

NO. 38979-7-II

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

STATE OF WASHINGTON, Respondent

v.

MATTHEW RYAN HASTINGS, Appellant

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN P. WULLE
CLARK COUNTY SUPERIOR COURT CAUSE NO.07-1-01276-1

BRIEF OF RESPONDENT

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STATE OF WASHINGTON
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COURT REPORTER
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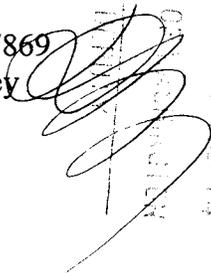


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I. STATEMENT OF FACTS

The State accepts the statement of the facts as set forth by the defendant. Where additional information is needed, it will be supplied in the argument section of this brief.

II. RESPONSE TO ASSIGNMENT OF ERROR NO. 1

The first assignment of error raised by the defendant is a claim that the trial court abused its discretion by denying a request for a trial continuance. Specifically, the defendant maintains that, after numerous continuances of his trial, his attorneys had finally announced that they were ready to proceed to trial. The defendant, however, maintained that he needed additional time. The trial court did not believe that the defendant was being sincere in this; his attorneys indicate that they were ready, and the Judge ordered the trial to commence as scheduled.

At a pretrial hearing that took place March 12, 2008, the defendant had raised the question of access to the law library in the jail. This matter was being brought before the court because of the security concerns that the defendant posed while in custody. At the same time that this was being raised, there were also questions about competency and bringing on board another expert. (RP Vol. IX, 134-136). The court indicated at that time

that it would attempt to work with the prosecutor in making sure the defendant had access to what he needed. (RP Vol. IX, 137).

On May 15, 2008, the matter was again before the Superior Court along with pretrial motions dealing with, among other things, access to witnesses and potential depositions. (RP Vol. X, 144-145).

Also at that time, was raised the question, again, of access to the law library. The defense attorney made the following comments to the court at that time:

MR. BUCKLY (Defense Attorney): And as an aside, Your Honor, we had originally requested by motion that Mr. Hastings be allowed to use the jail (sic): law library.

Subsequent from that, for granting that motion, it was on the basis of that he would behave himself, and he had some behavioral issues thereafter and that privilege was taken away.

He is now back into good graces, it is my understanding, and we're requesting the court allow him to have access to the law library for that reason.

-(RP Vol. X, 147, L11-21)

These concerns were again raised with the trial court on December 18, 2008.

MR. BUCKLEY (Defense Counsel): Your Honor, this was set for an Omnibus. I'm not sure exactly if it was a true

omnibus, but at any rate, I slipped in a motion and affidavit for continuance which I've placed in the court's bench, but basically it goes to three issues.

Number one, as the court may or may not recall, we had asked that Mr. Hastings have access to the law library several months ago, and the court had deferred to the jail staff to come up with some sort of a plan on how to do that. To date, Mr. Hastings has not been able to use the law library because there's been no plan put in place how he can do that.

So he feels that his ability to assist counsel in this matter is somewhat compromised by that.

Number two, Mr. Hastings wants me to sit down with him and go over the police reports entirely along with the interviews entirely, and as the court is aware, we have fifty-some-odd witnesses and interviews, and I don't have that kind of time, quite frankly, to go through that and sit there and with each one.

But my client believes that that's the only way he'll get a fair trial is that he knows ahead of time and talks to me ahead of time.

And, of course, that time issue is the issue.

Number three is that Mr. Hastings wishes to call his father as a witness. His father has medical issues and he's not sure – and I haven't confirmed this because this conversation with Mr. Hastings was conducted earlier this week and so I haven't had a chance to contact Mr. Hastings's father in regards to his medical issues.

For those reasons, Mr. Hastings is asking that I request a continuance of his trial and –

THE COURT: Mr. Buckley, are you ready to go to trial?

MR. BUCKLEY: I believe I will be ready to go to trial.

THE COURT: Okay. Then the request is denied at this time.

Okay, Mr. Hastings will be given access to the jail library. If you give me an order to that effect, I will sign it.

MR. BUCKLEY: Thank you.

THE COURT: And the jail will comply with his need to do research.

Mr. Buckley, all I can tell you, sir, is that we've got about a month to go and find the time to work with your client so that he's adequately prepared. Okay?

MR. BUCKLEY: Yes, Your Honor.

-(RP Vol. XII 168, L12 – 170, L16)

As this matter continued to get closer to trial, again there were major concerns with security as related to this defendant. The prosecutor raised with the court the fact that the defendant was making threats against various individuals in the jail setting. The jail personnel were taking this extremely seriously given the nature of prior contacts with the defendant. (RP Vol. XIII-A, 209-212). It's during this discussion of security and possible restraints of the defendant in front of the jury, that the court made the statement concerning having seen this matter on TV and was concerned with the nature of the events as they unfolded. (RP Vol. XIII-A,

212). It's there that the defense stops in the Appellate Brief, but the trial court went on to indicate as follows:

THE COURT: And on that basis and because I am still concerned about security, I will listen to this device because I'm still refining in my mind what procedures have to be followed.

I am telling you right now, counsel, just so that we're really clear on this, this appearance, this outfit, these chains will not be on this defendant.

MR. PEARCE: Exactly.

THE COURT: The case law is clear on that, that we will not permit the communication of that type of data to a jury, okay. So I'm telling you that's out for right now.

I have also, I should (indiscernible) know, and I'm just gotta put this on the record, have instructed that police officers when testifying and are on duty may appear in uniform. Those who are observing the trial who are not gonna be testifying I'm requesting and I've pretty much instructed you to tell them I don't want to see any uniforms on people who don't have, you know, the need to wear it for their purposes of their testimony or of their duty.

In other words, we're not gonna fill the gallery with uniforms and indirectly communicate to the jury either.

Mr. Hastings will get a fair trial in this courtroom. The only restraint I will consider is that which is unobservable to the jury, okay. And at some point, counsel, I expect you to produce, hopefully today, that – that thing you want to see the court use.

-(RP Vol. XIII, 213, L6 – 214, L12)

It's also during this discussion that the defendant admits the threats that he has made while in the jail setting. (RP Vol. XIII, 217).

That finally brings us to the Readiness Hearing, which was held on January 22, 2009 when the defense attorneys indicated that they were ready to proceed to trial. Because of the prior nature of the concerns with the defendant, the trial Judge did consider that his stalling was a means of attempting to manipulate the system. (RP Vol. XIV, 2422-2423).

Concerning the defendant's reluctance to go to trial on the date that his attorneys indicated they were ready, the defendant offered absolutely no concrete information to the trial court as to, specifically, why he felt that he was not ready to go to trial. The entire transcript up to that point indicates obvious concerns by the trial court, not only to get this matter moving, but to make sure that the defendant receives a fair trial and is entitled to all of the witnesses and protections available. Thus, the court listened to multiple experts being discussed with the court, depositions to perpetuate, material witness warrants, and other matters to facilitate this trial on behalf of the defendant. No reason is given by the defendant as to why he feels that his team is not ready to proceed to trial.

The appellate Court reviews an alleged violation of the speedy trial rule de novo. State v. Carlyle, 84 Wn. App. 33, 35-36, 925 P.2d 635

(1996). The decision to grant or deny a motion for a continuance rests within the sound discretion of the trial court, and the Court will not disturb the trial court's decision unless there is a clear showing it is manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons. State v. Flinn, 154 Wn.2d 193, 199, 110 P.3d 748 (2005) (quoting State v. Downing, 151 Wn.2d 265, 272, 87 P.3d 1169 (2004) and State ex rel. Carroll v. Junker, 79 Wn.2d 12, 26, 482 P.2d 775 (1971)); State v. McKinzy, 72 Wn. App. 85, 87, 863 P.2d 594 (1993). On appeal, the defendant must establish both that the court abused its discretion and that he suffered prejudice. State v. Torres, 111 Wn. App. 323, 330, 44 P.3d 903 (2002), *review denied*, 148 Wn.2d 1005, 60 P.3d 1212 (2003). The trial court abuses its discretion when its decision is manifestly unreasonable or based on untenable grounds or untenable reasons. State v. Michielli, 132 Wn.2d 229, 240, 937 P.2d 587 (1997).

Timely objections are required so that, if possible, the trial court will have an opportunity to fix the error and still satisfy the speedy trial requirements. State v. Greenwood, 120 Wn.2d 585, 606, 845 P.2d 971 (1993). If a defendant does not timely raise the objection, then the defendant's speedy trial rights under the court rules are deemed waived. CrR 3.3(e), (f). Common law has clarified that "[i]n exercising its discretion to grant or deny a continuance, the trial court is to consider all

relevant factors." State v. Heredia-Juarez, 119 Wn. App. 150, 155, 79 P.3d 987 (2003). Allowing counsel time to prepare for trial is a valid basis for continuance. State v. Campbell, 103 Wn.2d 1, 15, 691 P.2d 929 (1984); State v. Williams, 104 Wn. App. 516, 523, 17 P.3d 648 (2001). The defendant's counsel requested or agreed to numerous continuances, and a defendant's attorney may waive the timely trial rule by requesting a continuance to ensure effective representation. *See, e.g., State v. Campbell*, 103 Wn.2d 1, 14-15, 691 P.2d 929 (1984), *cert. denied*, 471 U.S. 1094 (1985). A motion for continuance made "on behalf of any party waives that party's objection to the requested delay." CrR 3.3(f)(2).

The State submits that there is no justification offered by the defendant to go against his team's belief that they are prepared, and ready, to offer an adequate defense in this case. He supplied no information to the trial court to indicate why it was that he felt that the team was not ready. As the trial court clearly indicates, given the nature of the defendant's conduct on previous occasions, the court did not believe that this was a sincere request by the defendant. Certainly all indications prior to that are that the trial court was bending over backwards to accommodate this defendant. To say otherwise in this situation would be totally inconsistent with the trial court's previous statements.

The State submits that the trial court used its sound discretion in denying any further set-overs and further, that there has been no clear showing of the court's decision being manifestly unreasonable or exercised on untenable grounds.

III. RESPONSE TO ASSIGNMENT OF ERROR NO. 2

The second assignment of error raised by the defendant is a claim that the trial court violated the appearance of fairness doctrine by presiding over the trial given that the trial court had seen parts of it on TV and that this troubled him.

This matter was set forth in some of the facts of the previous section which will be incorporated by this reference. There is no question but that the activities of the defendant were disconcerting to the trial court as, certainly, it was disconcerting to the public at large in Clark County. Nevertheless, there is absolutely no showing that the trial Judge was prejudiced to such an extent that the defendant could not receive a fair trial or that the Judge indicated or showed in any way an unfairness or a bias towards this defendant. As demonstrated in the previous section, the Appellant in his brief, only makes mention of one paragraph of a longer statement of the court. When that discussion is put into place, it's obvious

that the court is going out of its way to make sure that the defendant receives a fair trial. That is what is being discussed at that hearing.

The Appellate Court does not presume prejudice. State v. Dominguez, 81 Wn. App. 325, 328-30, 914 P.2d 141 (1996). After the claiming party presents sufficient evidence of potential bias, the Court considers whether the trial court violated the appearance of fairness doctrine. Dominguez, 81 Wn. App. at 329, 330. "The test is whether a reasonably prudent and disinterested observer would conclude [that the claimant] obtained a fair, impartial, and neutral trial." Dominguez, 81 Wn. App. at 330. The Appellate Court considers allegedly improper or biased comments in context. See Wells v. Whatcom County Water Dist. No. 10, 105 Wn. App. 143, 158, 19 P.3d 453 (2001); In re Dependency of O.J., 88 Wn. App. 690, 697, 947 P.2d 252 (1997), *review denied*, 135 Wn.2d 1002 (1998). "Under the appearance of fairness doctrine, a judicial proceeding is valid only if a reasonably prudent and disinterested observer would conclude that all parties obtained a fair, impartial, and neutral hearing." State v. Bilal, 77 Wn. App. 720, 722, 893 P.2d 674 (1995) (quoting State v. Ladenburg, 67 Wn. App. 749, 754-55, 840 P.2d 228 (1992)). In order to establish that the trial court's involvement in the matter violated the appearance of fairness, the claimant must provide some evidence of the judge's actual or potential bias. State v. Post, 118 Wn.2d 596, 619, 826

P.2d 172, 837 P.2d 599 (1992). The critical concern is determining whether a proceeding would appear to be fair to a reasonably prudent and disinterested person. State v. Dugan, 96 Wn. App. 346, 354, 979 P.2d 885 (1999). "The test for determining whether the judge's impartiality might reasonably be questioned is an objective test that assumes that a reasonable person knows and understands all the relevant facts." In re Marriage of Davison, 112 Wn. App. 251, 257, 48 P.3d 358 (2002)(quoting Sherman v. State, 128 Wn.2d 164, 206, 905 P.2d 355(1995))(internal quotation marks omitted).

Nevertheless, the Court presumes that a trial court properly discharged its official duties without bias or prejudice. In re Pers. Restraint of Davis, 152 Wn.2d 647, 692, 101 P.3d 1 (2004). Thus, a defendant claiming a violation of the appearance of fairness doctrine must make a threshold showing of a trial court's actual or potential bias. State v. Post, 118 Wn.2d 596, 619, 826 P.2d 172, 837 P.2d 599 (1992). And a defendant must provide specific facts supporting his allegation of bias. In re Davis, 152 Wn.2d at 692. In the absence of evidence, the claim of bias must be rejected. Post, 118 Wn.2d at 619. But "[j]udicial rulings alone almost never constitute a valid showing of bias." In re Davis, 152 Wn.2d at 692.

In State v. Morgensen, 148 Wn. App. 81, 90-91, 197 P.3d 715

(2008), Division II commented as follows:

Next, Morgensen argues that the trial judge violated the appearance of fairness doctrine when he failed to recuse himself from the case, despite having an allegedly unfavorable opinion of Morgensen based on having been Morgensen's defense counsel in prior criminal cases. But Morgensen waived this challenge by not objecting below. RAP 2.5(a); In re Welfare of Carpenter, 21 Wn. App. 814, 819-20, 587 P.2d 588 (1978).

Under RAP 2.5(a), an “appellate court may refuse to review any claim of error which was not raised in the trial court.” The doctrine of waiver applies to bias and appearance of fairness claims. See, e.g., State v. Bolton, 23 Wn. App. 708, 714, 598 P.2d 734 (1979) (we refused to consider appearance of fairness issue raised for first time on appeal), review denied, 93 Wn.2d 1014 (1980); Carpenter, 21 Wn. App. at 820 (“a litigant who proceeds to trial knowing of potential bias by the trial court waives his objection and cannot challenge the court's qualifications on appeal”).

Here, Morgensen was aware of the potential for bias because he knew that the trial judge was his former defense counsel. And he would have been entitled, as a matter of right, to a different judge upon the filing of a timely motion and affidavit of prejudice. RCW 4.12.050; Carpenter, 21 Wn. App. at 820. But Morgensen did not object to his former defense counsel being the trial judge on this unrelated charge and, therefore, waived this issue. Trial counsel cannot stay silent to preserve an issue for possible future appeal. City of Seattle v. Harclao, 56 Wn.2d 596, 597, 354 P.2d 928 (1960).

The State submits that there has been no showing of potential bias or prejudice, nor has there been any demonstration of a violation of the fairness doctrine. This matter was never raised with the trial court. The defense attorneys never objected on a claim of bias, prejudice, or unfair appearance. With that in mind, it appears that this matter has, potentially, been waived by the defendant. Even if the Appellate Court were to consider that it had not been waived, there is no indication from the record that the Judge has violated the Appearance of Fairness Doctrine.

IV. RESPONSE TO ASSIGNMENT OF ERROR NO. 3

The third assignment of error raised by the defendant is a claim that the Judgment and Sentence firearm enhancements violated Double Jeopardy.

A copy of the Felony Judgment and Sentence (CP 218) is attached hereto and by this reference incorporated herein. The defendant makes claim that the Double Jeopardy clause has been violated by the use of firearm enhancements in certain crimes and that this matter should be reevaluated in light of the Blakely decision.

The claim is that the Hard Time for Hard Crime Act was passed before Blakely and therefore the increased punishments become an

element of the offense and as such, should be something for the jury to decide.

The State submits that these matters have been litigated recently in the Appellate Courts and that there is no Double Jeopardy problems, nor does Blakely apply.

The sentence enhancement statute, RCW 9.94A.533, was enacted without amendment after the voters passed Initiative 159, entitled the Hard Time for Armed Crime Act. The statute mandates additional punishment for crimes committed with a firearm or with a deadly weapon other than a firearm:

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, *if the offender or an accomplice was armed with a firearm* as defined in RCW 9.41.010...

...

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, *if the offender or an accomplice was armed with a deadly weapon other than a firearm* as defined in RCW 9.41.010

The statute applies to all felonies except possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony

Division II also held with existing case law in State v. Kelley, 146 Wn. App. 370, 189 P.3d 853 (2008). The State charged Kelley with first

degree murder, second degree unlawful firearm possession, and second degree assault. The State also alleged firearm sentence enhancements for the first degree murder and second degree assault charges. In facts strikingly similar to ours the Court ruled:

Kelley argues that (1) the firearm sentence enhancement on his second degree assault conviction violates double jeopardy and (2) the United States Supreme Court's holding in Blakely changes well-settled double jeopardy analysis in that Blakely characterizes the firearm sentence enhancement as an additional element of the underlying crime. Kelley concedes that Division One of our court has rejected this double-jeopardy firearm-sentence-enhancement argument. Nevertheless, he argues that Division One did not correctly apply the law. We disagree. (footnotes omitted)

Contrary to Kelley's argument, Division One correctly held that “[i]t is well settled that sentence enhancements for offenses committed with weapons do not violate double jeopardy even where the use of a weapon is an element of the crime.” State v. Nguyen, 134 Wn. App. 863, 866, 142 P.3d 1117 (2006), *review denied*, 163 Wn.2d 1053 (2008). Nguyen argued that “the firearm enhancement ‘acts like an element of a higher crime’ and because the enhancement does not apply to certain crimes in which possession or use of a firearm is an element, the enhancement creates unintended, redundant punishment.” 134 Wn. App. at 867. Nguyen's argument was identical to Kelley's argument.

In rejecting this argument, the Nguyen court noted that the legislature had provided exemptions from the firearm sentence enhancement for specific crimes and “[a]ny ‘redundancy’ in mandating enhanced sentences for other offenses involving use of a firearm is intentional.” 134 Wn. App. at 868. Division One also held that “Blakely does not implicate double jeopardy but rather involves the procedure required by the Sixth Amendment for finding the facts

authorizing the sentence.” Nguyen, 134 Wn. App. at 868 (citing Blakely v. Washington, 542 U.S. 296, 301, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004)). Adopting Nguyen, we hold that Blakely does not apply to Kelley's double jeopardy argument, nor does it change well-settled double jeopardy analysis.

Following Nguyen, we hold that Kelley's firearm sentence enhancement does not violate double jeopardy. Accordingly, we affirm his sentences.

-(State v. Kelley, 146 Wn. App. at 374-375)

As Division II has recently noted in In Re Personal Restraint of Delgado, 149 Wn. App. 223, 240, 204 P.3d 936 (2009):

Last, Meza and Delgado argue that the sentencing court violated the prohibition against double jeopardy by imposing multiple sentencing enhancements for the use of one weapon. Petitioners acknowledge that our Supreme Court has held, in State v. Claborn, 95 Wn.2d 629, 637, 628 P.2d 467 (1981), that sentencing enhancements are not “offenses” as contemplated by the double jeopardy clause's protection against multiple punishments for the same offense. But the petitioners urge us to reexamine the Claborn analysis in light of Blakely. After petitioners filed their briefs, Divisions One and Two of this court rejected this argument, holding that (1) Blakely does not implicate double jeopardy and (2) sentence enhancements are not subject to double jeopardy analysis. State v. Kelley, 146 Wn. App. 370, 374-75, 189 P.3d 853 (2008); State v. Nguyen, 134 Wn. App. 863, 866-69, 142 P.3d 1117 (2006), *review denied*, 163 Wn.2d 1053, *cert. denied*, 129 S. Ct. 644 (2008). We agree with those courts and deny relief on this ground.

The State submits that this matter has previously been resolved against the defendant and because of that the Judgment and Sentence should be affirmed.

V. CONCLUSION

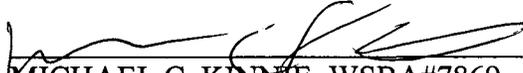
The trial court should be affirmed in all respects.

DATED this 16 day of Dec., 2009.

Respectfully submitted:

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Ch

Charles Buckley

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FILED
MAR 02 2009
Sherry W. Parker, Clerk, Clark Co.

**Superior Court of Washington
County of Clark**

State of Washington, Plaintiff,

vs.

**MATTHEW RYAN HASTINGS,
Defendant.**

SID: WA17245599
If no SID, use DOB: 10/5/1978

No: 07-1-01276-1

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

09-9-01643-6

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
01	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
03	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
05	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
07	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
09	ATTEMPTED ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	7/18/2007
10	ATTEMPTED ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	7/18/2007
11	ATTEMPTED UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE	9A.1.040(1)(a)	7/18/2007

(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:

250
WPF

- 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.
- 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 01, 03, 05, 07, 09, 10. RCW 9.94A.602, 9.94A.533.
- The defendant used a **deadly weapon other than a firearm** in committing the offense in Count ____ . 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 crime(s) charged in Count ____ 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
01	4) 9+	XV-75%	308.25 MONTHS to 411 MONTHS	60 MONTHS	368.25 MONTHS TO 471 MONTHS	LIFE \$50,000
03	0	XV-75%	180 MONTHS to 240 MONTHS	60 MONTHS	240 MONTHS TO 300 MONTHS	LIFE \$50,000
05	0	XV-75%	180 MONTHS to 240 MONTHS	60 MONTHS	240 MONTHS TO 300 MONTHS	LIFE \$50,000
07	0	XV-75%	180 MONTHS to 240 MONTHS	60 MONTHS	240 MONTHS TO 300 MONTHS	LIFE \$50,000
09	4) 9+	IV	63 MONTHS to 84 MONTHS	36 MONTHS	99 MONTHS TO 120 MONTHS	10 YEARS \$20,000
10	4) 9+	IV	63 MONTHS to 84 MONTHS	36 MONTHS	99 MONTHS TO 120 MONTHS	10 YEARS \$20,000
11	4) 9+	VII	87 MONTHS to 116 MONTHS		87 MONTHS to 116 MONTHS	10 YEARS \$20,000

* (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 02 (ATTEMPTED ASSAULT IN THE FIRST DEGREE), 04 (ATTEMPTED ASSAULT IN THE FIRST DEGREE), 06 (ATTEMPTED ASSAULT IN THE FIRST DEGREE), 08 (ATTEMPTED ASSAULT IN THE FIRST DEGREE). *The State dismisses ch. 11.5*

IV. Sentence and Order

It is Ordered:

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

JASS CODE
 RTN/RJN

	\$36,435.99	Restitution to (see separate Restution Report filed with the Court)	
PCV	\$ 500.00	Victim assessment	RCW 7.68.035
	\$ _____	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	\$ _____	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; <input type="checkbox"/> VUCSA chapter 69.50 RCW, <input type="checkbox"/> VUCSA additional fine deferred due to indigency RCW 69.50.430	
CDF/LDI/FCD NTF/SAD/SDI	\$ _____	Drug enforcement Fund # <input type="checkbox"/> 1015 <input type="checkbox"/> 1017 (TF)	RCW 9.94A.760
CLF	\$ _____	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690

RTN/RJN \$ 100.00 Felony DNA collection fee not imposed due to hardship RCW 43.43.7541
 \$ _____ 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:

<u>Name of other defendant</u>	<u>Cause Number</u>	<u>(Victim's name)</u>	<u>(Amount-\$)</u>
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 CHRIS LEBLANC, SCOTT SCHANAKER, SCOTT HOLMES, JOHN KEY, BRENT DONALDSON, TODD SCHWARTZ including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 10 years (not to exceed the maximum statutory sentence). like (10 years as to Schwartz & Donaldson) S

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

4.4 Other: Count 11 Dismissed

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):

- 411 ~~days~~ months on Count 01
- 240 ~~days~~ months on Count 03
- 240 ~~days~~ months on Count 05
- 240 ~~days~~ months on Count 07
- 84 ~~days~~ months on Count 09
- 84 ~~days~~ months on Count 10
- 0 ~~days~~ months on Count 11

- The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- ^{in addition} The confinement time on Counts 1, 3, 5, 7, 9 and 10 include ^{shall} 312 months as 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: ~~1443~~ 1443 S

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: counts 1, 3, 5 and 7

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 01	minimum term _____	maximum term _____
Count 03	minimum term _____	maximum term _____

Count 05	minimum term _____	maximum term _____
Count 07	minimum term _____	maximum term _____
Count 09	minimum term _____	maximum term _____
Count 10	minimum term _____	maximum term _____
Count 11	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: 592 days

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

Community Placement:

_____ days/months on Count 01
 _____ days/months on Count 03
 _____ days/months on Count 05
 _____ days/months on Count 07
 _____ days/months on Count 09
 _____ days/months on Count 10
 _____ days/months on Count 11

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 01 for a range from 24 to 48 months
 Count 03 for a range from 24 to 48 months
 Count 05 for a range from 24 to 48 months
 Count 07 for a range from 24 to 48 months
 Count 09 for a range from 18 to 36 months
 Count 10 for a range from 18 to 36 months
 Count 11 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) 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: _____
- 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

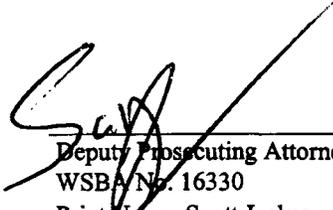
days of the entry of the order. RCW 9A.44.130(7).

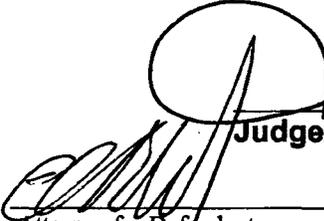
- 5.8 Count _____ is a felony in the commission of which you used a motor vehicle. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.
- 5.9 If you are or become subject to court-ordered 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.

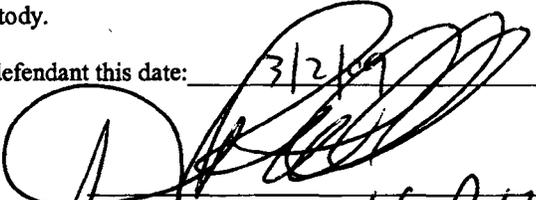
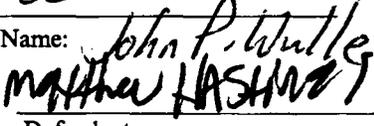
5.10 Persistent Offense Notice

- The crime(s) in count(s) 01, 03, 05, 07, 09, 10 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: 3/2/09


 Deputy Prosecuting Attorney
 WSBA No. 16330
 Print Name: Scott Jackson


 Attorney for Defendant
 WSBA No. 09048
 Print Name: Charles H. Buckley


 Judge/Print Name: John P. Wulfe

 Defendant
 Print Name: MATTHEW RYAN HASTINGS

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: Matthew Hastings

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

MATTHEW RYAN HASTINGS

SID No: WA17245599

Date of Birth: 10/5/1978

(If no SID take fingerprint card for State Patrol)

FBI No. 64736HB7

Local ID No. 142010

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, _____

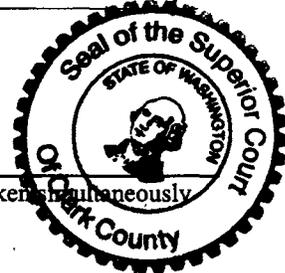
[Handwritten Signature]

Dated: _____

3-2-09

The defendant's signature: _____

Matthew Hastings



Left four fingers taken simultaneously	Left Thumb	Right Thumb	Right four fingers taken simultaneously
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SUPERIOR COURT OF WASHINGTON - COUNTY OF CLARK

STATE OF WASHINGTON, Plaintiff,

NO. 07-1-01276-1

v.

MATTHEW RYAN HASTINGS,

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

Defendant.

SID: WA17245599

DOB: 10/5/1978

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
01	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
03	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
05	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
07	ATTEMPTED MURDER IN THE FIRST DEGREE	9A.32.030(1)(a) 9A.28.020(3)(a)	7/18/2007
09	ATTEMPTED ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	7/18/2007
10	ATTEMPTED ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	7/18/2007
11	ATTEMPTED UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE	9.41.040(1)(a)	7/18/2007

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	Plus enhancements
01	ATTEMPTED MURDER IN THE FIRST DEGREE	411	Days/Months + 60 months
03	ATTEMPTED MURDER IN THE FIRST DEGREE	240	Days/Months + 60 months
05	ATTEMPTED MURDER IN THE FIRST DEGREE	240	Days/Months + 60 months
07	ATTEMPTED MURDER IN THE FIRST DEGREE	240	Days/Months + 60 months
09	ATTEMPTED ASSAULT IN THE SECOND DEGREE	84	Days/Months + 36 months
10	ATTEMPTED ASSAULT IN THE SECOND DEGREE	84	Days/Months + 36 months
11	ATTEMPTED UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE		Days/Months

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

cts + 1, 3, 5, 7, 9 in consecutively and the first 312 months are for ~~firearm~~ ^{firearm enhancement} program. Total of 1443 months

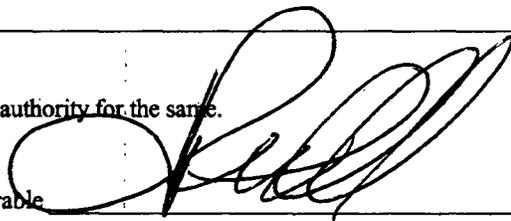
The defendant has credit for 592 days served.

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.

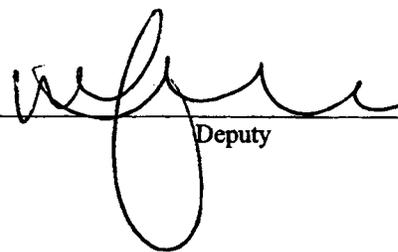
WITNESS, Honorable

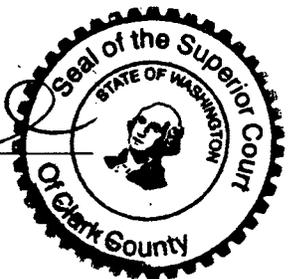


John P. Walle

JUDGE OF THE SUPERIOR COURT AND THE SEAL THEREOF THIS DATE: 3-2-09

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

By:  Deputy



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

STATE OF WASHINGTON,
Plaintiff,
v.
MATTHEW RYAN HASTINGS,
Defendant

No. 07-1-01276-1

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.
BURGLARY 1	CLARK/WA 93-8-60224-1	3/4/1993	6/22/1993	2
ASSAULT 3	CLARK/WA 95-8-00191-8	1/21/1995	5/5/1995	Y ₂
UNLAWFUL POSSESSION OF FIREARMS	CLARK/WA 95-8-00403-8	3/24/1995	5/5/1995	Y ₂
UNLAWFUL POSSESSION OF FIREARMS	CLARK/WA 95-8-01352-5	12/10/1995	3/22/1996	Y₂
POSSESSION OF FIREARM 2	CLARK/WA 98-1-00227-1	2/9/1998 to 2/10/1998	4/3/1998	1
UNLAWFUL IMPRISONMENT	CLARK/WA 98-1-00227-1	2/9/1998 to 2/10/1998	4/3/1998	1
THEFT 1	CLARK/WA 98-1-00227-1	2/9/1998 to 2/10/1998	4/3/1998	1
PCS	CLARK/WA 99-1-01174-1	6/29/1999	10/14/1999	1
ATTEMPT TO ELUDE	CLARK/WA 99-1-01411-1	8/24/1999	10/14/1999	1
DELIVERY CONT SUBST SCHOOL ZONE	CLARK/WA 00-1-01609-3	8/15/2000	5/27/2003	
PCS METH	CLARK/WA 00-1-01609-3	8/16/2000	5/27/2003	1

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

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

DATED this 2 day of March, 2009.

98-8-01352-5

MATTHEW HASTINGS
Defendant

objects to Pervy possession
93-8-002247 Fine only

[Signature]
Charles H. Buckley, WSBA#09048
Attorney for Defendant

[Signature]
Scott Jackson, WSBA#16330
Deputy Prosecuting Attorney

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