No. 46030-1-II

COURT OF APPEALS, DIVISION TWO

OF THE STATE OF WASHINGTON

Skamania County Superior Court nos.
12-1-00029-6

STATE OF WASHINGTON,
Respondent

vs.

GEORGE E. TAYLOR,
Appellant

BRIEF OF RESPONDENT

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I. FACTS

The state incorporates the facts as recited by the appellant in appellant's brief as pertains to the issues raised in this appeal.

II. APPELLANT'S ASSIGNMENT OF ERROR

1. The evidence presented at trial does not support a nexus, under a sufficiency of the evidence analysis between the firearms and the crime of manufacture of methamphetamine.
2. The evidence presented at trial does not support conviction for possession of pseudoephedrine with intent to manufacture methamphetamine under a sufficiency of the evidence analysis.
3. The court erred in imposing the firearm enhancement on Counts Five and Six.
4. The court abused it's discretion in not severing the reckless endangerment and making false statement charges from the VUCSA related charges.
5. The incarceration and community custody sentence on Counts Five and Six exceed the statutory maximum.
6. The court imposed legal financial obligations without considering the appellants's current or future ability to pay pursuant to State v. Blazina.
7. Boilerplate language in the Judgment and sentence finding that the defendant has the future ability to pay does not supplant the court's requirement to make the inquiry as to the appellant's current or future

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ability to pay pursuant to State v. Blazina.

8. The failure to file findings of fact and conclusions of law after bench trial require remand to the trial court for entry of finding of fact and conclusions of law pursuant to CrR 6.1.

III. RESPONSE TO APPELLANT'S CLAIMS

1. The evidence presented at trial establishes a reasonable basis for a rational trier of fact to find that the appellant was armed with a firearm in connection with the commission of the crimes of Possession of Ephedrine, Pseudoephedrine, or Pressurized ammonia Gas with intent to Manufacture Methamphetamine and VUCSA - manufacture of a controlled Substance - Amphetamine or Methamphetamine, as charged in Counts Five and Six of the third Amended information.

2. The evidence presented at trial establishes a reasonable basis for a rational trier of fact to find that the appellant committed of the crimes of Possession of Ephedrine, Pseudoephedrine, or Pressurized ammonia Gas with intent to Manufacture Methamphetamine, as charged in Counts Five of the Third Amended Information, under a sufficiency of the evidence analysis.

3. The evidence presented at trial establishes a reasonable basis for a rational trier of fact to find that the appellant was armed with a firearm in connection with the commission of the crimes of Possession of Ephedrine, Pseudoephedrine, or Pressurized ammonia Gas with intent to Manufacture Methamphetamine and VUCSA - manufacture of a

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controlled Substance - Amphetamine or Methamphetamine, as charged in Counts Five and Six of the third Amended information.

4. The court properly declined to sever the Seven Counts filed in the Third Amended Information, which arose from the same investigation, pursuant to the rules.

5. The total time in-custody of 132 months, does not violate the maximum time in-custody for a Class B offenses, as charged in Counts Five and Six as it encapsulates two 36 month enhancements which are served consecutively. Total time in custody on each Class B count is 96 months with 12 months Community Custody.

6. The Court made no individual findings as to the Defendant's current or future ability to pay LFO's as required pursuant to State v. Blazina.

7. See State's response in paragraph 6.

8. A filing of Findings of Fact and Conclusions of Law is required under CrR 6.1 and as such should be done by the trial court.

IV. ARGUMENT

1. Is there sufficient evidence to establish beyond a reasonable doubt that the defendant was armed with a firearm in the commission of Counts Five and Six.

The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). A claim of insufficiency admits the

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truth of the State's evidence and all inferences that reasonably can be drawn therefrom. Id. Circumstantial evidence and direct evidence are equally reliable. State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). 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).

RCW 9.94A.825, Deadly weapon special verdict——Definition, states in relevant part:

> **In a criminal case wherein there has been a special allegation and evidence establishing that the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, the court shall make a finding of fact of whether or not the accused or an accomplice was armed with a deadly weapon at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it find[s] the defendant guilty, also find a special verdict as to whether or not the defendant or an accomplice was armed with a deadly weapon at the time of the commission of the crime.**

A person is armed with a deadly weapon if it is easily accessible and readily available for use for either offensive or defensive purposes. State v. Easterlin, 159 Wash.2d 203, 208-09, 149 P.3d 366 (2006); Barnes, 153 Wash.2d at 383, 103 P.3d 1219; Gurske, 155 Wash.2d at 137, 118 P.3d 333; State v. Valdobinos, 122 Wash.2d 270, 282, 858 P.2d 199 (1993). These purposes include using the weapon "to facilitate the commission of a crime, escape from the scene of the crime, protect contraband or the like, or

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prevent investigation, discovery, or apprehension by the police." State v. Gurske, 155 Wn.2d 134, 139, 118 P.3d 333 (2005). There must be a nexus between the defendant, the crime, and the weapon. Easterlin, 159 Wash.2d at 209, 149 P.3d 366; Gurske, 155 Wash.2d at 140-41, 142, 118 P.3d 333; State v. Willis, 153 Wash.2d 366, 373, 103 P.3d 1213 (2005); Schelin, 147 Wash.2d at 567-70, 575, 55 P.3d 632. To apply the nexus requires analyzing "the nature of the crime, the type of weapon, and the circumstances under which the weapon is found." Schelin, 147 Wash.2d at 570, 55 P.3d 632. The use of a weapon in the commission of a crime is not constitutionally protected, adherence to the nexus analysis is important in harmonizing the mandatory sentence enhancements with the constitutional right to bear arms. See Schelin, 147 Wash.2d at 575, 55 P.3d 632 (right to bear arms could be negatively impacted without temporal nexus requirement).

Here the Skamania County Sheriff's office executed a search warrant seeking a rifle which was discharged and caused damage to a nearby home. Upon forcing entry into the appellants secured bedroom the Skamania County Sheriff's office secured a Chinese SKS rifle chambered in 7.62x39 of the defendant's wall. The Skamania County Sheriff's Office further discovered a Methamphetamine lab under the Appellant's bed and seized of multiple other firearms. The securing of the bedroom door and the readily available storage of multiple firearms, as well as magazines, on the walls of the bedroom coupled with the type of rifle, in the SKS assault rifle, establishes a sufficient factual basis to believe that the firearms were kept to protect the contraband stored behind the locked bedroom door.

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2. There is sufficient evidence to support the conviction for the crime of Possession of Ephedrine, Pseudoephedrine, or Pressurized ammonia Gas with intent to Manufacture Methamphetamine.

The test for determining the sufficiency of the evidence is whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found guilt beyond a reasonable doubt. State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). A claim of insufficiency admits the truth of the State's evidence and all inferences that reasonably can be drawn therefrom. Id. Circumstantial evidence and direct evidence are equally reliable. State v. Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). 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).

Here, a methamphetamine lab was discovered under the appellant's bed in a secured bedroom. With that lab was discovered a partially used packet of Pseudoephedrine. There was evidence presented that the lab had been used and the defendant was in possession of methamphetamine and paraphernalia for it's consumption. Taken in the light most favorable to the State there is sufficient evidence to support a finding beyond a reasonable doubt that the defendant possessed the pseudoephedrine with the intent to produce methamphetamine.

3. Is there sufficient evidence to establish beyond a reasonable doubt that the defendant was armed with a firearm in the commission of Counts Five and Six.

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See the states response in Section One of the Argument

4. Severance of the Counts was properly denied.

CrR 4.4 Severance of Offenses and Defendants, states in relevant part:

(a) Timeliness of Motion--Waiver.

(1) A defendant's motion for severance of offenses or defendants must be made before trial, except that a motion for severance may be made before or at the close of all the evidence if the interests of justice require. Severance is waived if the motion is not made at the appropriate time.

(2) If a defendant's pretrial motion for severance was overruled he may renew the motion on the same ground before or at the close of all the evidence. Severance is waived by failure to renew the motion...

The law does not favor separate trials. State v. Bythrow, 114 Wash.2d 713, 717, 790 P.2d 154 (1990). The review of a denial of a motion to sever is for a manifest abuse of discretion. "Defendants seeking severance have the burden of demonstrating that a trial involving both counts would be so manifestly prejudicial as to outweigh the concern for judicial economy." Id., 114 Wash.2d at 718, 790 P.2d 154.

Here, the Skamania county Sheriff's office during an investigation of a recklessly fired firearm discovered a Methamphetamine lab in the bedroom of the appellant. Further, during the investigation the appellant made certain false statements regarding the discharge of the firearm. The charges filed in the seven count information arose from the same investigation over a period of

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days and represent the Res Gestae of the investigation. If the court had severed the counts, the basis for the search warrant that lead to the discovery of the methamphetamine lab would still be admitted into testimony or so heavily redacted through motions in limine to invite error. The court properly declined to sever the counts.

Further, the appellant's objection to the decline to sever is waived for failure to restate the objection at time for trial.

5. <u>The ordered time in-custody and community custody time does not exceed the statutory maximum allowed for Counts Five and Six</u>.

RCW 9.94A.533 Adjustments to standard sentences states in relevant part:

> **(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 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the**

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crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

...

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under *RCW 9.94A.728(3); or

(ii) Released under the provisions of RCW 9.94A.730;

...

(g) If the standard sentence range under this section exceeds the

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statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

Here, the defendant was convicted in counts Five and Six of Class B misdemeanors with a firearm enhancement. The firearm enhancement added a 36 month mandatory sentence full confinement sentence enhancement to the standard sentence range. Attached hereto and incorporated herein by this reference is the Judgement and Sentence entered in the underlying matter. This enhancement must be served consecutively to any other sentences including other enhancements. In this case the State recommended a 60 month sentence, which is within the standard sentence range, with a 36 month enhancement making the sentence on each count 96 months. Attached hereto and incorporated herein os the Sentencing Memorandum filed by the State in the underlying case. Due to the requirement that the enhancements are to be served consecutively the total time in custody (36 +36+60) is 132 months. This does not violate the maximum sentence restriction as we are dealing with mandatory consecutive sentences for the enhancement. The total ordered sentence on each class B felony was 96 months.

6. <u>The Court made no individualized inquiry into the defendant's Ability to pay before Ordering Legal Financial Obligations</u>.

RCW 10.01.160 (3) states;

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The court shall not order a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

Under RCW 10.01.160(3) The court must do more than sign a judgment and sentence with boilerplate language stating that it engaged in the required inquiry. The record must reflect that the trial court made an individualized inquiry into the defendant's current and future ability to pay. Within this inquiry, the court must also consider important factors, as amici suggest, such as incarceration and a defendant's other debts, including restitution, when determining a defendant's ability to pay. State v. Blazina, 182 Wn. 2d. 827at 838, 344 P.3d. 680 (2015).

Here, there is no evidence that any individualized inquiry was made.

7. Boilerplate language in a Judgment and Sentence attesting to a defendant's ability to pay does not satisfy the requirement that a individual inquiry on the record be done as to the defendant's ability to pay.

See states response in Section Six of the Argument.

8. The Trial Court did not enter written finding of Fact and Conclusions of law pursuant to the 3.5 hearing conducted in the underlying case.

The State concedes this point and joins appellant in the recommendation for remand for entry of findings and conclusions.

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V. CONCLUSION

The State respectfully submits that the matter should be remanded for entry of findings and Conclusions on the 3.5 hearing and in regard to sentencing for legal financial obligations. All other appellant argument should be denied.

RESPECTFULLY SUBMITTED this _____ day of November, 2015.

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SUPERIOR COURT OF WASHINGTON FOR SKAMANIA COUNTY

STATE OF WASHINGTON, Plaintiff, vs. GEORGE E. TAYLOR, Defendant.	No. 12-1-00029-6 SENTENCING MEMORANDUM

I. STATEMENT OF FACTS

The substantive facts of this case were elicited at a jury trial held March 10-11, 2014.

On March 11, 2014, the defendant was found by the jury to be GUILTY of all counts charged, as follows:

COUNT ONE—Reckless Endangerment, Gross Misdemeanor

COUNT TWO –Making False or Misleading Statement to a Public Servant, Gross Misdemeanor

COUNT THREE—Possession of Methamphetamine, Class C felony

COUNT FOUR—Use of Drug Paraphernalia, Misdemeanor

COUNT FIVE—Possession of Ephedrine or Pseudo-ephedrine with Intent to Manufacture Methamphetamine

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COUNT SIX—Manufacture of Methamphetamine

The jury also returned special verdicts as to counts five and six finding that the defendant was armed with a firearm at the time of commission of those crimes.

II. SENTENCING RANGE

Misdemeanors

Counts one and two are gross misdemeanors carrying a range of zero to 364 days and 0 to $5,000 fine each, RCW 9A.20.021 (2). Count four is a misdemeanor carrying a range of zero to 90 days and 0 to $1,000 fine, RCW 9A.20.021 (3). The court has discretion to run the sentences on these counts either consecutively or concurrently to each other and to the felony counts, RCW 9.92.080(2), (3). However, the presumption is for *consecutive* sentences unless the court finds that the counts "arise from a singled act or omission," RCW 9.92.080(2) or "expressly orders concurrent service thereof," RCW 9.92.080(3).

Felonies

To figure out the defendant's range for the felonies, we need to determine his offender score under RCW 9.94A.525. He has no prior felony convictions but does have a number of misdemeanor and gross misdemeanor convictions. See Attachment One.

The defendant therefore has a score of "2" for all three felonies since they "score" against each other and are not same "'Same criminal conduct'," which "means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim." RCW 9.94A.589(1)(a). Thus,

> [i]n order for separate offenses to "encompass the same criminal conduct" under the statute, three elements must . . . be present: (1) same criminal intent, (2) same time and place, and (3) same victim. *The absence of any one of these prongs prevents a finding of same criminal conduct.*

State v. Porter, 133 Wn. 2d 177, 181 (1997) (emphasis added).

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Here, the manufacturing methamphetamine conviction occurred over a different time frame than the other two crimes.

Furthermore, none of the three crimes involved the same criminal intent.

First, manufacturing methamphetamine and Possession of methamphetamine involve different criminal intents:

> . . . We cannot say that it [i.e., the trial court] abused its discretion in finding that the manufacturing and possession of methamphetamines do not comprise same criminal conduct because the possession and manufacture of methamphetamines require two separate objective intents—a present intent and a future intent. In manufacturing methamphetamines, the intent to possess the drug is an intent to possess it in the future, whereas, the intent involved with the possession of methamphetamines is a present intent.
>
> Furthermore, as the State notes, for methamphetamine, one need not complete the manufacturing process in order to be convicted of manufacture. [citation and footnote omitted] Importantly, in order to possess the methamphetamines one is manufacturing, one must complete the manufacturing process. Before completing the manufacturing, one does not possess methamphetamine but instead merely possesses a chemical mixture. Also, while one may manufacture a substance in order to ultimately possess and use it, that is not necessarily always the case as one may manufacture it to sell, give to friends, or as an obligation to a third party. Ultimate possession is not necessarily the objective of manufacturing. [citation omitted]

State v. Bickle, 153 Wn. App. 222, 231-232 (2009). The Court of Appeals goes on to distinguish methamphetamine from marijuana, for which manufacture and possession *are* same criminal conduct, Id. at 232-235, reasoning that

> [u]nlike methamphetamine—a compound synthesized from a combination of other substances—marijuana is manufactured directly from marijuana seeds and, under RCW 69.50.101(q), possessing seeds is the equivalent of possessing marijuana plants.

Id. 232.

Second, Possession of Ephedrine or Pseudo-ephedrine with Intent to Manufacture Methamphetamine has a different criminal intent from Possession of Methamphetamine. See

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State v. Hernandez, 95 Wn. App. 480 (1999) (Possession of a Controlled Substance is not the same course of conduct as Possession with Intent to Deliver a Controlled Substance.)[1]

Finally, the crimes of Manufacturing methamphetamine and Possession of Pseudo-ephedrine with Intent to Manufacture Methamphetamine are not same criminal conduct for the same reason that in State v. Burns, the State Supreme Court ruled that the crimes of Delivery of a Controlled Substance and Possessing with Intent to Deliver a Controlled Substance do not constitute the same criminal conduct:

> [T]he criminal objective of each crime was realized independently of the other. When Burns delivered he committed one crime, but he still had in his possession a significant amount of cocaine which he intended to sell to others.

114 Wn.2d 314, 319 (1990). Also see State v. Maxfield, 125 Wn.2d 378, 403 (1994):

> Focusing on the extent to which the criminal intent, as objectively [footnoted omitted] viewed, changed from the crime of manufacture of a controlled substance to the crime of possession with intent to deliver, we conclude that the trial court here did not abuse its discretion in concluding these crimes did not constitute the same criminal conduct. In this case, the objective criminal intent is not the same for the two crimes defendant committed; there was a change in the criminal objective. [footnote omitted] In manufacturing, the objective intent is to produce the drug and the crime is complete without any showing of an intent to deliver.
>
> In this case, there were different "objectives"; one was to grow the drug, the other was to deliver it to third persons. [footnote omitted] There was evidence in the stipulated findings of fact supporting each offense. The growing marijuana in the garage showed intent (in the past and present) to "manufacture" a controlled substance, whereas the marijuana found in the house in plastic baggies showed the defendant's intent to deliver the drugs in the future. [footnoted omitted] Hence, the trial court did not abuse its discretion in refusing to treat the two crimes as the "same criminal conduct" for sentencing purposes.

---

[1] The State Supreme Court, while not overruling this case, did cite it as part of a "line of Division Two cases that appear to be in conflict with cases from Division One, Division Three, and this court," in "adopt[ing] its own per se rule, holding, as a matter of law, two offenses cannot encompass the same criminal intent if the offenses require different mental elements," rather than "follow[ing]this court's precedent establishing a factors balancing approach to the 'same criminal intent' test," State v. S.S.Y., 241 P.3d 781, 785 (footnote 5) (Wash. 2010).

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With a score of "2", the defendant's sentencing range is 0 to 6 months on the Possession of Methamphetamine conviction and 51 to 68 months both on Possession of Ephedrine or Pseudo-ephedrine with Intent to Manufacture Methamphetamine and on Manufacture of Methamphetamine. See Attachment Two.

However, since the defendant was found to have committed both counts five and six while armed with a firearm, an additional three years (36 months) is added for both counts, RCW 9.94A.533(3)(b), making the standard range 87 to 104 months for both these counts. Furthermore, while the primary sentences for all three felonies must be served concurrently, RCW 9.94A.589 (1)(a), the enhancements must be served *consecutively*:

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

RCW 9.94A.533(3)(e)(emphasis added).

In sum, the Court has discretion on each of counts five and six to impose anywhere from 87 to 104 months, 36 months of which must be served consecutively to the other count. The 0 to 6 month sentence on count three must be served concurrently to the sentence on counts five and six. Thus, the effective range for the defendant's felony sentence is 123 to 140 months.[2]

The court must also impose a 12-month period of community custody for counts five and six, RCW 9.94A.701(3)(c).

[2] Although this exceeds the 10-year statutory maximum for Class B felonies, RCW 9A.20.021(1)(b), that is not a cap on total confinement where a defendant is being sentenced to more than one crime with a firearm enhancement, State v. Thomas, 150 Wn.2d 666 (2003).

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The court also has discretion to impose anywhere from 0 to 27 months on the gross misdemeanor and misdemeanor convictions, and that sentence can be imposed consecutively or concurrently to the felony sentence.

III. ELIGIBILITY FOR SPECIAL SENTENCING OPTIONS

The defendant is not eligible for a Drug Offender Sentencing Alternative due to the firearm enhancements, RCW 9.94A.660(1)(a).

The defendant is not eligible for a First-Time Offender Waiver because of the conviction for Manufacture of Methamphetamine, RCW 9.94A.650(1)(c).

IV. SENTENCING RECOMMENDATION

The State recommends that the Court impose a sentence as follows:

COUNT ONE—12 months	COUNT TWO—12 months
COUNT THREE—6 months	COUNT FOUR—3 months
COUNT FIVE—96 months	COUNT SIX—96 months

Because of the length of the required term, the State recommends that all sentences be run concurrently, other than the required 36 month consecutive sentence for the second firearm enhancement. Thus, the State is recommending an effective sentence of 132 months.

The State also recommends the required 12 month community custody term, with a requirement for an alcohol and drug evaluation and following recommended treatment.

The State recommends the following legal financial obligations:

- $500 Victim Penalty Assessment (mandatory), RCW 7.68.035(1)(a)
- $100 DNA fee (mandatory), RCW 43.43.7541
- $200 filing fee—a court cost, RCW 10.01.160
- Court-appointed attorney fees to be determined

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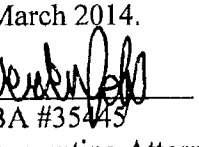
- Restitution to Shoells for house damage to be determined
- $250 jury demand fee
- $150 for pre-trial supervision
- $400 crime lab fee ($100 for each VUCSA conviction, See RCW 43.43.690(1))
- $9,250 in fines:
  - $5,000 with $5,000 suspended = 0 on count one
  - $5,000 with $5,000 suspended =0 on count two
  - $1,000 on count three, RCW 69.50.430(1)
  - $1,000 with $750 suspended=$250 on count four, RCW 69.50.425
  - $4,000 on count five, RCW 69.50.430(1)($1,000) and RCW 69.50.440(2)($3,000)
  - $4,000 on count six, RCW 69.50.430(1)($1,000) and RCW 69.50.401(2)(b)($3,000)

Finally, the State requests that the Court enter an order as part of sentencing forfeiting all the firearms seized since they were all "[i]n the possession or under the control of . . .[the defendant] at the time . . . [he] committed or was arrested for committing a felony or committing a nonfelony crime in which a firearm was used or displayed," RCW 9.41.098.

V. CONCLUSION

The State requests that the Court impose the sentence recommended above.

DATED this 12th day of March 2014.

By: 
Yarden Weidenfeld, WSBA #35445
Chief Criminal Deputy Prosecuting Attorney

Adam Kick, Prosecuting Attorney
P.O. Box 790
240 N.W. Vancouver Ave.
Stevenson, Washington 98648
(509) 427-3796, FAX (509) 427-3798

Attachment One

State v. George E. Taylor, 12-1-00029-6

Defendant Criminal History

CRIME	TYPE	DATE	CAUSE	COURT
No Valid Operator License Without Valid ID (Amended from Driving with License Suspended in the Third Degree)	misdemeanor	Incident—May 27, 2007 Sentence—November 28, 2007	C00550214	South Pacific County District
Use/Possession Loaded Firearm (amended from Carrying Loaded Firearm)	misdemeanor	Incident—June 1, 2003 Sentence—June 17, 2004	CR0010034	Skamania County District
Carry Concealed/Possess Firearm	misdemeanor	Incident--June 3, 2003(?) Sentence—June 3, 2003 (?)	03N2188	Coburg, Oregon Municipal
Attempt to Elude Pursuing Police Vehicle (misdemeanor)	misdemeanor	Incident—March 22, 1999 Sentence—April 12, 1999 (reduced to lesser offense)	9900045CR	Wasco County, Oregon Circuit
Driving under the Influence Intox.	Gross misdemeanor	Incident—March 22, 1999 Sentence—April 12, 1999	9900045CR	Wasco County, Oregon Circuit
Negligent Driving in the First Degree (amended from Driving under the Influence)	misdemeanor	Incident—January 1, 1999 Sentence—April 21, 1999	C00129662	West Klickitat County District (venue changed from East Klickitat County District)
Obstructing Law Enforcement Officer	Gross misdemeanor	Incident—January 1, 1999 Sentence—April 21, 1999	C00129662	West Klickitat County District (venue changed from East Klickitat County District)
Driving with License Suspended in the First Degree	Gross misdemeanor	Incident—November 3, 1996 Sentence—November 13, 1996	C00083383	East Klickitat County District
Criminal Driving Suspended/Revoked	misdemeanor	Incident—September 19, 1992	9200305CR	Wasco County, Oregon Circuit

		Sentence—November 24, 1992		
Driving under the Influence of Intoxicants	Gross misdemeanor	Incident—December 24, 1989 Sentence—March 2, 1990	T896253	The Dalles, Oregon District
Driving under the Influence of Intoxicants	Gross misdemeanor	Incident—December 17, 1986 Sentence—March 12, 1990	T868452	The Dalles, Oregon District

Count Three

Attachment Two

Version 20121231

POSSESSION OF CONTROLLED SUBSTANCE THAT IS A NARCOTIC FROM SCHEDULE III, IV OR V OR NONNARCOTIC FROM SCHEDULE I-V (EXCEPT PHENCYCLIDINE OR FLUNITRAZEPAM) *e.g.* METHAMPHETAMINE, MARIJUANA

RCW 69.50.4013
CLASS C – NONVIOLENT

OFFENDER SCORING RCW 9.94A.525(7)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(8)) on or after 7/01/2006, use the General Nonviolent Offense with a Sexual Motivation Finding scoring form on page 173.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Nonviolent Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 171.

ADULT HISTORY:			
Enter number of felony convictions	–	x 1 =	–
JUVENILE HISTORY:			
Enter number of serious violent and violent felony dispositions	–	x 1 =	–
Enter number of nonviolent felony dispositions	–	x ½ =	–
OTHER CURRENT OFFENSES: *(Other current offenses that do not encompass the same conduct count in offender score)*			
Enter number of other felony convictions	2	x 1 =	2
STATUS:			
Was the offender on community custody on the date the current offense was committed? (if yes)		+ 1 =	–

Total the last column to get the **Offender Score** (Round down to the nearest whole number) **2**

SENTENCE RANGE - DRUG

	Offender Score		
	0 to 2	**3 to 5**	**6 to 9+**
LEVEL I	3m 0 - 6	12m 6+ - 18	18m 12+ - 24

- ✓ For attempt, solicitation, conspiracy (RCW 9.94A.595) see page 20 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 167 for standard range adjustments.
- ✓ Per RCW 9.94A.518, any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602 becomes a level III offense.
- ✓ For deadly weapon enhancement, see page 170.
- ✓ For sentencing alternatives, see page 160.
- ✓ For community custody eligibility, see page 168.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 165.

The Caseload Forecast Council is not liable for errors or omissions in the manual, for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual, or for any other written or verbal information related to adult or juvenile sentencing. The scoring sheets are intended to provide assistance in most cases but do not cover all permutations of the scoring rules. If you find any errors or omissions, we encourage you to report them to the Caseload Forecast Council.

Count Five

Version 20121231

POSSESSION OF EPHEDRINE, PSEUDOEPHEDRINE OR ANHYDROUS AMMONIA WITH INTENT TO MANUFACTURE METHAMPHETAMINE

RCW 69.50.440
CLASS B – NONVIOLENT/DRUG

OFFENDER SCORING RCW 9.94A.525(13)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(8)) on or after 7/01/2006, use the General Drug Offense with a Sexual Motivation Finding scoring form on page 175.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Drug Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 174.

ADULT HISTORY:

Does the offender have a prior sex or serious violent offense in history? —

YES Enter number of felony drug convictions ..... ___ x 3 = ___

NO Enter number of felony drug convictions ..... ___ x 1 = ___

Enter number of felony convictions ..... ___ x 1 = ___

JUVENILE HISTORY:

Does the offender have a prior sex or serious violent offense in history? —

YES Enter number of felony drug dispositions ..... ___ x 2 = ___

NO Enter number of felony drug dispositions ..... ___ x ½ = ___

Enter number of serious violent and violent felony dispositions ..... ___ x 1 = ___

Enter number of nonviolent felony dispositions ..... ___ x ½ = ___

OTHER CURRENT OFFENSES:

(Other current offenses that do not encompass the same conduct count in offender score)

Does the offender have other prior sex or serious violent offense in history?

YES Enter number of other felony drug convictions ..... ___ x 3 = ___

NO Enter number of other felony drug convictions ..... 2 x 1 = 2

Enter number of other felony convictions ..... ___ x 1 = ___

STATUS:

Was the offender on community custody on the date the current offense was committed? (if yes) + 1 = ___

Total the last column to get the **Offender Score** (Round down to the nearest whole number) **2**

SENTENCE RANGE – DRUG

	Offender Score		
	0 to 2	**3 to 5**	**6 to 9+**
LEVEL III	59.5m 51 - 68	84m 68+ - 100	110m 100+ - 120

+ 36 months Firearm enhancement

✓ For attempt, solicitation or conspiracy drug felonies see page 21 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 167 for standard range adjustments.

✓ Per RCW 9.94A.518, any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602 becomes a level III offense.

✓ For deadly weapon enhancement, see page 170.

✓ For sentencing alternatives, see page 160.

✓ For community custody eligibility, see page 168.

✓ For any applicable enhancements other than deadly weapon enhancement, see page 165.

✓ Per RCW 69.50.408, the statutory maximum for a **subsequent conviction** under chapter 69.50 RCW is 240 months.

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Count Six

Version 20121231

MANUFACTURE METHAMPHETAMINE

RCW 69.50.401(2)(b)
CLASS B – NONVIOLENT/DRUG

OFFENDER SCORING RCW 9.94A.525(13)

If it was found that this offense was committed with sexual motivation (RCW 9.94A.533(8)) on or after 7/01/2006, use the General Drug Offense with a Sexual Motivation Finding scoring form on page 175.

If the present conviction is for a felony domestic violence offense where domestic violence was plead and proven, use the General Drug Offense Where Domestic Violence Has Been Plead and Proven scoring form on page 174.

ADULT HISTORY:		
Enter number of Manufacture Methamphetamine felony convictions	x 3 =	
Does the offender have a prior sex or serious violent offense in history?		
YES Enter number of felony drug convictions	x 3 =	
NO Enter number of felony drug convictions	x 1 =	
Enter number of felony convictions	x 1 =	
JUVENILE HISTORY:		
Enter number of Manufacture Methamphetamine felony dispositions	x 2 =	
Does the offender have a prior sex or serious violent offense in history?		
YES Enter number of felony drug dispositions	x 2 =	
NO Enter number of felony drug dispositions	x ½ =	
Enter number of serious violent and violent felony dispositions	x 1 =	
Enter number of nonviolent felony dispositions	x ½ =	
OTHER CURRENT OFFENSES: *(Other current offenses that do not encompass the same conduct count in offender score)*		
Enter number of other Manufacture Methamphetamine felony convictions	x 3 =	
Does the offender have other prior sex or serious violent offense in history?		
YES Enter number of other felony drug convictions	x 3 =	
NO Enter number of other felony drug convictions	2 x 1 =	2
Enter number of other felony convictions	x 1 =	
STATUS:		
Was the offender on community custody on the date the current offense was committed? (if yes)	+ 1 =	

Total the last column to get the **Offender Score** (Round down to the nearest whole number) **2**

SENTENCE RANGE – DRUG

	Offender Score		
	0 to 2	**3 to 5**	**6 to 9+**
LEVEL III	59.5m 51 - 68	84m 68+ - 100	110m 100+ - 120

+ 36 months Firearm enhancement

- ✓ For attempt, solicitation or conspiracy drug felonies see page 21 or for gang-related felonies where the court found the offender involved a minor (RCW 9.94A.833) see page 167 for standard range adjustments.
- ✓ Per RCW 9.94A.518, any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602 becomes a level III offense.
- ✓ For deadly weapon enhancement, see page 170.
- ✓ For sentencing alternatives, see page 160.
- ✓ For community custody eligibility, see page 168.
- ✓ For any applicable enhancements other than deadly weapon enhancement, see page 165.
- ✓ Per RCW 69.50.408, the statutory maximum for a **subsequent conviction** under chapter 69.50 RCW is 240 months.
- ✓ Per RCW 69.50.435, if the offense occurred within a **protected zone**, 24 months shall be added to the standard range and the statutory maximum will be 240 months.
- ✓ Per RCW 9.94A.827, if the offense is also a violation of **Manufacture of Methamphetamine with a Child on Premise**, 24 months shall be added to the standard range.

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SKAMANIA COUNTY
FILED
MAR 13 2014
SHARON K. VANCE, CLERK
DEPUTY

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

STATE OF WASHINGTON, Plaintiff, vs. GEORGE E. TAYLOR, SID: WA13688155 If no SID, use DOB: 07/05/1963 PCN: Defendant.	**No.** 12-1-00029-6 Felony Judgment and Sentence (FJS) Prison **[X] Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2, 5.3, 5.5 and 5.7** **[ ] Defendant Used Motor Vehicle** **[ ] Juvenile Decline [ ] Mandatory** **[ ] Discretionary** 14.9.00052.6

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

2.1 Current Offense(s): The defendant is guilty of the following offenses, base upon

[ ] guilty plea(date)_____ [X] jury-verdict March 11, 2014__
[ ] bench trial(date)_____:

COUNT	CRIME	RCW (w/subsection)	DATE OF CRIME	CLASS
I	RECKLESS ENDANGERMENT	RCW 9A.36.050	March 7, 2012	GROSS MISDE-MEANOR
II	MAKING FALSE OR MISLEADING STATEMENT TO A PUBLIC SERVANT	RCW 9A.76.175	March 7, 2012	GROSS MISDE-MEANOR
III	VUCSA - POSSESSION OF A CONTROLLED SUBSTANCE -- METHAMPHETAMINE	RCW 69.50.4013	March 14, 2012	FC

IV	VUCSA - USE OF DRUG PARAPHERNALIA	RCW 69.50.412(1)	March 14, 2012	MISDE-MEANOR
V	VUCSA--POSSESSION OF EPHEDRINE, PSEUDOEPHEDRINE, OR PRESSURIZED AMMONIA GAS WITH INTENT TO MANUFACTURE METHAMPHETAMINE	RCW 69.50.440(1)	March 14, 2012	FB
VI	VUCSA--MANUFACTURE OF A CONTROLLED SUBSTANCE--METHAMPHETAMINE	RCW 69.50.401(1) and RCW 69.50-401(2)(b)	On or between July 26, 2009 and March 14, 2012	FB

Class: FA(Felony-A), FB(Felony-B), FC(Felony-C)
(If the crime is a drug offense, include the type of drug in the second column.)

[ ] Additional current offenses are attached in Appendix 2.1a.

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

GV [ ] For the crime(s) charged in Count _____, **domestic violence** was pled and proved. RCW 10.99.020.

[X] The defendant was armed with a ~~used a~~ **firearm** in the commission of the offense in Counts Five and Six. RCW 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.

[ ] Count _____ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.

[ ] Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A___.

[ ] 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.

GY [ ] In Count ____, the defendant had (number of) ____ **passenger(s) under the age of 16** in the vehicle. RCW 9.94A.834.

[ ] Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.

[ ] In Count _____ the defendant has been convicted of **assaulting a law enforcement officer** or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.

[ ] Count ___ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.

[ ] The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.

[ ] In Count ___, assault in the 1st degree (RCW 9A.36.011) or assault of a child in the 1st degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).

[ ] Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.

[ ] **Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

Crime	Cause Number	Court (County/ State)	DV* Yes
1.			
2.			

*DV: Domestic Violence was pled and proved.

[ ] Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult or Juv	TYPE OF CRIME	DV* Yes
No Valid Operator License without Valid ID	November 28, 2007	Pacific, WA	May 27, 2007	A	misde-meanor	
Use/ Possession Loaded Firearm	June 17, 2004	Skamania, WA	June 1, 2003	A	misde-meanor	

Carry Concealed/ Possess Firearm	June 3, 2003	Lane, OR	June 3, 2003	A	misde-meanor	
Attempt to Elude Pursuing Police Vehicle	April 12, 1999	Wasco, OR	March 22, 1999	A	misde-meanor	
Driving under the Influence of Intoxicant	April 12, 1999	Wasco, OR	March 22, 1999	A	gross misde-meanor	
Negligent Driving in the First Degree	April 21, 1999	Klickitat, WA	January 1, 1999	A	gross misde-meanor	
Obstruct-ing Law Enforce-ment Officer	April 21, 1999	Klickitat, WA	January 1, 1999	A	gross misde-meanor	
Driving with License Suspended in the First Degree	November 13, 1996	Klickitat, WA	November 3, 1996	A	gross misde-meanor	
Criminal Driving Suspended/ Revoked	November 24, 1992	Wasco, OR	September 19, 1992	A	misde-meanor	
Driving under the Influence of Intoxi-cants	March 2, 1990	Wasco, OR	December 24, 1999	A	gross misde-meanor	
Driving under the Influence of Intoxi-cants	March 12, 1990	Wasco, OR	December 17, 1986	A	gross misde-meanor	

*DV: Domestic Violence was pled and proved.

[ ] 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 prior convictions listed as number(s) _____, above, or in appendix

2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

[ ] The prior convictions listed as number(s) _____, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

COUNT	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENT (F) FIREARM (D) DEADLY WEAPON (V) VUCSA in a protected zone	TOTAL STANDARD RANGE (including Enhancements)	MAXIMUM TERM
I	n/a	gross misdemeanor	0 to 364 days	n/a	0 to 364 days	364 days and/or $5,000 fine
II	n/a	gross misdemeanor	0 to 364 days	n/a	0 to 364 days	364 days and/or $5,000 fine
III	2	VUCSA-I	0 to 6 months	n/a	0 to 6 months	5 years and/or $10,000 fine
IV	n/a	misdemeanor	0 to 90 days	n/a	0 to 90 days	90 days and/or $1,000 fine
V	2	VUCSA-III	51 to 68 months	(F) 36 months	87 to 104 months	10 years and/or $25,000 fine
VI	2	VUCSA-III	51 to 68 months	(F) 36 months	87 to 104 months	10 years and/or $25,000 fine

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) Criminal Street Gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

[ ] 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:

[ ] 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.

[ ] within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

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 Legal Financial Obligations/Restitution. 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. (RCW 10.01.160). The court makes the following specific findings:

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

[ ] the defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

[ ] (Name of Agency)_____'s costs for its emergency response are reasonable. RCW 38.52.430 (effective August 1, 2012).

III. Judgment

3.1 The defendant is **Guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2[ ]The court **Dismisses** Counts _____ in the charging document.

IV. Sentence and Order

It is Ordered:

4.1 Confinement. 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):

364 days on Count One	364 days on Count Two
6 months on Count Three	90 days on Count Four
96 months on Count Five	96 months on Count Six

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

[X] The confinement time on Count Five ncludes __36_____ months as enhancement for [X] firearm [ ] deadly weapon [ ] VUCSA in a protected zone [ ] manufacture of methamphetamine with juvenile present.

[X] The confinement time on Count Six includes __36_____ months as enhancement for [X] firearm [ ] deadly weapon [ ] VUCSA in a protected zone [ ] manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 132 months.

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: _____.

This sentence shall run consecutively with the sentence in the following cause number(s) (see RCW 9.94A.589(3)): _____.

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____.

(b) **Credit for Time Served.** 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.

(c) **[ ] Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. 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 confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for:

(1) the period imposed by the court, as follows:

Count(s) _____ 36months for Serious Violent Offenses

Count(s) _____ 18 months for Violent Offenses

Counts _Five and Six_ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

Note: combined term of confinement and community custody for any particular offense cannot exceed the statutory maximum. RCW 9.94A.701.

(B) While on community custody, the defendant shall: (1) report to

and be available for contact with te 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 on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

[ ] consume no alcohol.

[ ] have no contact with:

[ ] remain [ ] within [ ] outside of a specified geographical boundary, to wit: _____

[ ] not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.

[ ] participate in the following crime related treatment or counseling services: _____.

[X] undergo an evaluation for treatment for [ ] domestic violence [X] substance abuse [ ] mental health [ ] anger management, and fully comply with all recommended treatment.

[ ] comply with the following crime related prohibitions: _____

_____.

[ ] Other conditions: _____

_____.

Court ordered treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3 Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE $ TBD Restitution to: _____

_____

S *subject to modification.*

RTN/RJN $_____ Restitution to: _____

_____

S *subject to modification.*

$_____ Restitution to: _____

_____

Subject to modification.

Name & Address-Address may be withheld and provided confidentially to Clerk's Office.

PCV $ 500 Victim Assessment .....
RCW 7.68.035

PDV $_____ Domestic Violence assessment .....
RCW10.99.080

CRC $ 600.00 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 Cost	$_____	EXT
Other	$ 150.00	PRE-TRIAL SUPERVISION

PUB $ 4,300 Fees for court appointed attorney RCW 9.94A.760

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

FCM/MTH $ 3,250 Fine RCW 9A.20.021; [X] VUCSA chapter 69.50 RCW
[ ]VUCSA additional fine deferred due to indigency
RCW 69.50.430

CDF/LDI/FCD $_____ Drug enforcement fund of: .....
NTF/SAD/SDI RCW 9.94A.760
$ _____ DUI fines, fees and assessments

CLF $ 300 Crime lab fee [ ] suspended due to indigency .....
RCW 43.43.690

$ 100 DNA collection fee [ ] not imposed due to hardship . RCW 43.43.7541

FPV $_____ Specialized forest products RCW 76.48.140

DEF $_____ Emergency response costs ($1,000 maximum, $2,500max. effective Aug. 1, 2012))RCW 38.52.430

$_____ Other fines or costs for: _____

$ 9,050 **TOTAL** RCW 9.94A.760

[X] 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:

[X] shall be set by the prosecutor.

[ ] is scheduled for .

[ ] ***Restitution*** Schedule attached.

[X] The defendant waives any right to be present at any restitution hearing (sign initials): _____.

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

Name of other defendant	**Cause Number**	(Victim's name)	(Amount-$)

, , ,

RJN

[

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

[X] 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 $25 per month commencing 5-10-14. RCW 9.94A.760.

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

[ ] The court orders the defendant to pay costs of incarceration at the rate of $_____ per day, (actual costs not to exceed $100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

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.

4.4 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. This paragraph does not apply if it is extablished that the Washington State Patrol crime laboratory already has a sample from the defendant for

a qualifying offense. RCW 43.43.754.

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

4.5 No Contact:

The defendant shall not have contact with including, but not limited to, personal, verbal, telephonic, written or contact through a third party until (which does not exceed the maximum statutory sentence).

[ ] The defendant is excluded or prohibited from coming within (distance of: [ ]'s [ ] home/residence [ ] work place [ ] school [ ] (other location(s) _____,

or [ ] other location: _____

until (which does not exceed the maximum statutory sentence).

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

4.6 Other: _____

_____

_____.

4.7 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 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.633.

(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.714.

5.5 **Firearms. You may not own, use or possess any firearm, and under federal law any firearm or ammunition**, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. **You must immediately surrender any concealed pistol license.** (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.6 Reserved.

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. 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.

5.8 Other: _____

DONE IN OPEN COURT in the presence of the defendant this date: 8/13/14

JUDGE BRIAN P. ALTMAN

Attorney for Defendant
WSBA# 38749
Joanne Gallagher

Chief Deputy Prosecuting Attorney
WSBA# 35445
Yarden F. Weidenfeld

GEORGE E. TAYLOR
Defendant

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.
My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.
My right to vote may be permanently restored by one of the following for each felony conviction: 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 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendants Signature: _____

IDENTIFICATION OF DEFENDANT

SID No. WA13688155 Date of Birth 07/05/1963

(If no SID complete a separate Applicant card form FD-258 for State Patrol)

FBI No. 401945HA4 Local ID No. _____

PCN No. _____ Other _____

Alias name, SSN, DOB: __

Race: Ethnicity: **Sex:**

[ ] Asian/Pacific Islander [ ] Black/African American [X] Caucasian [ ] Hispanic [X] Male

[ ] Native American [ ] Other: _____ [ ] Non-hispanic [ ] Female

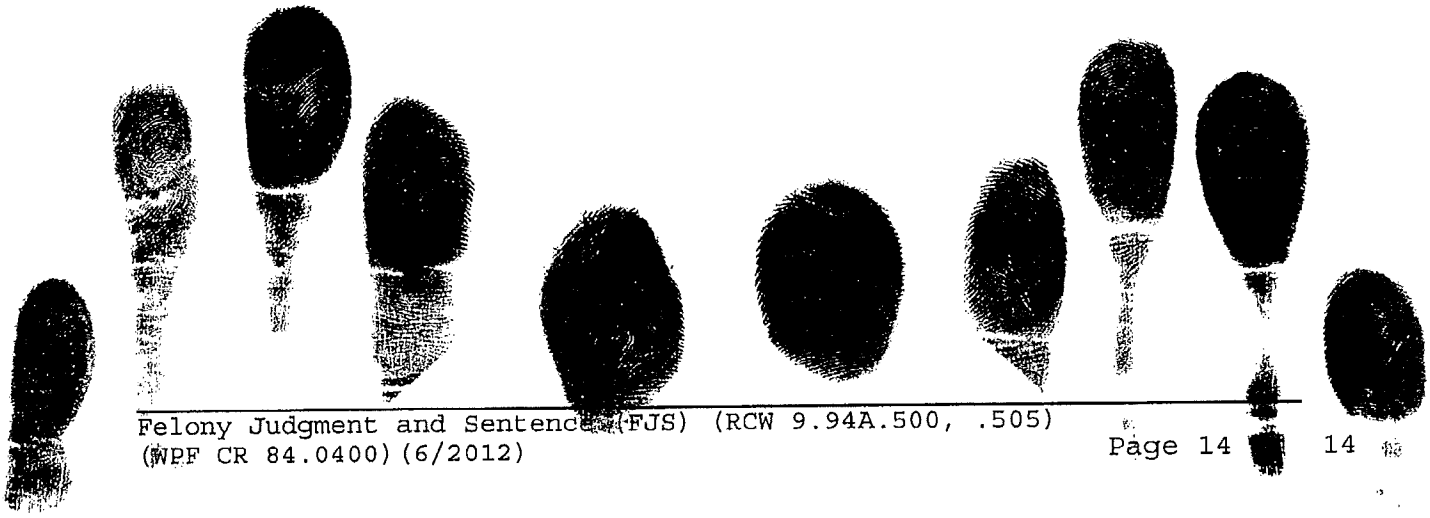
FINGERPRINTS: I attest that I saw the defendant who appeared in Court affix his or her fingerprints and signature on this document.

Clerk of the Court: Grace Crosby, Deputy Clerk.

Dated: March 13, 2014

DEFENDANT'S SIGNATURE: _____

Left 4 fingers taken simultaneously | Left Thumb | Right Thumb | Right 4 fingers taken simultaneously



SKAMANIA COUNTY PROSECUTOR

November 30, 2015 - 3:50 PM

Transmittal Letter

Document Uploaded: 1-460301-Respondent's Brief.pdf

Case Name: State of Washington vs. George E. Taylor
Court of Appeals Case Number: 46030-1

Is this a Personal Restraint Petition? Yes ■ No

The document being Filed is:

Designation of Clerk's Papers Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

■ Brief: __Respondent's__

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: ____
Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

Sender Name: Lynda T Richart - Email: richart@co.skamania.wa.us

A copy of this document has been emailed to the following addresses:

mcgill@co.skamania.wa.us
ltabbutlaw@gmail.com