

NO. 41318-3

**COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON**

STATE OF WASHINGTON, RESPONDENT

v.

JAY KELLY ANDERSON, APPELLANT

Appeal from the Superior Court of Pierce County
The Honorable Katherine Stolz

No. 09-1-04546-3

BRIEF OF RESPONDENT

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STATE OF WASHINGTON
BY  DEPUTY
COURT OF APPEALS
DIVISION II

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A. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR.

1. Did defendant waive his right to challenge the trial court's ruling on a pretrial motion by entering a subsequent guilty plea knowing that his guilty plea would waive his right to appeal any pretrial motions?

2. Should this Court dismiss the defendant's appeal when he does not raise any of the issues that may still be raised despite the entry of a guilty plea?

B. STATEMENT OF THE CASE.

On October 9, 2009, the Pierce County Prosecutor's office filed an information charging appellant, Jay Anderson ("defendant"), with robbery in the first degree with a deadly weapon enhancement. CP 1-2.

Approximately two months after his arraignment, defendant successfully moved for an order directing competency evaluation at Western State Hospital, and also that an assessment be done as to whether he was sane at the time of the alleged offense or suffering from diminished capacity. CP 4-7, 8-11. The court entered an order finding defendant competent to stand trial on January 26, 2010. CP 12-13.

Defendant filed a motion seeking an acquittal by reason of insanity. CP 46-50. Defendant was sent to Western State Hospital for a

second examination as to his sanity and diminished capacity at the time of the offense. CP 54-57. The motion for acquittal was heard by the Honorable Katherine Stoltz. RP 3.¹ The court denied the motion after an evidentiary hearing finding that the defendant did not meet his burden of proof as the defense expert acknowledged that there were many holes and flaws in her opinion; the court entered findings of facts and conclusions of law regarding this ruling. RP 10-97; 7/27/10 RP 19-22; CP 81-83

The day after the court denied the motion for acquittal by reason of insanity, the parties were back before the court asking it to accept defendant's guilty plea to an amended information charging him with assault in the third degree with a deadly weapon enhancement. CP 59, 80; RP 98-101; 10/8/10 RP 3. After reviewing defendant's guilty plea statement and engaging defendant in a colloquy, during which he assured the court that he understood what he was doing and was acting freely and voluntarily, the court accepted the defendant's guilty plea. RP 102-110; CP 60-68. The court found a factual basis for the original charges based upon the declaration of probable cause RP 108-110; CP 3.

¹ As there are three volumes of transcripts all which begin with page "1," The State will refer to the longest of these transcripts –covering proceedings held on July 26 and 28, 2010, as "RP." The other two transcripts will include a date reference. For example, the July 27, 2010, transcript will be referenced as "7/27/10 RP."

The parties were back before the court on October 8, 2010, for sentencing. 10/8/10 RP 2. At sentencing, defendant asked the court to impose a sentence using the drug offender sentencing alternative even though this was contrary to the agreed recommendation set forth in the plea agreement. 10/8/10 RP 6-9. Defendant's attorney asked the court to impose the agreed upon sentence. 10/8/10 RP 12. The court accepted the joint recommendation and imposed the mid range sentence of 38 months, plus six months for the deadly weapon enhancement, for a total sentence of 44 months, 12 months of community custody, and \$1,200 in legal financial obligations. 10/8/10 RP 13; CP 84-95.

From entry of the judgment, defendant filed a timely notice of appeal. CP 96-97.

C. ARGUMENT.

1. DEFNDANT WAIVED THE RIGHT TO APPEAL THE DENIAL OF HIS MOTION FOR ACQUITTAL BY REASON OF INSANITY BY SUBSEQUENTLY ENTERING A GUILTY PLEA.

When a defendant has received the information and pleads guilty pursuant to a plea agreement, there is a presumption that the plea is knowing, voluntary, and intelligent. *In re Personal Restraint of Ness*, 70 Wn. App. 817, 821, 855 P.2d 1191, review denied, 123 Wn.2d 1009, 869 P.2d 1085 (1994); *State v. Branch*, 129 Wn.2d 635, 642, 919 P.2d 1228 (1996) ("A defendant's signature on the plea form is strong evidence of a

plea's voluntariness.")). A guilty plea is "more than an admission of conduct; it is a conviction" and "nothing remains but to give judgment and determine punishment." *Boykin v. Alabama*, 395 U.S. 238, 242, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969).

The entry of a guilty plea waives the right to appeal the denial of any pretrial motions. *State v. Olson*, 73 Wn. App. 348, 354, 869 P.2d 110 (1994); *State v. Wiley*, 26 Wn. App. 422, 425, 613 P.2d 549, *review denied*, 94 Wn.2d 1014 (1980). A guilty plea "precludes an appeal except as to collateral questions such as the validity of the statute violated, the sufficiency of the information, the jurisdiction of the court" or the voluntariness of the plea. *State v. Saylor*, 70 Wn.2d 7, 9, 422 P.2d 477 (1966).

In the case now before the Court, defendant brought a motion for acquittal by reason of insanity that the trial court denied after an evidentiary hearing. RP 3-96, 7/27/10 RP 19-22; CP 46-50. The day after the court denied the defendant's motion for acquittal by reason of insanity, defendant reached a plea agreement with the prosecution and agreed to plead guilty to a reduced charge of assault in the third degree with a deadly weapon enhancement. RP 98-101. The statement of defendant on plea of guilty, in paragraph 5 identified several important rights that would be given up by entry of guilty plea, including the right to a speedy and public trial, the presumption of innocence and the "right to appeal a finding of guilt after trial as well as other pretrial motions such as time for

trial challenges and suppression issues.” CP 60-68; *see* Appendix A. On the last page of the plea statement, in paragraph 12, the defendant averred that he had discussed all of the preceding paragraphs and that he understood them all. *Id.* Defendant’s attorney also averred that he had discussed the entire statement with his client and indicated that his client understood its contents. *Id.*

At the plea hearing, defendant’s attorney reiterated his belief that the defendant would be entering a knowing, voluntary, and intelligent plea. RP 100-01. The trial court confirmed that defendant had gone over the plea form fully with his attorney. RP 102. The court specifically noted the rights listed on the second page of the plea form and asked whether he understood those rights and was willing to give them up by pleading guilty. RP 102-03. The defendant assured the court that he did understand his rights and was willing to give them up. *Id.* After engaging in a lengthy colloquy, the court accepted defendant’s guilty plea finding that it was being entered knowingly, voluntarily, and intelligently. RP 103-110.

On appeal, defendant does not challenge the jurisdiction of the trial court, the constitutionality of the statute violated, the sufficiency of the information, or the voluntariness of his guilty plea; rather defendant seeks to appeal the denial of his pretrial motion for acquittal by reason of

insanity and challenge the sufficiency² of the court's findings supporting this ruling. *See* Brief of Appellant at p. 1-2. But these claims are not properly before the Court, as a shown by the above cited authority, as defendant waived his right to appeal the denial of his pretrial motion by entering a guilty plea.

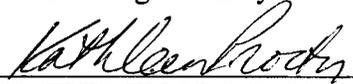
This Court should find that the issues raised in appellant's brief are not properly before the Court due to defendant's entry of a guilty plea. Because defendant does not raise an issue that may properly be considered by this Court, the Court should dismiss the appeal and affirm the judgment entered below.

D. CONCLUSION.

For the foregoing reasons, this Court should affirm the judgment entered below.

DATED: August 2, 2011.

MARK LINDQUIST
Pierce County
Prosecuting Attorney


KATHLEEN PROCTOR
Deputy Prosecuting Attorney
WSB # 14811

² Defendant assigned error to five of the trial court's findings. Appellant's brief at p. 1. Three of these findings, FOF III, IV, and VII, expressly set forth the trial court's credibility determination of the defense expert. Credibility determinations are for the trier of fact and cannot be reviewed on appeal. *State v. Camarillo*, (115 Wn.2d 60, 71, 794 P.2d 850 (1990)). Defendant's argument essentially asks this Court to substitute its assessment of the evidence presented below for the trial court's.

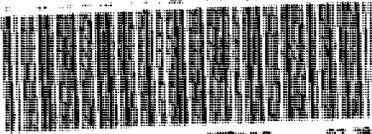
Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant and appellant c/o his attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington, on the date below.

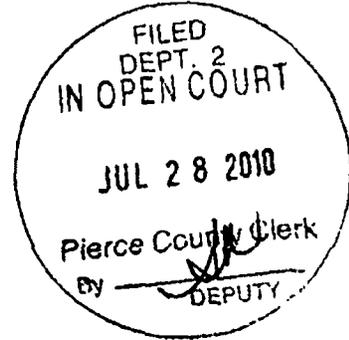
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BY _____
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APPENDIX “A”



09-1-04546-3 34737067 STTDFG 07-28-10



**Superior Court of Washington
For Pierce County**

No. 09-1-04546-3

State of Washington

Plaintiff

vs.

Jay K Anderson
Defendant

**Statement of Defendant on Plea of
Guilty to Non-Sex Offense
(STTDFG)**

1 My true name is: Jay Kelly Anderson

2 My age is: 40 DOB 03/19/70

3. The last level of education I completed was GED

4 **I Have Been Informed and Fully Understand That:**

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is: S. N. [Signature], # 21673

(b) I am charged with the crime(s) of: Rev 9A.36.031(1)(a) (DWSE)
Count I: ASSAULT in the Third Degree, Deadly Weapon Sent Enhancement

The elements are: IN WASHINGTON, WITH INTENT TO PREVENT OR RESIST THE LAWFUL APPREHENSION OR DETENTION OF HIMSELF, DEFENDANT DID ASSAULT ANOTHER PERSON, AND IN THE COMMISSION THEREOF THE DEFENDANT WAS ARMED WITH A DEADLY WEAPON, A KNIFE.

Count II: (Rev 9.94A.) ADDING TIME TO THE SENTENCE.
The elements are: _____

[Signature]

(c) _____ Additional counts are addressed in Attachment "B"

5.

I Understand I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial as well as other pretrial motions such as time for trial challenges and suppression issues.

6.

In Considering the Consequences of my Guilty Plea, I Understand That:

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a **Standard Sentence Range** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f).)	MAXIMUM TERM AND FINE
1	7	33-43 MOS	6 MOS	39-49 MOS	12 MONTHS.	54 MOS 110K
2						

*(F) Firearm, (D) other deadly weapon, (V) VUCSA in protected zone, See RCW 9.94A.633(6), (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, See RCW 9.94A.605

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.

LISTED IN COURT. DURING PLEA.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If the prosecutor and I disagree about the computation of the offender score, I

understand that this dispute will be resolved by the court at sentencing. I waive any right to challenge the acceptance of my guilty plea on the grounds that my offender score or standard range is lower than what is listed in paragraph 6(a). If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

(e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

(f) **For crimes committed prior to July 1, 2000:** In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is not more than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance. RCW 74.04.005(6)(h).

✓ **For crimes committed on or after July 1, 2000:** In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer.
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer.
Crimes Against Persons as defined by RCW 9.94A.411(2)	9 to 18 months or up to the period of earned release, whichever is longer.
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	9 to 12 months or up to the period of earned release, whichever is longer.

ERD
DOES
Apply.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005(6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

If I have not completed my maximum term of total confinement and I am subject to a third violation hearing and the Department of Corrections finds that I committed the violation, the Department of Corrections may return me to a state correctional facility to serve up to the remaining portion of my sentence. *CTS = SINCE BOOKING*

(g) The prosecuting attorney will make the following recommendation to the judge: *38 MOS*
plus 6 mos DWSE, 12 mos COMMUNITY CUSTODY, \$500.
WPA, \$400. DAC RECOUPMENT, \$200 - filing fee
\$100 - DNA TESTING FEE, RESTITUTION, NO
CONTACT WITH VICTIMS, DRUG AND ALCOHOL TREATMENT
PER CCO, MENTAL ILL AND TREATMENT PER CCO

The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless there is a finding of substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences:

- Not sought* (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
- (iv) The judge may also impose an exceptional sentence above the standard range if

OK

the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

I understand that if a standard range sentence is imposed upon an agreed offender score, the sentence cannot be appealed by anyone. If an exceptional sentence is imposed after a contested hearing, either the State or I can appeal the sentence.

(i)

If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(j)

I understand that **I may not possess, own, or have under my control any firearm** unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

(k)

I understand that I **will be ineligible to vote** until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.

(l)

Public assistance will be suspended during any period of imprisonment.

(m)

I understand that I will be required to have a **biological sample** collected for purposes of DNA identification analysis. For offenses committed on or after July 1, 2002, I will be required to pay a \$100.00 DNA collection fee, unless the court finds that imposing the fee will cause me undue hardship.

Notification Relating to Specific Crimes. If Any of the Following Paragraphs Do Not Apply, They Should Be Stricken and Initialed by the Defendant and the Judge.

(n)
Assault 3rd
Degree

This offense is a **most serious offense** or strike as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

(o)

The judge may sentence me as a **first-time offender** instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or up to two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.

(p)

If this crime involves a **kidnapping offense involving a minor**, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment. These requirements may change at a later date. I am responsible for learning about any changes in registration requirements and for

[Handwritten signature]

complying with the new requirements.

~~If this is a crime of **domestic violence**, I may be ordered to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.130.~~

~~If this crime involves **prostitution, or a drug offense associated with hypodermic needles**, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~

~~The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. Even if I qualify, the judge may order that I be examined by a licensed or certified treatment provider before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative. If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of at least one-half of the midpoint of the standard range.~~

~~If the judge imposes the **residential chemical dependency treatment-based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of *three to six months*, as set by the court. As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the department of corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715.~~

~~During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay \$30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(f). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if any violations of the conditions of the sentence have occurred. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within~~

the standard range.

(i)

If I am subject to community custody and the judge finds that I have a **chemical dependency** that has contributed to the offense, the judge may order me to participate in **rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.**

~~JA~~

~~If this crime involves the **manufacture, delivery, or possession with the intent to deliver methamphetamine**, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, a mandatory methamphetamine clean-up fine of \$3,000 will be assessed. RCW 69.50.401(2)(b).~~

~~JA~~

~~If this crime involves a **violation of the state drug laws**, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.~~

~~JA~~

~~If this **crime involves a motor vehicle**, my driver's license or privilege to drive will be suspended or revoked.~~

~~JA~~

~~If this crime involves the offense of **vehicular homicide** while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(13).~~

~~JA~~

~~If I am pleading guilty to **felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control** of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements.~~

~~JA~~

~~The crime of _____ has a **mandatory minimum sentence** of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[n].~~

~~JA~~

~~I am being sentenced for **two or more serious violent offenses** arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.~~

~~JA~~

~~I understand that the offense(s) I am pleading guilty to include a **Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present** in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.~~

(cc)

~~I understand that the offense(s) I am pleading guilty to include a **deadly weapon or**~~

~~JA~~

firearm enhancement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements.

[Handwritten signature]

I understand that the offenses I am pleading guilty to include both a conviction under RCW 9A.04.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.

[Handwritten signature]

I understand that if I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least six months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

[Handwritten signature]

The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I can not currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I can not have a current or prior conviction for a sex or violent offense. RCW 9.94A.690

7.

I plead guilty to count(s) I in the AMENDED Information. I have received a copy of that information.

8.

I make this plea freely and voluntarily.

9.

No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10.

No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11.

The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

I'm pleading guilty to
TAKE ADVANTAGE OF THE PROSECUTOR'S SENTENCING
RECOMMENDATION, AND I BELIEVE THERE IS
A SUBSTANTIAL LIKEHOOD I'D BE
CONVICTED IF I WERE TO GO TO TRIAL.

Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea *[Handwritten signature]*

[Handwritten signature]

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

[Signature]
Defendant

I have read and discussed this statement with the defendant. I believe that the defendant is competent and fully understands the statement.

[Signature]
Defendant's Lawyer

[Signature]
Prosecuting Attorney
DAN M. NEES 21377
Print Name WSBA No.

[Signature]
Print Name WSBA No. 21673

The foregoing statement was signed by the defendant in the presence of the defendant's lawyer and acknowledged in open court before the undersigned judge. The defendant asserted that [check appropriate box]:

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 07/28/10 [Signature]
Judge

Interpreter's Declaration

KATHERINE M. STOLZ

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated the _____ for the defendant from English into that language.

(Identify document being translated)

The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated: _____

Interpreter

Print Name

Location: _____

