

4-10-11

Re: Case No. 10-1-04063-5

In support of my P.R.P grounds RC311 A. 44. 150(11) (18 months) not considered a serious violent offense. I have 24 months out on the street should have been off of N.O.C and only sentence under 2 pts.

Impairment evidence U.S. v. Bagley (1985), U.S. v. Alvarez (1990), Kyles v. Whitley (1995), Campbell v. Blockett 977 F.2d at 516 (Baird). You can subpoena records *in loco* to prove prejudice also.

All charges under the case number above shall be considered as D pts. and not until a new crime has been committed under a new case number. No class A crimes nor any same criminal acts.

~~Re~~ (Points)

Restraint of Moore 116 Wn 2d. 30, 33-34, 803 P. 2d 300

St. v Eilts 94 Wn 2d. 489, 495-96, 617 P. 2d 993 (1980)

St. v. Julian 102 Wn. app. 296, 304, 9 P. 3d 851 (2000)

St. v. Phelps 113 Wn app. 347, 354, 55, 57 P. 3d 624 (2004)

St. v. Heroff 33 Wn. app 741, 744, 657 P. 2d 800 (1983)

P.R.P Woodwin 146 app

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In the Matter of the Application:
For Release From Personal Restraint:

Of: : No. 10-1-04063-5
: :
: : **Personal Restraint Petition**
: : Pursuant to (RAP 16.3)
: :
: : **41925-4**

Keith E. Bond
Petitioner

STATE OF WASHINGTON
11 MAR 23 PM 2:09
COURT OF APPEALS
DIVISION II

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

A. Status of Petitioner

I, Keith E. Bond # 782497
Washington Corrections Center
P.O. Box 900
Shelton, WA 98584

(Full name and address)

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

(Identify type of order)

1. The Court in which I was sentenced is: Superior Court of
Pierce County

2. I was convicted of the crime(s) of:
NO CONTACT, HARASSMENT, MALICIOUS MIS.

3. I was sentenced after trial , after plea of guilty on 2-25, 2011
(Date of sentence) (Year)

4. The judge who imposed the sentence was Buckner
(Name of trial Court Judge)

5. My lawyer at trial court was: Pro-Se

6. I did did not appeal from the decision of the trial court (if the answer is that I did), I appealed to:

11th #

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

7. My lawyer on appeal was: ?

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

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

(Volume number, Washington Appellate Reports or)

(Washington reports and page number)

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

The Court I asked was:

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

Relief was denied [] granted [] _____

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

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

7

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

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

B. Grounds for Relief

(If I claim more than one reason for relief from confinement, I attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", and "Third Ground". Ect.) , I claim that I have (number) 2 reason(s) for this court to grant me relief from the conviction described in part A.

First Ground

(First, Second, ect.)

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

Jessica To Read committed perjury in trial. RCW 9A.72.020 and 9A.72.030 I challenge. Mr. Read's credit bility and inconsistent statements from the police report and hand written.

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

Jessica To Read's phone records show that there wasn't calls made from "June 1st til July 13th as she stated in trial". She stated if we check the records it would show calls made from 253 592-9914 to her number 253 906-5014. (AT: Turncell Services 4701 Point Roadwick rd. Puy Pabn, WA. 98335)

I only had access to a white truck own by Charles Fox roll (253 228-1522) and I was there for 3 days. Jessica told police officers I drove by the house in a car (police report)

Mr. Read was and is the only witness in case that put the defendant at the scene.

3. The following reported court decisions [include citations if possible] in cases similar to mine show the error I believe happened in my case [if none are known, state "None known"]:

St. v. Zlotnikow (2009), naturally false statements. St. v. Lewis, St. Brown, app (2009)
St. v. Lewis Robert, Note (2008) insufficient evidence. No Certainty evidence at best Speculative Inadmissible St. v. Ford (2005) Rule 901

4. The following statutes and constitutional provisions should be considered by the court [if none are known, state "None Known"]:

9.02.010 Malicious Prosecution
9A.72.020 Perjury 1^o
901. neg of 2 or 3rd. # 6 Telephone conversation by evidence that a call was made to the number assigned at the time by the telephone company to a particular person business

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

The appeal will take 18 to 24 months and I can be back in front of a Judge in a few months.

7. During the past 12 months, I:

DID	DID NOT		
[]	[X]	Have any cash except as said in answer	
		2. If so, the amount of cash I have is	\$ <u>0</u>
[]	[X]	Have any savings accounts or checking	
		Accounts. If so the amount in all is	\$ <u>0</u>
[]	[X]	Own Stocks, Bonds, or Notes. If so,	
		there total value is	\$ <u>0</u>

8. List all Real Estate and other property and things of value, which belong to you or in which you have an interest. Do not list household furniture, furnishings, and clothing which you or your family need.

Item:	<u>N/A</u>	Value:	\$ <u>0</u>
Item:	<u>N/A</u>	Value:	\$ <u>0</u>
Item:	<u>N/A</u>	Value:	\$ <u>0</u>
Item:	<u>N/A</u>	Value:	\$ <u>0</u>

9. I am [] am not [X] married. If I am married, my spouses name and address is:

N/A

10. All of the persons who need me to support them are listed here:

Name	Address	Age	Relationship
<u>Khane Berry</u>	<u>3</u>	<u>11</u>	<u>SON</u>
<u>Kalee Berry</u>	<u>3</u>	<u>9</u>	<u>SON</u>
<u>Kadani Berry</u>	<u>3</u>	<u>15</u>	<u>DAUGHTER</u>
<u>Khara Berry</u>	<u>3</u>	<u>4</u>	<u>DAUGHTER</u>

All the bills I owe are listed here:

Creditor	Address	Amount
LFO'S		\$ 0
STUDENT LOAN WELLS FARGO		\$ 0
SPRINT WIRELESS		\$ 0
		\$
		\$
		\$

C. Request for Relief

I want this court to:

Vacate my conviction and grant me a new trial.

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

Other

[Specify]: *If charges don't get drop correct my
offenses score and resentence. And at the
least no-try the defendant*

D. Oath of Petitioner

THE STATE OF WASHINGTON)

) SS

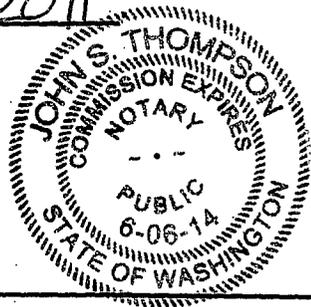
COUNTY OF Pierce)

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

3-9-11
Date

Keith E. Berry
Signature of petitioner

SUBSCRIBED AND SWORN to me this 21 day of March 2011



John S. Thompson

NOTARY PUBLIC in and for the state of Washington

Residing at Shelton

My commission expires: 6/6/14

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

Then sign below:

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

Dated at Shelton, WA. on this _____ day of _____, 2011.
(City and State)

Keith E. Berry

Signature of Petitioner

KEITH E. BERRY

Print Name

BRIEF

I PLAN TO PROVE TO THE COURTS THAT JESSICA JO REED COMMITTED PERJURY AT TRIAL THROUGH HER OWN PHONE RECORDS. THE STATEMENTS SHE GAVE DURING CROSS EXAMINE BY THE DEFENDANT. JESSICA STATED IF WE CHECK HER PHONE RECORDS WE WOULD FIND CALLS MADE FROM JUNE 1ST TO JULY 13TH FROM THE CELL PHONE NUMBER 253 592 9914 TO THE NUMBER 253 906 5014

THE DEFENDANT RESPECTFULLY ASK THE COURT TO SUBPOENA JESSICA PHONE RECORDS. THIS IS NEW EVIDENCE THAT THE TRIAL COURT WOULDNT RECESS BECAUSE OF DELAY OF A BENCH TRIAL OR THE DEFENDANT MIGHT SEND THE WRONG SUBPOENA, AS IN THE RESPONSE FROM THE JUDGE FOR NOT GRANTING THE RECESS. JESSICA TRIED CALLING THAT NUMBER AT THE END OF JUNE OR THE BEGINING OF JULY, BUT NO PICK UP. ALSO SHE LEFT VOICE MESSAGES AS SHE ADMITTED IN TRIAL. JESSICA CLAIM THAT THERE WAS CONVERSATION THROUGH OUT THOSE MONTHS FROM THAT NUMBER.

THE DEFENDANT WILL ASSURE YOU THAT THE PHONE RECORDS THAT SHE WAS THE ONLY ONE TRYING TO CONTACT AT THAT TIME. DEFENDANT PROVE ILL WILL BECAUSE HE CALL CPS ON HER ABOUT THEIR DAUGHTER AND SHE STATED THAT SHE WAS MAD ABOUT THAT. SHE ALSO TOLD THE OFFICER THAT SHE SEEN THE DEFENDANT PAST THE HOUSE IN A CAR AND THAN STATED IN TRIAL THAT SHE DIDN T.

IF ALL CHARGES WON T BE DROPPED, GRANT A NEW TRIAL AND SENTENCE THE DEFENDANT WITH THE OFFENDER SCORE OF 2 POINTS LIKE HE SHOULD HAVE IN THE FIRST TRIAL NOT 8, HE ONLY HAVE 2 FELONYS BEFORE THESE CHARGES.

THESE STATEMENTS ARE TRUE AND CORRECT UNDER THE PENALTY OF PERJURY

3 12 2011... dated

GROUNDS FOR RELIEF

SECOND GROUND

I SHOULD BE GRANTED RE SENTENCE BECAUSE MY 14th AMENDMENT HAS BEEN VIOLATED. 9.94A.510 due process. I WAS SENTENCE WITH 8 POINTS ON THE OFFENDER SCORE. I HAVE ONLY 2 POINTS. MY PLEA DEAL WAS 13-17 MONTHS. THAT AT THREE POINTS BECAUSE I WAS ON D.O.C NO DEAL AT ALL. ARTICLE 1_3 OF WA. CONT. ALSO PROTECT ME. I HAVE PAPERS OF THE PLEA DEAL. THE LEVEL WAS A 4 AND THE RANGE AT 8 POINTS IS 53-70. THE PROSECUTOR IS WELL AWARE OF THE SITUATION. THIS IS A FORM OF PUNISHMENT FOR TAKEN IT TO TRIAL

STATEMENTS ARE TRUE AND CORRECT UNDER THE PENALTY OF PREJURY

*RC31 9.94A.535, 537 outside sentence range
State v. Waddock (2000) No. 67577-5 (Points)*

OFFER AND SENTENCING WORKSHEET

Date: 2-24-11 DPA: Horibe Attorney Pro Se

I. DEFENDANT INFORMATION

Defendant: Berry, Keith Race: _____
 D.O.B.: 7-25-75 S.I.D.: _____
 Sex: Male Cause #: 10-1-04063-5

II. PLEA AGREEMENT:

Original Information: Amended Info:
 Charges (if Amended Info): (see amended)
 Other Agreements:

III. D.P.A RECOMMENDATION:

Counts 3, 4, 6, 7: 60 months, 12 community custody (with instructions in the J&S that it will convert to bench supervision if DOC decides not to supervise or closes their file early and a notation that the combined total of actual confinement and community custody is not to exceed 60 months), Counts I and V: 43 months, Count 2: 365/365, 24 months of bench probation, \$500 CVPA, \$200 costs, \$100 DNA, \$500 DAC recoupment, Restitution (if applicable), No contact w/victim, DV eval and follow up txmt, LAB.

Range as charged after trial:

IV. CRIMINAL HISTORY: (Known as of this date) Both parties stipulate to the criminal history attached hereto and incorporated herein by reference.

V. OFFENDER SCORE:

	Score	Seriousness	Range	Max Term	Max Fine
Ct. I:	7	III	33-43 months	5 years	\$10,000
Ct. II:	7	GM	0-365 days	1 year	\$5000
Ct. III:	7	V	51-60 months	5 years	\$10,000
Ct. IV:	7	V	51-60 months	5 years	\$10,000
Ct. V	7	III	33-43 months	5 years	\$10,000
Ct. VI:	7	V	51-60 months	5 years	\$10,000
Ct. VII:	7	V	51-60 months	5 years	\$10,000

VI. JUDGMENT AND SENTENCE PAPERWORK:

Plea: Jury Trial: Bench Trial:
 Date of Offense: See information Special Finding: DV
 Incident #: 101941557 Appendices: _____
 Verdict Date: 2-7-11 Sentencing Date: 2-25-11
 Charge Code: KK36 H54 I47V

Criminal History Compilation

385434

Cause Number: 10-1-04063-5 FOR CRIMINAL JUSTICE INVESTIGATION

CHRI #: 981310026

JUVIS #:

DOL#: WA ERRYKE252M5

BERRY, KEITH EDWARD

07/25/75

Person ID: 171541

JUVENILE FELONY CONVICTIONS

No Known Juvenile Felony Convictions

JUVENILE MISDEMEANOR CONVICTIONS

No Known Juvenile Misdemeanor Convictions

ADULT FELONY CONVICTIONS

Jurisdiction/Charge	Offense Dt/Dispo Dt	Disposition
98-1-02131-6/SUPERIOR CT - PIERCE CTY CONSPIRACY TO POSS. W/INT.	05-08-98/ 06-01-98	1 MO 15 DAYS JAIL 1 YRS PROB 176 HOURS COMM SERV
05-1-02697-1/SUPERIOR CT - PIERCE CTY DV - ASSAULT 2	06-01-05/ 06-02-06	6M DOC, 18M COMM CUSTODY 24 mos. in Should Be off D.O.C NO 3rd POUT

VFO 13-17 DV Mal - sm } 2 pts.

15-20

ADULT MISDEMEANOR CONVICTIONS

Jurisdiction/Charge	Offense Dt/Dispo Dt	Disposition
93SM-031528/ST. LOUIS COUNTY, MO ASSAULT 3 CERT REC -MISD CHARGE	07-22-93/ 12-13-93	
CR0054576/TACOMA MUNICIPAL COURT NVOL	01-24-00/	
B00144295/TACOMA MUNICIPAL COURT PAT A PROSTITUTE	04-25-00/	
D00031792/TACOMA MUNICIPAL COURT DV - DESTRUCTION OF PROPERTY	01-02-03/	
DV - CRIMINAL ASSAULT	01-02-03/	
05-1-02697-1/SUPERIOR CT - PIERCE CTY HARASSMENT	06-01-05/	

4-12

Atty. JANE MELBY HANDWRITTEN IN (BLACK)

CRIMINAL HISTORY INFORMATION PROVIDED WAS GENERATED ON THE DATE BELOW. DUE TO THE CONTINUOUS UPDATING OF CRIMINAL HISTORY IN THE VARIOUS SYSTEMS, INFORMATION GENERATED AFTER THIS DATE MAY DIFFER.

Secondary dissemination is prohibited unless in compliance with RCW 10.97.050

JJ/PROSECUTING ATTORNEY

10/19/2010 10:34 am

COMPILED BY

DATE COMPILED

(No - 54 - 60 months)

SERIOUSNESS LEVEL

TABLE 1
SENTENCING GRID
FOR CRIMES COMMITTED AFTER JULY 24, 1999
OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XVI	Life Sentence without Parole/Death Penalty									
XV	23y 4m 240-320	24y 4m 250-333	25y 4m 261-347	26y 4m 271-361	27y 4m 281-374	28y 4m 291-388	30y 4m 312-416	32y 10m 338-450	36y 370-493	40y 411-548
XIV	14y 4m 123-220	15y 4m 134-234	16y 2m 144-244	17y 154-254	17y 11m 165-265	18y 9m 175-275	20y 5m 195-295	22y 2m 216-316	25y 7m 257-357	29y 298-397
XIII	12y 123-164	13y 134-178	14y 144-192	15y 154-205	16y 165-219	17y 175-233	19y 195-260	21y 216-288	25y 257-342	29y 298-397
XII	9y 93-123	9y 11m 102-136	10y 9m 111-147	11y 8m 120-160	12y 6m 129-171	13y 5m 138-184	15y 9m 162-216	17y 3m 178-236	20y 3m 209-277	23y 3m 240-318
XI	7y 6m 78-102	8y 4m 86-114	9y 2m 95-125	9y 11m 102-136	10y 9m 111-147	11y 7m 120-158	14y 2m 146-194	15y 5m 159-211	17y 11m 185-245	20y 5m 210-280
X	5y 51-68	5y 6m 57-75	6y 62-82	6y 6m 67-89	7y 72-96	7y 6m 77-102	9y 6m 98-130	10y 6m 108-144	12y 6m 129-171	14y 6m 149-198
IX	3y 31-41	3y 6m 36-48	4y 41-54	4y 6m 46-61	5y 51-68	5y 6m 57-75	7y 6m 77-102	8y 6m 87-116	10y 6m 108-144	12y 6m 129-171
VIII	2y 21-27	2y 6m 26-34	3y 31-41	3y 6m 36-48	4y 41-54	4y 6m 46-61	6y 6m 67-89	7y 6m 77-102	8y 6m 87-116	10y 6m 108-144
VII	18m 15-20	2y 21-27	2y 6m 26-34	3y 31-41	3y 6m 36-48	4y 41-54	5y 6m 57-75	6y 6m 67-89	7y 6m 77-102	8y 6m 87-116
VI	13m 12+-14	18m 15-20	2y 21-27	2y 6m 26-34	3y 31-41	3y 6m 36-48	4y 6m 46-61	5y 6m 57-75	6y 6m 67-89	7y 6m 77-102
V	9m 6-12	13m 12+-14	15m 13-17	18m 15-20	2y 2m 22-29	3y 2m 33-43	4y 41-54	5y 51-68	6y 62-82	7y 72-96
IV	6m 3-9	9m 6-12	13m 12+-14	15m 13-17	18m 15-20	2y 2m 22-29	3y 2m 33-43	4y 2m 43-57	5y 2m 53-70	6y 2m 63-84
III	2m 1-3	5m 3-8	8m 4-12	11m 9-12	14m 12+-16	20m 17-22	2y 2m 22-29	3y 2m 33-43	4y 2m 43-57	5y 51-68
II	0-90 Days	4m 2-6	6m 3-9	8m 4-12	13m 12-14	16m 14-18	20m 17-22	2y 2m 22-29	3y 2m 33-43	4y 2m 43-57
I	0-60 Days	0-90 Days	3m 2-5	4m 2-6	5m 3-8	8m 4-12	13m 12+-14	16m 14-18	20m 17-22	2y 2m 22-29

03/22/2011
NJROSS

DEPARTMENT OF CORRECTIONS
WASHINGTON CORRECTIONS CENTER

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OIRPLRAR
6.03.1.0.1.2

PLRA IN FORMA PAUPERIS STATUS REPORT
FOR DEFINED PERIOD : 09/01/2010 TO 02/28/2011

DOC : 0000782497 NAME : BERRY KEITH ADMIT DATE :04/08/2000
DOB : 07/25/1975 ADMIT TIME :00:00

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
0.00	0.00	0.00	0.00
