

FILED
COURT OF APPEALS
DIVISION II

NO. 38112-5-II
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

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STATE OF WASHINGTON
BY _____
DEPUTY

STATE OF WASHINGTON, Respondent

v.

MARTIN ERNEST CURRY, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE DIANE M. WOOLARD
CLARK COUNTY SUPERIOR COURT CAUSE NO. 08-1-00792-8

BRIEF OF RESPONDENT

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I. STATEMENT OF THE FACTS

The defendant was found guilty at jury trial of Assault in the Third Degree, Counts 2 and 3 (with deadly weapon enhancements) and Count 4, Resisting Arrest. The court entered its Judgment and Sentence on those matters on July 29, 2008. As part of that, the parties entered into an agreement to enter a Domestic Violence No Contact Order which would run for five years: from July 29, 2008 to July 29, 2013. A copy of the Felony Judgment and Sentence (CP 60) is attached hereto and by this reference incorporated herein. The Findings of Fact, Conclusions of Law, and Judgment and Sentence on the Gross Misdemeanor (CP 51) is attached hereto and by this reference incorporated herein. Finally, the Domestic Violence No Contact Order (CP 74) is also attached hereto and by this reference incorporated herein.

The jury found the defendant guilty of Counts 2, 3, and 4 of the Second Amended Information (CP 5). Count 1 was an assault against Deputy Sheriff Brian Kessel, which occurred on May 16, 2008 and included a finding by the jury that the defendant was armed with a deadly weapon, a baseball bat, as defined in RCW 9.94A.602 and RCW 9.94A.533(4).

Count 3 of the Second Amended Information was an Assault in the Third Degree referencing a different Deputy Sheriff, Deputy Sheriff Tom Yoder, which occurred on the same day (May 16, 2008) and the jury also made a finding that the defendant was armed with a deadly weapon, a baseball bat.

Count 4 was a gross misdemeanor of Resisting Arrest under RCW 9A.76.040.

II. RESPONSE TO ASSIGNMENT OF ERROR NO. 1

The first assignment of error raised by the defendant is a claim that the trial court exceeded its authority in imposing a 60 month condition of No Contact as part of the gross misdemeanor sentence.

The jury hung up on Count 1, which was an Assault in the Second Degree. In exchange for the State not re-filing, the defendant agreed to the entry of the Domestic Violence No Contact Order. (RP 362, 366, 381).

It is obvious on Page 381 of the Report of Proceedings that the court was giving a proper gross misdemeanor sentence and then was also filling in a Domestic Violence No Contact Order, which was separate and apart from any of the Judgments. The language of the Domestic Violence No Contact Order, in part, is included in the Felony Judgment and Sentence to Prison and is appropriate because the statutory maximum

there is five years. It is obvious in the Gross Misdemeanor Judgment that this is a clerical error in the. The court wanted the no contact provisions to apply to that also, but instead of putting in 24 months, put in five years. The Appellate Court looks at whether the Judgment embodies the trial court's intention as expressed in the record at trial to determine if the error is clerical. Presidential Estates Apartment Associates v. Barrett, 129 Wn.2d 320, 326, 917 P.2d 100 (1996). If it does, then the judgment merely needs to be corrected to reflect the language of the court's intentions. Presidential, 129 Wn.2d at 326.

The State submits that that would be the appropriate remedy concerning the gross misdemeanor judgment: change the language from "five years" to "two years" as it relates to provision number 14 on page 7 of the Gross Misdemeanor Judgment and Sentence (CP 51).

III. RESPONSE TO ASSIGNMENT OF ERROR NO. 2

The second assignment of error claim by the defendant is that his sentence to the penitentiary for the two counts of Assault in the Third Degree, both of them against separate victims and both of them carrying deadly weapon enhancements were calculated wrong. The claim by the defendant is that his actual sentence should be 18 months on both counts instead of the 24 months that was given.

It is obvious that the defendant on appeal is calculating the deadly weapon enhancements in Count 2 and 3 to be as running concurrently. As explained in State v. DeSantiago, 149 Wn.2d 402, 68 P.3d 1065 (2003):

If an offender is sentenced for more than one offense, "the firearm [or deadly weapon] enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm [or deadly weapon] enhancement." RCW 9.94A.510(3), (4). In 1998, this court interpreted this to mean that while the statute required multiple sentence enhancements to run consecutive to base sentences, they could run concurrently to each other. In re Post Sentencing Review of Charles, 135 Wn.2d 239, 254, 955 P.2d 798 (1998). The legislature then amended the statute, adding the following emphasized language to subsection (e):

Notwithstanding any other provision of law, all enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, *including other firearm or deadly weapon enhancements*,

RCW 9.94A.510(3)(e) (firearm), RCW 9.94A.510(4)(e) (other deadly weapon) (emphasis added); LAWS OF 1998, ch. 235, § 1. Thus, all firearm and deadly weapon enhancements are mandatory and, where multiple enhancements are imposed, they must be served consecutively to base sentences and to any other enhancements.

-(DeSantiago, 149 Wn.2d at 415-416)

The defense could attempt to make the argument that it could not impose consecutive sentencing on the enhancements because there was only one weapon used but that argument has been rejected in State v. Husted, 118 Wn. App. 92, 94-96, 74 P.3d 672 (2003). In State v. Spandel, 107 Wn. App. 352, 356-360, 27 P.3d 613, review denied, 145 Wn.2d 1013 (2001). Division II affirmed imposition of one enhancement for each weapon carried during a single offense. In a sentence for Robbery, the defendant received a firearm enhancement for the shotgun he carried and a deadly weapon enhancement for the knife his accomplice displayed. The Spandel court held that the enhancements must be served consecutively to the base sentence and to each other. Spandel, 107 Wn. App. at 360. In doing so, the court accepted that the single charge of Robbery could be enhanced twice, noting that multiple enhancements would combat the increased risk of injury that results from multiple weapons, as intended under Initiative 159. In our situation we have one weapon but we have two separate victims of the activity. In that regard, it is well settled that where there are separate victims involved, that alone qualifies as separate and distinct criminal conduct. In re Personal Restraint of Orange, 152 Wn.2d 795, 821, 100 P.3d 291 (2004).

The State submits that all deadly weapon enhancements are mandatory, must be served in total confinement, and must run

consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements. Because of those provisions, the trial court properly sentenced the defendant under the Felony Judgment and Sentence.

IV. CONCLUSION

The gross misdemeanor sentence should be returned for correction of clerical error only and the Felony Judgment and Sentence should be affirmed in all respects.

DATED this 25 day of March, 2009.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By:


MICHAEL C. KINNIE, WSBA#7869
Senior Deputy Prosecuting Attorney

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FILED

JUL 29 2008

Sherry W. Parker, Clerk, Clark Co.

**Superior Court of Washington
County of Clark**

State of Washington, Plaintiff,

vs.

MARTIN ERNEST CURRY,
Defendant.

SID: WA12102496
If no SID, use DOB: 5/22/1958

No. 08-1-00792-8

Felony Judgment and Sentence (FJS)

Prison RCW 9.94A.712 Prison Confinement
 Clerk's Action Required, para 4.5 (SDOSA),
4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8

08-9-05275-2

I. Hearing

1.1 The court conducted a sentencing hearing this date; 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, in accordance with the proceedings in this case, the court **Finds:**

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

guilty plea jury-verdict bench trial:

Count	Crime	RCW	Date of Crime
02	ASSAULT IN THE THIRD DEGREE	9A.36.031(1)(g)	5/16/2008
03	ASSAULT IN THE THIRD DEGREE	9A.36.031(1)(g)	5/16/2008

(If the crime is a drug offense, include the type of drug in the second column.)

Additional current offenses are attached in Appendix 2.1.

The jury returned a special verdict or the court made a special finding with regard to the following:

- The defendant is a sex offender subject to indeterminate sentencing under **RCW 9.94A.712.**
- The defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage a victim of child rape or child molestation in sexual conduct in return for a fee in the commission of the offense in Count _____. RCW 9.94A._____.
- The offense was predatory as to Count _____. RCW 9.94A.836.
- The victim was under 15 years of age at the time of the offense in Count _____. RCW 9.94A.837.
- The victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense in Count _____. RCW 9.94A.838, 9A.44.010.
- The defendant acted with **sexual motivation** in committing the offense in Count _____. RCW 9.94A.835.

*Felony Judgment and Sentence (FJS)(Prison)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2007))*

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TH

- 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 defendant used a **firearm** in the commission of the offense in Count _____. RCW 9.94A.602, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in committing the offense in Count 02, AND 03 _____. RCW 9.94A.602, 9.94A.533.
- Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took 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.
- 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** in Count _____, RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- The defendant committed **vehicular homicide** **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crimes charged in Count(s) involve(s) **domestic violence**. RCW 10.99.020.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 Criminal History (RCW 9.94A.525):

Crime	Date of Sentence	Sentencing Court (County & State)	Date of Crime	A or J Adult, Juv.	Type of Crime
See attached criminal history					

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- The following prior offenses require that the defendant be sentenced as a **Persistent Offender** (RCW 9.94A.570):
- 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:

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
02	2	III	4 MONTHS to 12 MONTHS	(D)	16 MONTHS TO 24 MONTHS	5 YEARS \$10,000
03	2	III	4 MONTHS to 12 MONTHS	(D)	16 MONTHS TO 24 MONTHS	5 YEARS \$10,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9).

Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are attached as follows: _____

2.4 Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

within below the standard range for Count(s) _____.

above the standard range for Count(s) _____.

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.

Findings of fact and conclusions of law are attached in Appendix 2.4. Jury's special interrogatory is attached. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

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

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 defendant is found **Not Guilty** of Counts _____.

The court **Dismisses** Counts ONE

IV. Sentence and Order

It is Ordered:

4.1a The defendant shall pay to the clerk of this court:

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Felony Judgment and Sentence (FJS)(Prison)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2007))

RTN/RJN

~~\$ TO BE SET~~ Restitution to

PCV \$ 500.00 Victim assessment RCW 7.68.035

\$ 100.00 Domestic Violence assessment RCW 10.99.080

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

Criminal filing fee \$ 200.00 FRC

Witness costs \$ WFR

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

Jury demand fee \$ 250.00 JFR

Extradition costs \$ EXT

Other \$

PUB \$ 1,000.00 Fees for court appointed attorney RCW 9.94A.760

\$ Trial per diem, if applicable

WFR \$ Court appointed defense expert and other defense costs RCW 9.94A.760

FCM/MTH \$ 500.00 Fine RCW 9A.20.021; VUCSA chapter 69.50 RCW, VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/FCD \$ Drug enforcement Fund # 1015 1017 (TF) RCW 9.94A.760
NTF/SAD/SDI

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

shall be set by the prosecutor.

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 Superior Court Clerk and provide financial information as requested. RCW 9.94A.760(7)(b). The defendant shall report in person no later than the close of business on the next working day after the date of sentencing or release from custody. A map has been provided to the defendant showing the location of the Superior Court Clerk Collections Unit at 500 West 8th Street, Suite 50, Vancouver, Washington. The defendant must report any changes in address and phone numbers to the Collections Unit within 72 hours of moving.

The court finds that the defendant has the means to pay, in addition to the other costs imposed herein, for the cost of incarceration and the defendant is ordered to pay such costs at the rate of \$50 per day, unless another rate is specified here: _____. (JLR) RCW 9.94A.760.

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

4.1b **Electronic Monitoring Reimbursement.** The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

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 **No Contact:** The defendant shall not have contact with MELINDA JEAN CURRY including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 5 years (not to exceed the maximum statutory sentence).

Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

4.4 **Other:** THE DEFENDANT FORFEITS ALL WEAPONS AND AMMUNITION SEIZED AT THE SCENE.

4.5 **Confinement Over One Year.** The court sentences the defendant to total confinement as follows:

(a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

24 days ~~months~~ on Count 02

24 days ~~months~~ on Count 03

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

The confinement time on Count 2 AND 3 includes 6 months ~~AS~~ **EACH** enhancement for firearm deadly weapon sexual motivation VUCSA in a protected zone manufacture of methamphetamine with juvenile present sexual conduct with a child for a fee.

Actual number of months of total confinement ordered is: 24 MONTHS

The combined total amount of confinement and Community Placement or Community Custody shall not exceed the statutory maximum. RCW 9.94A.505(5)

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

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

in either District Court or Superior Court unless otherwise specified herein: _____

Confinement shall commence immediately unless otherwise set forth here: _____

(b) **Confinement.** RCW 9.94A.712 (Sex Offenses only): The court orders the following term of confinement in the custody of the DOC:

Count 02 minimum term _____ maximum term _____

Count 03 minimum term _____ maximum term _____

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served unless the credit for time served prior to sentencing is specifically set forth here by the court: 74 DAYS CREDIT

4.6 Community Placement or Community Custody. The court orders community placement or community custody as follows:

Community Placement:

Count 02 for _____ months

Count 03 for _____ months

Community Custody for count(s) _____, sentenced under RCW 9.94A.712, for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

Community Custody:

Count 02 for a range from 9 to 18 months;

Count 03 for a range from 9 to 18 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) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (8) for sex offenses, submit to electronic monitoring if imposed by DOC; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.720. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

- The defendant shall not consume any alcohol.
- The defendant shall have no contact with: MELINDA CURRY
- The defendant shall remain within outside of a specified geographical boundary, to wit: _____
- The defendant shall not reside within 880 feet of the facilities or grounds of a public or private school (community protection zone). RCW 9.94A.030(8).
- The defendant shall participate in the following crime-related treatment or counseling services: _____
- The defendant shall undergo an evaluation for treatment for domestic violence substance abuse mental health anger management and fully comply with all recommended treatment.
- The defendant shall comply with the following crime-related prohibitions: _____
- Other conditions: _____
- For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

4.7 **Work Ethic Camp.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp. 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.** If you wish to petition or move 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, you must do so 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. If you committed your offense prior to July 1, 2000, you 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. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your 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 (DOC) 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.

I waive any right to be present at any restitution hearing (sign initials): _____

5.5 Community Custody Violation.

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.634.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.737(2).

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.

~~Cross off or delete if not applicable:~~

~~**5.7 Sex and Kidnapping Offender Registration.** RCW 9A.44.130, 10.01.200.~~

~~**1. General Applicability and Requirements:** Because this crime involves a sex offense or kidnapping offense involving a minor as defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.~~

~~**2. Offenders Who Leave the State and Return:** If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three business days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry on a vocation in Washington, or attend school in Washington, you must register within three business days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.~~

~~**3. Change of Residence Within State and Leaving the State:** If you change your residence within a county, you must send signed written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send signed written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving and register with that sheriff within 24 hours of moving. You must also give signed written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move~~

out of Washington State, you must send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within 10 days of accepting employment or by the first business day after beginning to work at the institution, whichever is earlier. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within 10 days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within 10 days of enrolling or 10 days prior to arriving at the school to attend classes, whichever is earlier. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within 48 hours excluding weekends and holidays, after losing your fixed residence, you must send signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You may be required to provide a list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. Reporting Requirements for Persons Who Are Risk Level II or III: If you have a fixed residence and you are designated as a risk level II or III, you must report, in person, every 90 days to the sheriff of the county where you are registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. If you comply with the 90-day reporting requirement with no violations for at least five years in the community, you may petition the superior court to be relieved of the duty to report every 90 days.

8. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within five days of the entry of the order. RCW 9A.44.130(7).

- 5.8 Count _____ is a felony in the commission of which you used a motor vehicle. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.9 If you are or become subject to court-ordered mental health or chemical dependency treatment, you must notify DOC and you must release your treatment information to DOC for the duration of your incarceration and supervision. RCW 9.94A.562.

5.10 Persistent Offense Notice

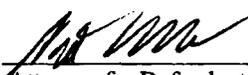
The crime(s) in count(s) _____ is/are "most serious offense(s)." Upon a third conviction a most "serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030 (28 & 32(a)), 9.94A.505.

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030(32)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

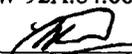
Done in Open Court and in the presence of the defendant this date: 7/29/08


Judge/Print Name: Wootert


Deputy Prosecuting Attorney
WSBA No. 35626
Print Name: Daniel A. Gasperino


Attorney for Defendant
WSBA No. 26119
Print Name: Neil C Anderson


Defendant
Print Name: MARTIN ERNEST CURRY

Voting Rights Statement: 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, Sherry Parker, 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 the Defendant

MARTIN ERNEST CURRY

SID No: WA12102496
(If no SID take fingerprint card for State Patrol)

Date of Birth: 5/22/1958

FBI No. 305958VA8

Local ID No. 104231

PCN No. _____

Other _____

Alias name, DOB:

Race: W

Ethnicity:

Sex: M

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, Heather Hunt Dated: 7/20/08



The defendant's signature: Martin Ernest Curry

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously



SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

NO. 08-1-00792-8

v.

MARTIN ERNEST CURRY,

**WARRANT OF COMMITMENT TO STATE
OF WASHINGTON DEPARTMENT OF
CORRECTIONS**

Defendant.

SID: WA12102496

DOB: 5/22/1958

THE STATE OF WASHINGTON, to the Sheriff of Clark County, Washington, and the State of Washington, Department of Corrections, Officers in charge of correctional facilities of the State of Washington:

GREETING:

WHEREAS, the above-named defendant has been duly convicted in the Superior Court of the State of Washington of the County of Clark of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
02	ASSAULT IN THE THIRD DEGREE	9A.36.031(1)(g)	5/16/2008
03	ASSAULT IN THE THIRD DEGREE	9A.36.031(1)(g)	5/16/2008

and Judgment has been pronounced and the defendant has been sentenced to a term of imprisonment in such correctional institution under the supervision of the State of Washington, Department of Corrections, as shall be designated by the State of Washington, Department of Corrections pursuant to RCW 72.13, all of which appears of record; a certified copy of said judgment being endorsed hereon and made a part hereof.

NOW, THIS IS TO COMMAND YOU, said Sheriff, to detain the defendant until called for by the transportation officers of the State of Washington, Department of Corrections, authorized to conduct defendant to the appropriate facility, and this is to command you, said Superintendent of the appropriate facility to receive defendant from said officers for confinement, classification and placement in such correctional facilities under the supervision of the State of Washington, Department of Corrections, for a term of confinement of :

COUNT	CRIME	TERM
02	ASSAULT IN THE THIRD DEGREE	24 Days/Months
03	ASSAULT IN THE THIRD DEGREE	24 Days/Months

These terms shall be served concurrently to each other unless specified herein:

The defendant has credit for 74 days served.

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

And these presents shall be authority for the same.

HEREIN FAIL NOT.

WITNESS, Honorable

Don M. Wood

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE:

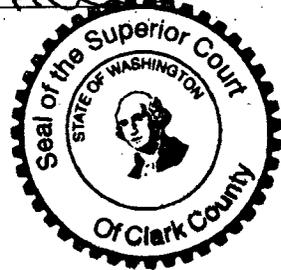
7-29-08

SHERRY W. PARKER, Clerk of the
Clark County Superior Court

By:

Heather Hunt

Deputy



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,
Plaintiff,
v.
MARTIN ERNEST CURRY,
Defendant

No. 08-1-00792-8

APPENDIX 2.2

DECLARATION OF CRIMINAL HISTORY

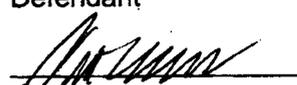
COME NOW the parties, and do hereby declare, pursuant to RCW 9.94A.100 that to the best of the knowledge of the defendant and his/her attorney, and the Prosecuting Attorney's Office, the defendant has the following undisputed prior criminal convictions:

CRIME	COUNTY/STATE CAUSE NO.	DATE OF CRIME	DATE OF SENTENCE	PTS.
ASSAULT IN THE SECOND DEGREE	CLARK/WA 90-1-00105-9	1/26/1990	4/9/1990	1
OBSTRUCTING	CLARK/WA 930093 CKP	3/5/1992		
NO VALID OPERATOR'S LICENSE	CLARK/WA 4099 VPD	3/6/1996		
DRIVING WHILE SUSPENDED 3 RD DEGREE	CLARK/WA 250356 CLS	1/14/1997		
DRIVING WHILE SUSPENDED 3 RD DEGREE	CLARK/WA 252086 CLS	9/9/1997		
DRIVING WHILE SUSPENDED 3 RD DEGREE	CLARK/WA 265604 CLS	8/19/1999		
FAILURE TO TRANSFER TITLE W/IN 45 DAYS	CLARK/WA 261893 CLS	8/17/2000		

The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360.

DATED this 29th day of July, 2008.


Defendant


Attorney for Defendant 266A


Daniel A. Gasperino, WSBA#35626
Deputy Prosecuting Attorney

DECLARATION OF CRIMINAL HISTORY
Revised 9/14/2000

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET
PO BOX 5000
VANCOUVER WA 98666-5000
(360) 397-2261

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FILED

JUL 29 2008 S8

Sherry W. Parker, Clerk, Clark Co.

ANDERSON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

MARTIN ERNEST CURRY,

Defendant

Date of Birth: 5/22/1958

SID #: WA12102496

No. 08-1-00792-8

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND JUDGMENT AND SENTENCE
(MISDEMEANOR)

EXECUTION SUSPENDED

IMPOSITION DEFERRED

08-9-05275-2

THIS MATTER, having come on regularly for sentencing on the 29th day of JULY, 2008, the defendant being present and represented by his/her undersigned attorney, with the State being represented by the undersigned Deputy Prosecuting Attorney, and the defendant having previously entered valid pleas of guilty to been convicted at jury bench trial of the crime(s) of:

COUNT	CRIME	RCW	DATE OF CRIME
04	RESISTING ARREST	9A.76.040	5/16/2008

as charged in the Amended Information and the court having afforded each counsel the right to speak, having asked the defendant if he/she wished to make a statement in mitigation of punishment, and having heard and considered the arguments presented, now, therefore, the Court makes the following :

I. FINDINGS OF FACT

- The defendant is guilty of the above-listed crime(s);
- The maximum terms for the above crimes are:

COUNT	TERM	FINE
04	90 DAYS	\$1,000

3. The defendant has served 24-0 days of confinement prior to sentencing, said confinement being solely related to the crimes for which the defendant is being sentenced.

4. **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The Court has considered 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 does not have the ability to pay legal financial obligations as imposed below.

FINDINGS, CONCLUSIONS AND JUDGMENT AND SENTENCE
(MISDEMEANOR) - 1
(Rev. 11/9/2006) (PSS/MD)

CLARK COUNTY PROSECUTING ATTORNEY
1013 FRANKLIN STREET • PO BOX 5000
VANCOUVER, WASHINGTON 98666-5000
(360) 397-2261 (OFFICE)
(360) 397-2230 (FAX)

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H

5. The offense charged in Count(s) _____ is/are **Domestic Violence** offense(s) as that term is defined in RCW 10.99.020(3).

6. The State has moved to dismiss Count(s) _____.

II. CONCLUSIONS OF LAW

1. The Court has jurisdiction over the defendant and the subject matter.
2. The defendant is GUILTY of the crime(s) set forth above.
3. The Court DISMISSES Counts _____.

III. JUDGMENT AND SENTENCE

The court having determined that no legal cause exists to show why sentence should not be pronounced, now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The defendant is sentenced to the Clark County Jail as follows:

90 ~~days/months~~ on Count 04

said sentences to run concurrently consecutively to each other

a. 90 days of the sentence shall be suspended deferred for 24 months on the conditions listed in Appendix A.

b. Defendant shall serve a total of 0 days of the sentence as follows:

(a) _____ days credit for time served.

(b) _____ days/months of additional total confinement in the Clark County Jail.

(c) _____ days of partial confinement, if eligible and approved, may be served as:

_____ days of work or education release

_____ days of Work Crew

If in custody, the defendant shall be screened while in custody. A map with specific instructions on when and where to report has been provided to the defendant that contains the escape warning.

(d) _____ days of community service. (8 hours = 1 day)

(e) The defendant's term of confinement is to commence immediately unless otherwise indicated: _____

- If the defendant has been referred to work crew and is determined to be medically unfit to perform the work crew by the Clark County Corrections Unit, Corrections may screen the defendant for community service in lieu of the work crew obligation, if legally allowed, and if they accept him/her in their program. Corrections shall obtain medical verification of the defendant's medical disability and the defendant shall provide any waivers necessary to allow Corrections to obtain said medical information. The Corrections staff shall supervise the defendant to insure compliance. If the defendant is found to be medically unfit for work crew and not acceptable for community service, Corrections shall provide the defendant a return date to Court for further review by the court. No other court order is necessary to do this conversion.

The sentence imposed herein shall be served consecutively to any sentences which the defendant may be sentenced to under any other cause in either District Court or Superior Court, unless otherwise specified herein.

2. The defendant shall pay the following to the Clerk of the Superior Court:

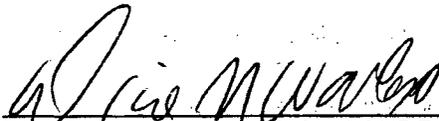
- 1 \$ _____ Restitution. To be Paid to _____
- 2 Victim(s) and amounts to be set by separate court order. The addresses of
- 3 the victims may be withheld and provided confidentially to the Clerk.
- 4 \$ _____ Victim's Assessment, RCW 7.68.035 -
- 5 \$ _____ \$ 250. Misdemeanor/\$500. gross misdemeanor
- 6 \$ _____ DV Penalty Assessment, RCW 10.99.080
- 7 \$ _____ Criminal Filing Fee (Court Costs)
- 8 \$ _____ Witness Costs. RCW 10.01.160 and 2.40.010
- 9 \$ _____ Sheriff's Service Fees. RCW 10.01.160 and 36.18.040
- 10 \$ _____ Jury Demand Fees. RCW 10.01.160 and 10.46.190 - **\$ 250.00**
- 11 \$ _____ Sheriff Fees for service of warrant (\$100 max). RCW 10.01.160
- 12 \$ _____ Appointed Attorney Fees, with credit for \$ _____ prepaid to Indigent
- 13 Defense Cost Recovery.
- 14 \$ _____ Court Appointed Defense Investigator/Expert and other defense costs.
- 15 \$ _____ Fine. RCW 9A.20.021
- 16 \$ _____ Drug Fund Contribution. Fund # 1015 1017 (TF). To be paid within 2
- 17 years.
- 18 \$ _____ Crime Lab Fee. RCW 43.43.690
- 19 \$ _____ Extradition Costs
- 20 \$ _____ Costs for Emergency Response. (DWI Offenses, \$ 1,000 Maximum -
- 21 RCW 38.52)
- 22 Responding Agencies: _____
- 23 \$ _____ Other Costs for: _____
- 24 \$ _____ Costs of Incarceration. The Court specifically finds that the defendant does
- 25 does not have the means to pay for the cost of incarceration at the rate of \$ 50.00
- 26 per day.

Payment shall not be less than \$ _____ per month or, if left blank, the amount shall be set by the Community Corrections Officer and shall be paid in full prior to expiration of the suspended/deferred sentence. Payments shall commence on _____ or as set by the Department of Corrections. All payments shall be in accordance with the policies of the Clerk.

3. Pursuant to RCW 10.82.090, 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. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

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- 4. The defendant shall pay a monthly community supervision fee to the Department of Corrections. The amount, manner and due dates of the payments shall be as established by the policies and procedures of Department of Corrections and state law.
 - 5. **FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record.** (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047 – **applies only to Domestic Violence cases**
 - 6. The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190.
 - 7. When there is a reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections can conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purposes of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned and possessed by the defendant.
 - 8. The court finds that Count _____ is an offense that makes mandatory the withholding of the driving privilege by the Department of Licensing. The court clerk is directed to immediately punch the defendant's Washington Driver's license or permit to drive with a "C" as directed by the Department of Licensing pursuant to RCW 46.20.270.
 - 9. The bail or release conditions previously imposed are hereby exonerated and the Clerk shall disburse it to the appropriate person.

12 DONE in Open Court and in the presence of the defendant this date: 7/29/08

13
14
15 
16 JUDGE OF THE SUPERIOR COURT

17 Print Name: W. J. ...

16 
17 Daniel A. Gasperino,
18 WSBA #35626
19 Deputy Prosecuting Attorney

17 
18 Neil C. Anderson, WSBA #26119
19 Attorney for Defendant

17 
18 MARTIN ERNEST CURRY
19 Defendant

APPENDIX "A"

STATE OF WASHINGTON V. MARTIN ERNEST CURRY

CLARK COUNTY SUPERIOR COURT CAUSE NUMBER 08-1-00792-8

CONDITIONS OF PROBATION

GENERAL CONDITIONS:

- 1. LAW: Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him to be violating such laws.
- 2. Defendant shall not commit any like offenses.
- 3. Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.
- 4. PROBATION:
 - a. Defendant shall be under the supervision of a Community Corrections Officer of the Department of Corrections and shall follow the conditions in this order and the rules imposed by the probation officer/Department of Corrections. Defendant shall report in person to the probation officer before 4:00 p.m. on the first business day after defendant's release and shall thereafter fully and truthfully report to such officer as directed.
 - b. The defendant shall be required to have face to face, in person contact with his Community Corrections Officer and this shall occur a minimum of once per month.
- 5. RESIDENCE: Defendant shall not move from his present address unless given prior permission by the court or the Community Corrections Officer.
- 6. EMPLOYMENT: Defendant shall devote not less than forty (40) hours per week to gainful employment or education or shall be actively seeking full time employment.
- 7. Remain in prescribed geographic boundaries specified by the community corrections officer.
- 8. Defendant shall not accept employment in the following fields:

- 9. Defendant shall notify the Court or his/her Community Corrections Officer, in advance, of any change in his/her employment.
- 10. Defendant shall personally obtain written permission from his/her Community Corrections Officer prior to leaving the County permanently.

1 **SPECIAL CONDITIONS:**

- 2 1. **EVALUATION:** Defendant shall undergo an evaluation for treatment for substance
3 abuse mental health anger management treatment and fully comply with all
4 recommended treatment.
- 4 2. **TREATMENT PROGRAM:** Defendant shall enter into, cooperate with, fully attend and
5 successfully complete all in-patient and outpatient phases of a substance abuse
6 ~~mental health~~ anger management treatment program as established by the
7 Community Corrections Officer and/or the treatment facility.
- 6 ~~3.~~ 3. Defendant shall participate in a **domestic violence perpetrator program** as approved
7 under RCW 26.50.150' and fully comply with all recommended treatment.
- 7 4. Treatment shall be at the defendant's expense and he/she shall keep his account current if
8 it is determined that the defendant is financially able to afford it.
- 8 5. Defendant shall submit to urine, breath or other screening whenever requested to do so by
9 the treatment program staff and/or the community corrections officer.
- 10 6. **ALCOHOL:** Defendant shall not possess or consume alcoholic beverages at all to
11 excess. The defendant will will not be required to submit to a program of monitored
12 antabuse. Defendant shall not be in any place where alcoholic beverages are sold by the
13 drink for consumption or are the primary sale item. Defendant shall submit to random urine,
14 breath and/or other testing to detect usage of alcohol as requested by his/her Community
15 Corrections Officer.
- 13 7. **CONTROLLED SUBSTANCES:** Except by lawful prescription, defendant shall not possess,
14 use, or deliver any item prohibited by the Uniform Controlled Substances Act. The
15 defendant shall notify his Community Corrections Officer on the next working day when a
16 controlled substance has been medically prescribed. Defendant shall submit to random
17 urine, breath and/or other testing to detect usage of drugs as requested by his Community
18 Corrections Officer.
- 16 8. Defendant shall not possess or use any paraphernalia that can be used for the ingestion or
17 processing of controlled substances or that can be used to facilitate the sale or transfer of
18 controlled substances including scales, pagers, police scanners, or hand held electronic
19 scheduling and data storage devices. Defendant shall not frequent known drug activity
20 areas or residences.
- 19 9. If the defendant is or becomes subject to a court-ordered mental health or chemical
20 dependency treatment, the defendant must notify the Department of Corrections and the
21 defendant's treatment information must be shared with DOC for the duration of the
22 defendant's incarceration and supervision.
- 21 10. Defendant shall not have any contact with other participants in the crime, either directly or
22 indirectly.
- 23 11. **GUNS AND WEAPONS:** Defendant hereby stipulates that (s)he shall not possess or use
24 any firearm, deadly weapon or ammunition except for military duty.

1 12. **ASSOCIATION:** Defendant shall not initiate or permit communication or contact with
2 persons known to him/her to be convicted felons, or presently on probation, community
3 supervision or parole for any offense, juvenile or adult, except immediate family or as
4 authorized by his/her community corrections officer for treatment purposes. Additionally, the
5 defendant shall not initiate or permit communication or contact with the following persons:

6 13. Defendant shall not initiate or permit communication or contact with persons known to
7 him/her to be substance abusers.

8 14. **VICTIM CONTACT:**

9 The defendant shall not have any contact with the victim(s), Melinda Jean Curry including
10 but not limited to personal, verbal, written, electronic, telephonic or through a third person.

11 This condition is for the statutory maximum sentence of 5 months/years.

12 **DOMESTIC VIOLENCE: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE
13 UNDER CHAPTER 10.99 RCW AND WILL SUBJECT A VIOLATOR TO ARREST; ANY
14 ASSAULT, DRIVE-BY SHOOTING OR RECKLESS ENDANGERMENT THAT IS A
15 VIOLATION OF THIS ORDER IS A FELONY.**

16 A Domestic Violence Protection Order is separately entered and the clerk of the court shall
17 forward a copy of the Domestic Violence order on or before the next judicial day following
18 filing to the Clark County Sheriff's Department.

19 **HARASSMENT: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE UNDER
20 CHAPTER 9A.46 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.**

21 A Harassment No Contact Order is separately entered and the clerk of the court shall
22 forward a certified copy of the order to the victim. The Clerk shall contact the Clark County
23 Prosecuting Attorney's Victim/ Witness unit to obtain the address for mailing.

24 15. Defendant shall not possess burglary tools.

25 16. Defendant shall attend and successfully complete a shoplifting awareness educational
26 program as directed by the community corrections officer.

27 17. Defendant shall attend and successfully complete the Victim Awareness Educational
Program as directed by the community corrections officer.

18. Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of
_____.

19. Defendant shall not operate a motor vehicle without a valid driver's license and proof of
liability insurance in his/her possession.

20. Defendant shall not go to _____.

21. Defendant is required to undergo HIV testing which is mandated by law and covered by a
separate written order of this Court.

22. Defendant shall not associate with any persons known to be gang members or associated
with gangs.

23. Defendant shall not wear or display any clothing, apparel, insignia or emblems that are
associated with or represent gang affiliation or membership as determined by the
Community Corrections Officer.

24. Defendant shall not possess any gang paraphernalia as determined by the Community
Corrections Officer.

- 1 25. Defendant shall not use any names, nicknames or monikers that are associated with
gangs.
- 2 26. Defendant shall submit to affirmative acts necessary to monitor compliance with the orders
of the court as required by the Department of Corrections.
- 3 27. Defendant shall sign necessary release of information documents as required by the
Department of Corrections.
- 4 28. Defendant shall comply with a curfew, the hours of which are established by the Community
Corrections Officer.
- 5 29. If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement,
the community custody time is tolled during that time that the defendant is not reporting for
6 supervision in the United States. The defendant shall not enter the United States without
the knowledge and permission of U.S. Immigration and Customs Enforcement. If the
7 defendant re-enters the United States, he/she shall immediately report to the Department of
Corrections for supervision.
- 8 30. When there is a reasonable cause to believe that the defendant has violated a condition or
9 requirement of this sentence, the defendant shall allow, and the Department of Corrections
can conduct, searches of the defendant's person, residence, automobile or other personal
10 property. Residence searches shall include access, for the purposes of visual inspection, all
areas of the residence in which the defendant lives or has exclusive/joint control/access
11 and automobiles owned and possessed by the defendant.
- 12 31. Other: _____

**IDENTIFICATION OF DEFENDANT
MARTIN ERNEST CURRY**

Alias name, DOB:		
SID No. WA12102496 (If no SID take fingerprint card for State Patrol)		Date of Birth: 5/22/1958
Race: W	Ethnicity:	Sex: M
Driver License No. CURRYME426K2		Driver License State: WA
FBI No. 305958VA8		Local ID No. (CFN): 104231
		Corrections No. 967645
Other _____		

Fingerprints are for DV cases only

Left four fingers taken simultaneously

Left thumb

Right
Thumb

Right four fingers taken simultaneously



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FILED
JUL 29 2008
Sherry W. Parker, Clerk, Clark Co.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

v.
Martin Ernest Curry
Defendant.

SID: WA12102496

If no SID, use DOB: 5/22/1958

No. 08-1-00792-8
DOMESTIC VIOLENCE NO-CONTACT ORDER
(CLJ = NOCON)
(Superior Cts = ORPRT)

 Pre-trial
 Post Conviction

 Clerk's action required.

The court finds that the defendant has been charged with, arrested for, or convicted of a domestic violence offense, and further finds that to prevent possible recurrence of violence, this Domestic Violence No-Contact Order shall be entered pursuant to Chapter 10.99 RCW. This order protects (name):

Melinda Jean Curry DOB 7-13-59

This is a pretrial order prohibiting possession of firearms or other dangerous weapons and the court makes the findings pursuant to RCW 9.41.800.

IT IS ORDERED THAT:

Defendant is RESTRAINED from:

Causing or attempting to cause physical harm, bodily injury, assault, including sexual assault, and from molesting, harassing, threatening, or stalking the protected person.

Coming near and from having any contact whatsoever, in person or through others, by phone, mail or any means, directly or indirectly, except for mailing or service of process of court documents by a 3rd party or contact by defendant's lawyers with the protected person.

Entering or knowingly coming within or knowingly remaining within 500 ft (distance) of the protected person's residence school place of employment other:

(Pretrial order) The defendant shall immediately surrender all firearms and other dangerous weapons within the defendant's possession or control and any concealed pistol license to [name/law enforcement agency] and the defendant is prohibited from obtaining or possessing a firearm, other dangerous weapon or concealed pistol license.

Handwritten initials/signature

1 **WARNINGS TO THE DEFENDANT:** Violation of the provisions of this order with actual notice of its terms is a
2 criminal offense under Chapter 26.50 RCW and will subject a violation to arrest; any assault, drive-by shooting,
or reckless endangerment that is a violation of this order is a felony.

3 Willful violation of this order is punishable under RCW 26.50.110. Violation of this order is a gross
4 misdemeanor unless one of the following conditions apply: Any assault that is a violation of this order and that
5 does not amount to assault in the first degree or second degree under RCW 9A.36.011 or 9A.36.021 is a class
6 C felony. Any conduct in violation of this order that is reckless and creates a substantial risk of death or serious
physical injury to another person is a class C felony. Also, a violation of this order is a class C felony if the
defendant has at least two previous convictions for violating a protection order issued under Titles 10, 26 or 74.

7 If the violation of the protection order involves travel across a state line or the boundary of a tribal jurisdiction,
8 or involves conduct within the special maritime and territorial jurisdiction of the United States, which includes
tribal lands, the defendant may be subject to criminal prosecution in federal court under 18 U.S.C. sections
2261, 2261A, or 2262.

9 In addition to the state and federal prohibitions against possessing a firearm upon conviction of a felony or a
10 qualifying misdemeanor, upon the court issuing a no-contact order after a hearing at which the defendant had
11 an opportunity to participate, the defendant may not possess a firearm or ammunition for as long as the no-
12 contact order is in effect. 18 U.S.C. section 922(g). A violation of this federal firearms law carries a maximum
possible penalty of 10 years in prison and a \$250,000 fine. If the respondent is convicted of an offense of
domestic violence, the respondent will be forbidden for life from possessing a firearm or ammunition. 18 U.S.C.
section 922(g)(9); RCW 9.41.040.

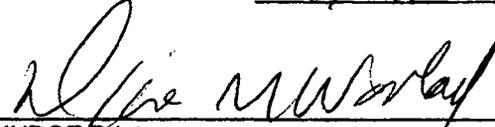
13 **YOU CAN BE ARRESTED EVEN IF THE PERSON OR PERSONS WHO OBTAINED THE ORDER INVITE**
14 **OR ALLOW YOU TO VIOLATE THE ORDER'S PROHIBITIONS.** You have the sole responsibility to avoid or
refrain from violation the order's provisions. Only the court can change the order upon written application.

15 Pursuant to 18 U.S.C. section 2265, a court in any of the 50 states, the District of Columbia, Puerto Rico, any
16 United States territory, and any tribal land within the United States shall accord full faith and credit to the order.

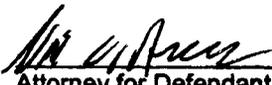
17 It is further ordered that the Clerk of the Court shall forward a copy of this order on or before the next
18 judicial day to: Clark County Sheriff's Office _____ Police Department where the
above-named protected person lives which shall enter it in a computer-based criminal intelligence system
available in this state used by law enforcement to list outstanding warrants.

19 THIS NO-CONTACT ORDER EXPIRES ON 07/29/2013

20 Done in Open Court in the presence of the defendant this date: 7/29/08

21 
22 _____
23 JUDGE Print name

24 
25 Deputy Prosecuting Attorney
26 WSBA # 35626
27 Print name:
Daniel A. Gasperino

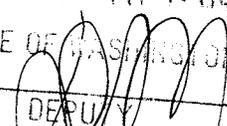

Attorney for Defendant
WSBA# 26119
Print name:
Neil C. Anderson



A completed law enforcement sheet must be attached for identification purposes by the police or sheriff.

FILED
COURT OF APPEALS
DIVISION II

09 MAR 27 PM 1:04

STATE OF WASHINGTON
BY 
DEPUTY

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

STATE OF WASHINGTON,
Respondent,

v.

MARTIN ERNEST CURRY,
Appellant.

No. 38112-5-II

Clark Co. No. 08-1-00792-8

DECLARATION OF
TRANSMISSION BY MAILING

STATE OF WASHINGTON)

: ss

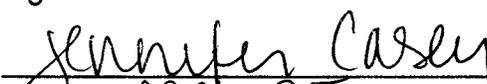
COUNTY OF CLARK)

On March 25, 2009, I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the below-named individuals, containing a copy of the document to which this Declaration is attached.

TO: David Ponzoha, Clerk Court of Appeals, Division II 950 Broadway, Suite 300 Tacoma, WA 98402-4454	Lisa Tabbut Attorney at Law PO Box 1396 Longview, WA 98632-7822
Martin E. Curry, DOC# 967645 Washington State Penitentiary 1313 N. 13 th Avenue Walla Walla, WA 99362-1065	

DOCUMENTS: Brief of Respondent

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


Date: Mar 25, 2009.
Place: Vancouver, Washington.