptional sentencing scheme at issue in Blakely."

The lower courts aggravating factor pursuant to RCW 9.94A.535 (2)(c) is also directly on point in the recent Supreme Court of Washington case, In re Vandelft, quoting State v. Hughes, 154 Wn. 2d 118, 140, 110 P. 3d 192 (2005).

"... there is no dispute that in --- Hughes ---, we held "[t]he conclusion that allowing a current offense to go unpunished is clearly too lenient is a factual determination that cannot be made by the trial court following Blakely."

As was the case in In re Vandelft, the exceptional consecutive sentence imposed on Petitioner here was based on facts found by the trial judge and not reflected in the jury verdict. Accordingly, the lower courts sentence is in violation of both Blakely and Hughes.

Also on point and in support of Petitioner's argument

to be resentenced to concurrent sentences is another recent case decision by the Court of Appeals of Washington, Division 1. 143 P.3d 606, State v. Washington (Wash. App. Div. 1 2006) "One basis for the exceptional sentence here was that Washington's unscored criminal history rendered the standard sentence clearly too lenient, which is a substantial and compelling reason for imposing an exceptional sentence under the statute. Former RCW 9.94A.535(2)(j) (2003). Our Supreme Court has ruled that the clearly too lenient conclusion is a factual determination and must be made by the jury." Quoting Hughes. In Washington the court imposed a consecutive sentence pursuant to RCW.9.94A.529(1)(a), as did the Petitioners court.

The conclusion in the Washington case is the same as that of In Re Vandelft's Supreme Court of Washington decisions conclusion. "The aggravating factors found by the trial court here required judicial fact-finding and violated Washington's Sixth Amendment right to a jury trial as defined in Blakely." As did Petitioners trial court violate the Constitution.

On April 15, 2005 Governor Gregoire signed into law, Laws of 2005, chapter 68. The act added a new procedure for juries to find facts justifying exceptional sentences:

(2) The facts supporting aggravating circumstances shall be proved to a jury beyond a reasonable doubt. The jury's verdict on the aggravating factor must be unanimous, and by special interrogatory. If a jury is waived, proof shall be to the court beyond a reasonable doubt, unless the defendant stipulates to the aggravating facts.

The express purpose of of the Laws of 2005 statute was to bring the SRA into accord with the United

States Supreme Courts decision in Blakely. The Petitioners trial court did not use this new procedure, he did not stipulate to the aggravating factor involved, and this resulted in a factual determination being made by the trial court, rather than the jury as required by law, as to the aggravating factor cited in support of the exceptional consecutive sentence.

CONCLUSION

The lower courts aggravating factor used here to justify her exceptional consecutive sentence is not supported by the record. Regardless of this fact, the court did not allow a jury to make a factual determination regarding the aggravating factor used to justify her exceptional consecutive sentence. By making the factual determination involving a clearly too lenient conclusion, the trial court violated the Petitioners sixth Amendment right to a jury trial as defined in Blakely, and confirmed again in recent on point case law he has presented to the court today.

Accordingly, Petitioner requests this court to vacate the Unconstitutionally imposed consecutive sentences and remand for concurrent sentencing.

Additionally, Petitioner prays for an accelerated review that results in a decision prior to August of this year so as to avoid unlawful confinement. On the alternative, Petitioner requests, pursuant to RAP 16.15(b), he be released until the petition is decided to avoid an unjust delay to his lawful release date in July/2007.

Submitted on the _____ day of _____, 2007 Respectfully

DONALD E. Jefferson, Pro-Se

'07 FEB 15 P 4:30

BETTY J. GOULD CLERK

BY _____ DEPUTY

**SUPERIOR COURT OF WASHINGTON
COUNTY OF THURSTON**

STATE OF WASHINGTON, Plaintiff,

vs.

DONALD EDWARD JEFFERSON,
Defendant.

SID: WA23001383
If no SID, use DOB: 02/25/1969
PCN: 766855229 BOOKING NO. C0134517

No. 05-1-02201-2

FELONY JUDGMENT AND SENTENCE (FJS)

Prison (non-sex offense)

I. HEARING

1.1 A sentencing hearing was held on **FEBRUARY 12, 2007** 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 **FEBRUARY 2, 2007**
by plea jury-verdict bench trial of (Date)

COUNT	CRIME	RCW	DATE OF CRIME
I	IDENTITY THEFT IN THE FIRST DEGREE	9.35.020(1)(2)	SEPTEMBER 11, 2005 THROUGH SEPTEMBER 17, 2005
II	THEFT IN THE FIRST DEGREE	9A.56.030; 9A.56.020(1)(a) or (b)	SEPTEMBER 11, 2005 THROUGH SEPTEMBER 17, 2005
III	CRIMINAL IMPERSONATION IN THE FIRST DEGREE	9A.60.040(1)(a)	SEPTEMBER 11, 2005 THROUGH NOVEMBER 15, 2005
IV - LESSER INCLUDED	UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE - COCAINE	69.50.4013(1)	SEPTEMBER 22, 2005 THROUGH SEPTEMBER 26, 2005

COPY TO SHERIFF

FELONY JUDGMENT AND SENTENCE (FJS)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (5/2006))

not agreeing to any facts not found

Executive Sentence Page 1
RCW 994A.535 2(c)

V	TAMPERING WITH A WITNESS	9A.72.120(1)(a)	APRIL 19, 2006
VI	TAMPERING WITH A WITNESS	9A.72.120(1)(a)	MAY 8, 2006

as charged in the SEVENTH AMENDED information.

- Additional current offenses are attached in Appendix 2.1.
- 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, 9.94A.533.
- A special verdict/finding for use of **deadly weapon other than a firearm** was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.

- 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, including its salts, isomers, and salts of isomers, **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, RCW 69.50.440.
- The defendant was convicted of **vehicular homicide** which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- This case involves **kidnapping** in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- 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**.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

None of the current offenses constitute same criminal conduct except: _____

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
AUTO THEFT	02-03-89	SACRAMENTO, CA	09-28-88	A	NV
UPCS (COCAINE)	09-22-89	SACRAMENTO, CA		A	NV
VEHICLE THEFT	09-22-89	SACRAMENTO, CA		A	NV
VEHICLE THEFT	09-22-89	SACRAMENTO, CA		A	NV
FALSE IMPRISONMENT	<u>11-01-95</u>	SACRAMENTO, CA		A	NV

Washed out

W.O

6	FELON POSSESSION FIREARM	11-01-95	SACRAMENTO, CA		A	NV
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- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement (adds one point to score).
RCW 9.94A.525.
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:
None of the prior convictions constitutes same criminal conduct except _____

2.3 SENTENCING DATA:

COUNT	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE	ENHANCEMENTS*	TOTAL STANDARD RANGE	MAXIMUM TERM
I	12	IV	22-29 22-29 MTHS	NA	22-29 22-29 MTHS	10 YRS
II	12	II	14-18 14-18 MTHS	NA	14-18 14-18 MTHS	10 YRS
III	12	UNRANKED	0-12 MTHS		0-12 MTHS	5 YRS
IV	12	I	6-18 6-18 MTHS	NA	6-18 6-18 MTHS	5 YRS
V	12	III	17-22 17-22 MTHS	NA	17-22 17-22 MTHS	5 YRS
VI	12	III	17-22 17-22 MTHS	NA	17-22 17-22 MTHS	5 YRS

* (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:
 within below the standard range for Count(s) _____
 above the standard range for Count(s) 5+6

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury by special interrogatory. *assessed pursuant to RCW 9.94A.*
Findings of fact and conclusions of law are attached in Appendix 2.4. Jury's special interrogatory is attached. *535(2)*
The Prosecuting Attorney did did not recommend a similar sentence. *(c)*

Findings attached as Ex "A"

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 as follows: _____

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:

JASS CODE

RTN/RJN

\$ RESERVED Restitution to: Ideal Home Furnishings 4014 Martin V Road Olympia WA 98516

\$ Restitution to:

\$ Restitution to:

(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)

PCV

\$ 500.00 Victim assessment RCW 7.68.035

\$ Domestic Violence assessment RCW 10.99.080

CRC

\$ 200.00 Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190

Criminal filing fee \$ FRC

Witness costs \$ WFR

Sheriff service fees \$ SFR/SFS/SFW/WRF

Jury demand fee \$ JFR

Extradition costs \$ EXT

Other \$

PUB

\$ 500 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 chapter 69.50 RCW, [] VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/FCD NTF/SAD/SDI

\$ 100 Drug enforcement fund of Thurston County RCW 9.94A.760

\$ Thurston County Drug Court Fee

CLF

\$ Crime lab fee [] suspended due to indigency RCW 43.43.690

\$ 100.00 Felony DNA collection fee [] not imposed due to hardship RCW 43.43.7541

RTN/RJN

\$ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1000 maximum) RCW 38.52.430

\$ Other costs for:

\$ TOTAL RCW 9.94A.760

The above total may 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 may be set by the prosecutor or is scheduled for _____

[] RESTITUTION. Schedule attached.

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

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

RJN

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

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

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

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.

[] 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 rate of \$50.00 per day, unless another rate is specified here: (JLR) RCW 9.94A.760.

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

[] HIV TESTING. The defendant shall submit to HIV testing. RCW 70.24.340.

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

[] Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed with this Judgment and Sentence.

4.4 OTHER: _____

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

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>29</u> months on Count <u>1</u>	<u>18</u> months on Count <u>4</u>
<u>18</u> months on Count <u>2</u>	<u>22</u> months on Count <u>5</u>
<u>12</u> months on Count <u>3</u>	<u>22</u> months on Count <u>6</u>

Actual number of months of total confinement ordered is: 51.
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above.)

[] The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

NON-FELONY COUNTS:

Sentence on counts _____ is/are suspended for _____ months on the condition that the defendant comply with all requirements outlined in the supervision section of this sentence.

_____ days of jail are suspended on Count _____
_____ days of jail are suspended on Count _____

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: counts 1 through 4 concurrent.

Counts 5 + 6 concurrent to one another but

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

consecutive to counts 1 through 4.
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: _____

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 is ordered as follows:

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

or for the period of earned release awarded pursuant to RCW 9.94A.728(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 offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.411)
iv) Domestic violence offense (RCW 10.99.020)		v) Residential burglary offense
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers,		
vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

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 (service); (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by DOC; and (6) perform affirmative acts necessary to monitor compliance with 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.

Pay all court-ordered legal financial obligations

Report as directed to a community corrections officer

Notify the community corrections officer in advance of any change in defendant's address or employment

Remain within prescribed geographical boundaries to be set by CCO

The defendant shall not consume any alcohol and shall submit to random breath testing as directed by DOC for purposes of monitoring compliance with this condition.

Defendant shall have no contact with: _____

The defendant shall undergo evaluation and fully comply with all recommended treatment for the following:

Substance Abuse

Mental Health

Sexual Deviancy

Anger Management

Other: _____

The defendant shall enter into and complete a certified domestic violence program as required by DOC or as follows: _____

The defendant shall not use, possess, manufacture or deliver controlled substances without a valid prescription, not associate with those who use, sell, possess, or manufacture controlled substances and submit to random urinalysis at the direction of his/her CCO to monitor compliance with this condition.

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

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

The conditions of community supervision or community custody shall begin immediately unless otherwise set forth here: _____

- 4.7 **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.
- 4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

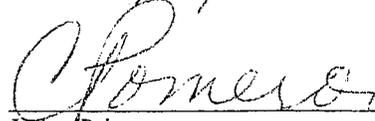
V. NOTICES AND SIGNATURES

- 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 purpose 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). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 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 or the clerk of the court 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.**
 Defendant waives any right to be present at any restitution hearing (sign initials): _____
- 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 clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.7 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court 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.

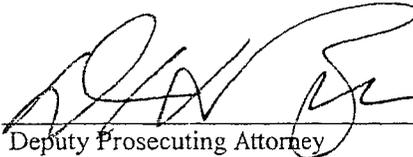
5.8 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

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

DONE in Open Court and in the presence of the defendant this date: 2/15/07

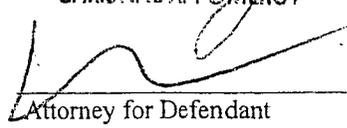

Judge/Print name:

CHRISTINE A. POMEROY


Deputy Prosecuting Attorney

WSBA No. 6830

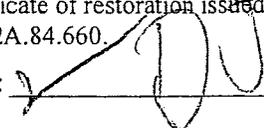
Print name: DAVID H. BRUNEAU


Attorney for Defendant

WSBA No. 18680

Print name: RICHARD A. WOODROW

VOTING RIGHTS STATEMENT: RCW 10.64.140. I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: 

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.

Interpreter signature/Print name: _____

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 the Court of said county and state, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA23001383
 (If no SID take fingerprint card for State Patrol)

Date of Birth 02/25/1969

FBI No. 251846KA9

Local ID No. _____

PCN No. 766855229

Other _____

Alias name, DOB: _____

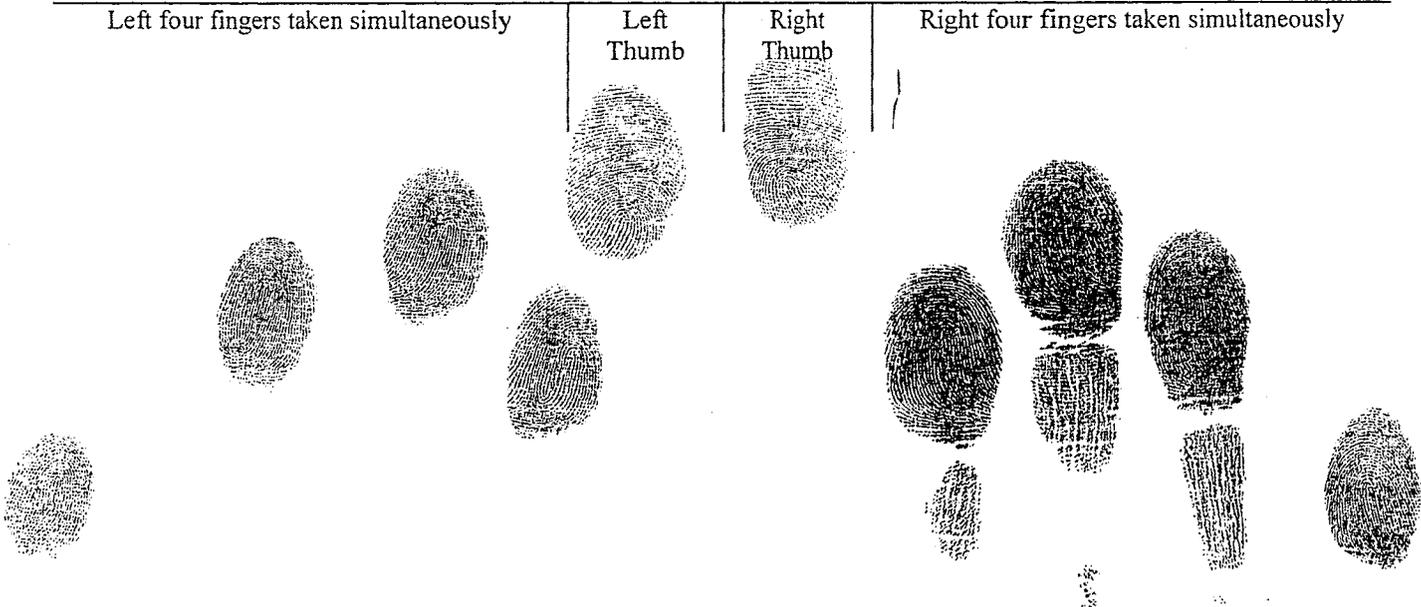
Race:
 Asian/Pacific Islander Black/African-American Caucasian
 Native American Other: _____

Ethnicity: Hispanic Non-Hispanic

Sex: Male 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, [Signature] Dated: 2-15-07

DEFENDANT'S SIGNATURE: [Signature]



SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF THURSTON

STATE OF WASHINGTON

NO. 05-1-02201-2

Plaintiff,

WARRANT OF COMMITMENT ATTACHMENT TO
JUDGMENT AND SENTENCE (PRISON)

vs.

DONALD EDWARD JEFFERSON,

Defendant.

DOB: 02/25/1969
SID: WA23001383 FBI: 251846KA9
PCN: 766855229
RACE: W
SEX: M
BOOKING NO: C0134517

THE STATE OF WASHINGTON TO:

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

The defendant DONALD EDWARD JEFFERSON has been convicted in the Superior Court of the State of Washington for the crime(s) of:

IDENTITY THEFT IN THE FIRST DEGREE; THEFT IN THE FIRST DEGREE; CRIMINAL IMPERSONATION IN THE FIRST DEGREE; UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE – COCAINE; TAMPERING WITH A WITNESS (2 COUNTS)

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

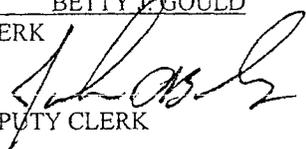
YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

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:

CHRISTINE A. POMEROY

BETTY L. GOULD
CLERK

By: 
DEPUTY CLERK

1 **IN THE SUPERIOR COURT OF WASHINGTON**
2 **IN AND FOR THURSTON COUNTY**

3 STATE OF WASHINGTON,

Plaintiff,

4 vs.

5
6 *Donald E. Jefferson*

Defendant.

NO. 05-1-2201-2

FINDINGS OF FACT AND
CONCLUSIONS OF LAW RE:
EXCEPTIONAL SENTENCE -APPENDIX

A

8
9 **I. FINDINGS OF FACT**

The court finds the following aggravating factors:

10 *RCW 9.94A.535 (2)(c) sets forth facts/law*
11 *upon which the court may impose an*
12 *exceptional sentence and in light of the factors*
13 *of Contempt of Court resulting in conviction of*
14 *Tampering w/ a witness (2) courts.*

15 **II. CONCLUSIONS OF LAW**

16 The court concludes that based upon the above findings there are substantial and compelling
17 reasons justifying an exceptional sentence outside the sentence range and based upon the above
18 findings and the purposes of the Sentencing Reform Act imposes a sentence of

19 DATED: 2/15/07

20
21 *[Signature]*
22 _____
23 JUDGE

24
25
26
FINDINGS OF FACT AND CONCLUSIONS OF LAW RE:
EXCEPTIONAL SENTENCE -APPENDIX

EDWARD G. HOLM
Thurston County Prosecuting Attorney
2000 Lakeridge Drive S.W.
Olympia, WA 98502
(360) 786-5540 Fax (360) 754-3358

1
2
3 IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY

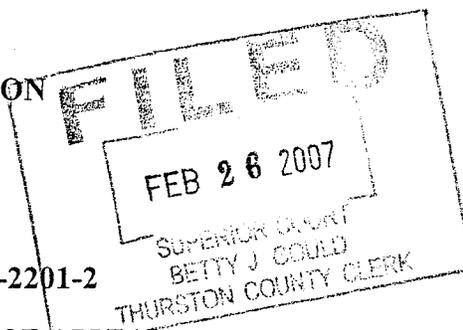
4 STATE OF WASHINGTON,
Plaintiff,

5 vs.

6 DONALD JEFFERSON,
7 Defendant.

NO. 05-1-2201-2

NOTICE OF APPEAL



8
9 To: Clerk, Thurston County Superior Court.
And To: Prosecuting Attorney's Office.

10 The Defendant, DONALD JEFFERSON, seeks review by the Court of Appeals
11 Division II of his conviction in Thurston County Superior Court and his sentence that
12 occurred on February 15, 2007. A copy of that sentence is attached to his notice.

13 The defendant's address is:
14 DOC #
15 WCC
16 P.O. Box 900
17 Shelton, WA 98584

18 Dated: February 20, 2007

19 Presented by:

20

21 Richard Woodrow #18680

22 I certify that I personally served a copy of this document on th Prosecuting Attorney's
23 office on February 20, 2007 and I mailed a copy of this document to Mr. Jefferson at

24 WCC
25 P.O. Box 900
26 Shelton, WA 98584

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

Olympia, WA,

Richard Woodrow

Richard Woodrow
3732 Pacific Avenue SE
Olympia, WA 98501
(360) 352 9911
Fax (360) 352 9955

NOTICE OF APPEAL