

FILED  
COURT OF APPEALS  
DIVISION II  
2015 JUN -3 PM 2:00  
STATE OF WASHINGTON

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION

Darrell K. Jackson,  
Petitioner

46411-0

NO.

PERSONAL RESTRAINT PETITION

Petitioner's Full Name

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

A. STATUS OF PETITIONER

I, Darrell Kantreal Jackson

(Full name and current address)

1830 Eagle Crest Way, Clallam Bay, WA. 98326

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 court order)

1. The court in which I was sentenced is: Superior Court of Washington for

Pierce County

2. I was convicted of the crime of: Aggravated Murder Burglary and Robbery

3. I was sentenced after (check one) Trial  Plea of Guilty \_\_\_\_\_ on 3-27-09

Date of Sentence

4. The Judge who imposed sentence was Bryan E. Chushcoff

5. My lawyer at trial court was Ronald D. Ness

Name and Address if known

6. I did X did not \_\_\_\_\_ appeal from the decision of the trial court. (If the answer is that I did), I appealed to: Washington State Court of Appeals Division II  
Name of court or courts to which appeal took place

7. My lawyer for my appeal was: Andrew P. Zinner 1908 E. Madison St. Seattle, WA.  
Name and address if known or write "none" 98122

The decision of the appellate court was X was not \_\_\_\_\_ published. (If the answer is that it was published, and I have this information) the decision is published in WestLaw

2011 WL 3107820 (Wash., App. Div. II)

8. 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 The Supreme Court of Washington. Relief was denied on  
Name of court  
6-19-13

Date of Decision or, if more than one, all dates)

(If you have answered in question 7 that you did ask for relief), the name of your lawyer in the proceedings mentioned in my answer was Andrew P. Zinner  
Name and address if known  
1908 E. Madison St. Seattle, WA. 98122

9. If the answers to the above questions do not really tell about the proceedings and the courts, 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 will attach sheets for each reason separately, in the same way as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc). I claim that I have \_\_\_\_\_ reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

First Ground  
(First, Second, etc)

Petitioner was deprived of his Sixth and Fourteenth Amendment Rights to Effective Assistance of Counsel

1. I should be given a new trial or released from confinement because (State legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement): Counsel's failure to object to prosecutors' opening and closing remarks and to co-defendants' plea bargain agreement to testify truthfully.

2. The following facts are important when considering my case. (After each fact statement put the name of the person or persona who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that also) 10VRP at 1349, re facts are from the record in State v. Jackson No. 08-1002995 10 VRP at 1354-55, 10 VRP at 1362, 11 VRP at 1591-92, 14 VRP at 1884-85, 5 VRP at 516-17

3. The following reported court decisions (indicate citations if possible) in cases similar to mine show the error I believed happened in my case. (If none are known, state "None Known"). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The following statutes and constitutional provisions should be considered by the court. (If none are now, state, "None Known") 5th, 6th and 14th Amendments, U.S. Constitution

5. This petition is the best way I know to get the relief I want, and not other way will work as well because: \_\_\_\_\_

C. STATEMENT OF FINANCES:

If you cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help you, fill out this form. If you have enough money for these, do not fill this part of the form. If currently in confinement you will need to attach a copy of your prison finance statement.

1. I do X do not \_\_\_\_\_ ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.

2. I have \$ \_\_\_\_\_ in my prison or institution account.

3. I do  do not  ask the court to appoint a lawyer for me because I am so poor and cannot afford to pay a lawyer.

4. I am  am not  employed. My salary or wages amount to \$ \_\_\_\_\_ a month. My employer is \_\_\_\_\_  
Name and address of employer

5. During the past 12 months I did  did not  get any money from a business, profession or other form of self-employment. (If I did, it was \_\_\_\_\_  
Type of self-employment

And the total income I received was \$ \_\_\_\_\_.

6. During the past 12 months I:

Did  Did Not  Receive any rent payments. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any interest. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any dividends. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not  Receive any other money. If so the total I received was \$ \_\_\_\_\_

Do  Do Not  Have any cash except as said in question 2 of Statement of Finances. If so the total amount of cash I have is \$ \_\_\_\_\_.

Do  Do Not  Have any savings or checking accounts. If so, the total amount in all accounts is \$ \_\_\_\_\_.

Do  Do Not  Own stocks, bonds or notes. If so, their total value is: \$ \_\_\_\_\_.

7. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what item or property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items

Value

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8. I am  am not  married. If I am married, my wife or husband's name and address is:

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9. All of the persons who need me to support them are listed below:

Name & Address	Relationship	Age
<hr/>		

10. All the bills I owe are listed here:

Name & Address of Creditor	Amount
<hr/>	
<hr/>	
<hr/>	

D. REQUEST FOR RELIEF:

I want this court to:

Vacate my conviction and give me a new trial

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

Other: \_\_\_\_\_  
(Please Specify)

E. OATH OF PETITIONER

STATE OF WASHINGTON

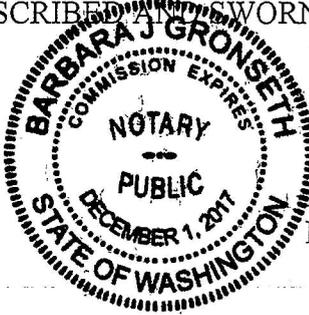
COUNTY OF CLALLAM

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

[Signature]  
Signature

Darrell Jackson #329268  
Print Name & Number

SUBSCRIBED AND SWORN to before me this 1<sup>st</sup> day of JUNE  
2014



Barbara J. Gronseth  
Notary Public in and for the State of Washington  
Residing at Clallam Bay  
My commission expires Dec 1, 2017

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

\_\_\_\_\_  
\_\_\_\_\_

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

DATED This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Print Name & Number

AJFLORES

CLALLAM BAY CORRECTIONS CENTER

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000329268 Name: JACKSON, DARRELL KANTREAL

BKG# 448884

LOCATION: B01-019-AC10L

Account Balance Today (	05/16/2014	)	Current :	49.17
			Hold :	45.00
			<hr/>	
			Total :	94.17

Account Balance as of 05/15/2014 49.17

04/16/2014 05/15/2014

SUB ACCOUNT	START BALANCE	END BALANCE
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	0.00
SAVINGS BALANCE	0.00	0.00
SPENDABLE BAL	63.02	49.17
MEDICAL ACCOUNT	0.00	0.00
COMM SERV REV FUND ACCOUNT	0.00	0.00
POSTAGE ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
DEND	DENTAL COPAY DEBT	07282010	0.00	5.96	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	03312009	UNLIMITED	60.80	0.00
HYGA	INMATE STORE DEBT	08032009	0.00	39.63	0.00
COIS	COST OF INCARCERATION /07112000	03312009	UNLIMITED	235.99	0.00
MISCD	MISCELLANEOUS DEBT	12132010	0.00	1.69	0.00
HYGA	INMATE STORE DEBT	04102009	0.00	5.21	0.00
COI	COST OF INCARCERATION	03312009	UNLIMITED	0.00	0.00
MEDD	MEDICAL COPAY DEBT	11232010	0.00	8.48	0.00
CVC	CRIME VICTIM COMPENSATION	03312009	UNLIMITED	67.89	0.00
TVD	TV CABLE FEE DEBT	08082009	0.00	11.06	0.00
EL	ESCORTED LEAVE	09-2011	UNLIMITED	0.00	0.00
POSD	POSTAGE DEBT	12152009	0.00	4.17	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20090420	UNLIMITED	229.09	0.00

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT SAVINGS

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
------	-------------------------	----------	-----------------	---------

TRANSACTION DESCRIPTIONS --

EDUCATION ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
------	-------------------------	----------	-----------------	---------

TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
------	-------------------------	----------	-----------------	---------

AJFLORES

CLALLAM BAY CORRECTIONS CENTER

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000329268 Name: JACKSON, DARRELL KANTREAL  
LOCATION: B01-019-AC10L

BKG# 448884

TRANSACTION DESCRIPTIONS --			SPENDABLE BAL SUB-ACCOUNT	
DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
04/22/2014	CRS SAL ORD #7722894		( 28.72)	34.30
04/28/2014	CHECK DISBURSEMENT - Halalco		( 17.75)	16.55
04/30/2014	CRS SAL ORD #7734419		( 5.13)	11.42
05/09/2014	I05 - MEDICAL COPAY		( 4.00)	7.42
05/10/2014	I05 - TV CABLE FEE		( 0.50)	6.92
05/15/2014	CLASS 3 GRATUITY APRIL 2014		55.00	61.92
05/15/2014	Deductions-CVC-03312009 D D		( 2.75)	59.17
05/15/2014	AFRICAN AMERICAN CLUB 5/14/14 BPC		( 10.00)	49.17

TRANSACTION DESCRIPTIONS --			MEDICAL ACCOUNT SUB-ACCOUNT	
DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS --			COMM SERV REV SUB-ACCOUNT FUND ACCOUNT	
DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS --			POSTAGE ACCOUNT SUB-ACCOUNT	
DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS --			POSTAGE ACCOUNT SUB-ACCOUNT	
DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE

ATTACHMENT

ATTACHMENT

In the Court of Appeals of  
the State of Washington  
Division II

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Darrell Kantreal Jackson,  
Petitioner  
v.  
State of Washington

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Personal Restraint Petition  
Pursuant RAP 16.4(c) & 16.7  
from Superior Court ruling in No.08-1002995.

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Pro Se  
Darrell Kantreal Jackson  
Clallam Bay Correction Center  
1830 Eagle Crest Way  
Clallam Bay, WA. 98326

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Mr. Jackson was denied effective assistance of counsel in violation of sixth and fourteenth amendments under the U,S,Constitution when his counsel failed to object to multiple counts of prejudicial remarks of the prosecutor.	
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Prosecutor comitted misconduct by trivializing the reasonable doubt standard; mistating the role of the jury and the states burden of proof; trivializing the elements of the charged crimes in the states' to convict instructions; and appealed to the jurys' passion and prejudice depriving Jackson his 5th, 6th and 14th amendment rights to proof beyond a reasonable doubt, presumption of innocence, fair trial, and due process of law.	
a.In an accomplice trial, states compound misconduct, in Jacksons' case, denied him a fair trial amounting to substantial prejudice.	
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## INTRODUCTION

Darrell Kantreal Jackson [hereafter] is currently serving a sentence of life without parole in prison after having been convicted in a jury trial. This petition is hereby presented to this court for consideration of all facts contained herein that in the name of justice, the court will award my relief from current restraint, reverse my convictions and remand for a new trial.

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## ISSUES

### **Ground #1**

Mr. Jackson was denied effective assistance of counsel in violation of sixth and fourteenth amendments of the United States Constitution when his counsel failed to object to multiple counts of prejudicial remarks of the prosecutor.

Mr. Jackson has a constitutional right to effective assistance of counsel. The sixth amendment guarantees that "in all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense." This fundamental right is assured in the state courts by the due process clause of the fourteenth amendment >Powell v. Alabama, 535 Ct 55, 774 Ed (1932); U.S.C.A. Amend. VI, XIV; Wash. Const. Art. 1, Sec. 22.

A criminal defendant is denied this right when his or her attorneys conduct (1) falls below a minimum objective standard of reasonable attorney conduct, and (2) there is probability that the outcome would be different but for the attorneys conduct >State v. Benn, 120 Wn.2d 631, 663, 845 P.2d 289 citing >Strickland v. Washington, 466 U.S. 668, 687-88, 104 S.Ct 2052, 2064, 6580 L.Ed.2d 674 (1984) cert.den'd 510 U.S. 5944 (1993) (emphasis on original). The constitutional right to counsel includes the right to effective assistance of counsel at trial and on direct appeal >McMann v. Richardson, 417 U.S. 759, 771 N 14 (1970); >Ross v. Moffitt, 417 U.S. 600, 445 S.Ct 2437 (1974); >Evitt v. Lucey, 105 S.Ct 800, 835 (1985).

The two prong Strickland test requires proof that the attorney acted deficiently and that deficient performance prejudiced the defense. Id. at 418, deficient conduct must show errors so serious that the defendant has been deprived of his sixth amendment right to counsel, Id. at 418, that means performance falling below the customary skills and diligence that a reasonable competent attorney would exercise under similar circumstances >State v. Visitacion, 55 Wn.App 166,173, 776 P.2d 986 (1989). The prejudice prong is met by showing a reasonable probability that absent the deficient performance the outcome of the proceeding would have been different >State v. Thomas, 109 Wn.2d 222,226, 743 P.2d 816 (1987); >State v. McFarland, 27 Wn.2d 322,334-35, 899 P.2d 1251 (1985); >Strickland, 466 U.S. 694.

Such a probability need only undermine confidence in the outcome and need not show a deficient conduct "more likely than not altered it", Thomas Id. at 26. Washington Courts however, have recognized that some circumstances require a presumption of prejudice, see >In re Richardson, 110 Wn.2d 669, 675 P.2d 209 (1983); >In re Boone, 103 Wn.2d 224,233, 691 P.2d 964 (1984); >State v. Kitchen, 110 Wn.2d 403,413, 756 P.2d 105 (1988).

The federal courts have likewise presumed prejudice where an attorney fails to perform his duties, see >United States v. Cronin, 466 U.S. 648,658-61 (1984); >Strickland, 466 U.S. 692;

>Ortega, 528 U.S. 470,483-84 (2000).

The claim whose omission forms the basis of an ineffective claim may be either a federal law or state law, so long as the failure to raise the state or federal claim fell, "outside the wide range of professionally competent assistance" >Strickland, 466 U.S. 690, 104 S.Ct 2066. In addressing the attorneys performance, a reviewing court must judge his conduct on the basis of the facts of the particular case "viewed as of the time of counsels' conduct" >Strickland, Id., and may not use hindsight to second guess his strategy choices >Fretwell, 506 U.S. 364, 113 S.Ct 838,844.

In evaluating the prejudice component of the Strickland test, a court must determine whether, absent counsels' deficient performance, there is a reasonable probability that the outcome of the proceeding would have been different, "a reasonable probability sufficient to undermine confidence in the outcome." The outcome determination unlike the performance determination may be made with the benefit of hindsight, see >Fretwell, 506 U.S. 364, 113 S.Ct 838,844.

## Ground #2

The prosecutor comitted misconduct by trivializing the reasonable doubt standard; mistating the role of the jury and and the states' burden of proof; trivializing the elements of the charged crimes in the states' to convict instructions; and appealed to the jurys passions and prejudices depriving

Jackson his 5th, 6th and 14th amendment rights to proof beyond a reasonable doubt, presumption of innocence, fair trial, and due process of law.

a. In an accomplice trial, states' compound misconduct, in Jacksons' case, denied him a fair trial amounting to substantial prejudice.

During closing, when discussing the reasonable doubt standard, the prosecutor stated the following without objection: "I would submit that reasonable doubt is like a jigsaw puzzle. Someone tells you, hey, this is a puzzle of downtown Portland while someone else says no, it's a puzzle of downtown Seattle. Someone else says no, it's downtown Tacoma. You can't be convinced it's any one of these cities." After further discussion about puzzles looking like mountains, the prosecutor continues: "you continue putting the puzzle together and there comes a point long before you have all the pieces, long before every question and every doubt is answered and as long as the right pieces of the puzzle are there, you can be convinced beyond a reasonable doubt that what you are looking at is Seattle with Mt. Rainier in the background."

And so it is with this case, from there, "you can fill in the rest of the pieces." You can have a question about who plunged the knife over and over into Ruben and Warren. In the end it doesn't matter because you have the right pieces of the puzzle. You have the accomplice instruction. The right pieces of the puzzle are there and the case has been proved

beyond a reasonable doubt....We would urge you to return a verdict that represents the truth, a verdict of guilty of count one.....We would urge you to return a verdict that represents the truth and that is a verdict of guilty to counts 3 and 4, RP1914-16. The prosecutor in rebuttal closing continued to mistate the burden of proof standard: "We have a doubt about some particular fact, suggesting to you by his argument, that if you have a doubt about any single fact or some important issue in the case, well that means an acquittal must follow. That is not what this legal standard means. I urge you to pay close attention to the instructions. You have 12 of them that start with the words to convict.... The court has told you that to convict the defendents of the respective crimes, each of the elements must be proved beyond a reasonable doubt, therefore it is the elements that are at issue. Criminal law is elemental. It's not a question of whether you have questions and unanswered questions and concerns about some particular fact. The issue is, has the state proven to you beyond a reasonable doubt that each of these elements are true? You can have questions, you are going to have unanswered questions. It is not legally required--in fact, it would be impossible for the state of Washington to prove a case to perfection, to mathematical certainty, to answer every question that you have. That's not the burden....Let me give you an example. Try to picture in your mind, two sets of railroad tracks, four iron rails,

parallel to each other. Imagine that the iron rails are the elements of proof as you will find in the to convict instructions....Well the rails are the elements of proof.... Now if you have concerns about some of that supporting evidence, it is the equivalent of removing one of the supporting railroad ties or maybe several, but the iron rails remain. They are still adequate, more than adequate supported, even if you have some concerns about some of the underlying evidence," RP 1985-87. Lastly, the prosecutor states:

"Mr. Blinn and I are honored to represent the people of the State of Washington....Ruben and Warrens' lives deserve the protection of the law. Any life is precious beyond measure. The defendants have received a fair trial. Now it is time for justice to be served for the people of Washington and for Ruben and Warren. It is time that these defendants be held to account for the heinous crimes that they've committed. It is time for you, as the conscience of the community"....Defense counsel objected and was sustained, RP2000-01.

#### b. Prosecutorial Misconduct

The prosecutors improper closing arguments require reversal, see >State v. Johnson, 158 Wn.App 677, 243 P.3d 936 (2010) (Undermining the burden of proof and trivializing the burden and the jury's role in weighing evidence constituted a new trial). Prosecutorial misconduct deprived Jackson of a fair trial and only a fair trial is a constitutional trial >State

v. Davenport, 100 Wn.2d 757, 675 P.2d 1213 (1984); >Smith v. Phillips, 455 U.S. 209 (1982); U.S.Const.Amends' 5,6 and 14. A prosecutors' mistatement of the law is a particularly serious error with grave potential to mislead the jury, >Davenport, 100 Wn.2d at 763.

In >State v. Venegas, 155 Wn.App 507, 228 P.3d 813 (2010), the prosecutor argued "In order to find the defendent not guilty, you have to say to yourselves, I doubt the defendent is guilty and my reason is \_\_\_\_\_." This court found the argument improper and granted a new trial. See also >State v. Anderson, 153 Wn.App 417, 220 P.3d 1273 (2009) "Fill in the blank argument" improper because it subverted the presumption of innocence by implying that the jury had an initial affirmative duty to convict and that the defendent bore the burden of proving a reason for the jury not to convict him. The prosecutors arguments in Anderson also discussed the reasonable doubt standard in the context of everyday decision making such as choosing to have elective surgery, leaving children with a babysitter and changing lanes on a freeway. This court went on to hold the arguments were improper because they trivialized and ultimately failed to convey the gravity of the states' burden and the jurys role in assessing the states' case against the defendent and because they implied by focusing on the degree of certainty the jurors would have to be willing to act, rather than that which would cause them to hesitate to act, that the jury should convict the defendent,

unless it found a reason not to, >Anderson, 153 Wn.App at 425, 431-32.

In the case at bar, the prosecutors' improper closing arguments were more flagrant and ill intentioned than those in Venegas, Johnson, and Anderson.

Instead of fill in the blank, the prosecutor compared reasonable as to filling in some puzzle, asked the jury to reach a verdict that represents the truth; trivialized the reasonable doubt standard by confusing the jury about "Doubts in the case regarding the elements" and whether the state has proven beyond a reasonable doubt that "the elements are true; that the states' burden is not to prove with mathematical certainty (implying that doubts the jury could have, would have to be mathematical certainties in order to reach a not guilty verdict); compared the elements in the to convict instructions to iron railroad rails and railroad ties, RP's 1914-16, 1985-87, at Exhibit A.

In a case where there was reasonable doubts as to whether Jackson was an accomplice to the crimes charged, these improper statements cannot be held harmless.

Lastly, the prosecutors' statement that the jury do justice for people of Washington State and the victims, as the conscience of the community, appealed to the jurys' passions and prejudices are also prejudicial.

The jurys' role is to determine guilt beyond a reasonable doubt and the prosecutor flagrantly and ill intentionally

mislead the jury as to their role and made a mockery of the reasonable doubt standard.

Comments meant to appeal to the jurys' passion and prejudice and encourage it to render a verdict on facts not in evidence are improper, >State v. Pastrana, 93 Wn.App 463, 972 P.2d 557 (1999); >Vierneck v. United States, 318 U.S. 236,247-48 (1943). The collective impact of the prosecutors' mistatements of law warrants a new trial with or without objections.

"When specific guarantees of the Bill of Rights are involved, the court has taken special care to assure prosecutorial conduct in no way infringes them", >Donnelly v. Dechristoforo, 416 U.S. 637 (1974).

In Jacksons' trial, the prosecutor infringed upon his rights to proof beyond a reasonable doubt and presumption of innocence, "the bedrock upon which our criminal justice system stands constitutes great prejudice by reducing the states' burden and undermining a defendents' due process rights", >State v. Bennett, 161 Wn.2d 303, 165 P.3d 1241 (2007); >Anderson, 153 Wn.App at 432; U.S.Const.Amends. 5,6 and 14. This court should reverse in accord with >State v. Johnson, supra, and grant a new trial.

### Ground #3

The jury was erroneously instructed on two separate counts of murder for each victim committed under aggravating circumstances and permitting cross reliance of facts to

convict on separate counts without requiring the jury to be unanimous as to each of the specific acts of committing the crimes charged violating Jacksons' rights to jury trial and due process of law.

a.The trial courts' instructions usurped the jurys' role as fact finder taking away the process of determining guilt or innocence.

The state charged Jackson under an accomplice theory, with one count of aggravated murder committed with premeditated intent to cause the death of another person, cut or stab Ruben Dora ...causing the death of Ruben Dora, and that further aggravating circumstances exist, to wit: that the defendent or an accomplice committed murder to conceal the commission of a crime or protect or conceal the identity of any person committing a crime, and or that there was more than one victim and the murders were a part of a single scheme or plan, and or the murder was committed in the course of, in furtherence of, or in immediate flight from the crime of robbery in the first degree.

Count two charged Jackson with the same charges, as to the victim Abraham Abrazado.

Count three charged Jackson in part with murder in the first degree, a crime of the same or similar character, and or a crime based on the same conduct or on a series of acts connected together constituting parts of a single scheme or or plan, and or so closely connected in respect to time, place

and occasion that it would be difficult to separate proof of one charge from proof of the other.

That....while committing or attempting to commit the crime of robbery in the first degree or burglary in the first degree and in the course of or in furtherance of said crime or immediate flight therefrom cut or stab Ruben Doria and thereby causing the death of Ruben Doria.

Count four charged Jackson with the same charge in count three but named a different victim, Abraham Abrazado. Count five charged Jackson with first degree robbery and count six charged Jackson with first degree burglary. See Exhibit B (Second Amended Information).

The jury was instructed to determine each count separately and a verdict on one count as to one defendant should not control your verdict on any other count or as to the other defendant. See Jury Instruction No.4.

No alternative means instruction was provided or requested by counsel. Further, no unanimity instruction was provided to the jury and no attempt definition was provided in the instructions. See Jury Instructions in their entirety at Appendix 1.

The jury returned guilty verdicts on all counts and found Jackson guilty of the aggravating factors alleged.

At sentencing, the trial judge and prosecutor agreed over defense objections to sentence Jackson on the aggravated murder counts and robbery and burglary counts separately

but merging counts one and three and counts two and four and then proposing sentences on the aggravated murder counts, which carried a life without parole sentence. See 3-27-09 RP 17-19, 29.

This was constitutional errors.

One crime of murder should be charged as one count and the commission of the crime by alternative acts, >State v. Scott, 64 Wn.2d 992, 395 P.2d 377 (1964); U.S.Const.Amends. 6,14; Wash.Const. Art. 1, Sec. 22. Substantive due process rights are implicated when a defendant is convicted of two counts of murder when only one killing occurred, >State v. Johnson, 113 Wn.App 482, P.3d\_\_\_ (2002).

In a criminal proceeding the constitution guarantees the defendant a jury trial only on the issues of fact that determine his guilt or innocence, crimes and punishments, >State v. Price, 59 Wn.2d 789, 370 P.2d 979 (1962); >Alleyne v. United States, 570 U.S.\_\_\_\_, 133 S.Ct 2151 (2013).

In Jacksons' case, not charging in the alternative, usurped the jurys' fact finding function and the guilty finding on all counts, let the judge and prosecutor choose the highest crime Jackson was to be sentenced on. The jury was not allowed to find guilt on all possible theories and counts submitted.

This robbed the jury of their role and allowed a judge and not a jury to find what crimes Jackson was to be sentenced for. This was a fact specific procedure left solely for the

jury to determine and violates Jacksons' jury trial rights, >Alleyne, supra; U.S.Const.Amend. 6; Wash.Const. Art. 1, Sec. 21 and 22.

b. Due to the closely related facts a special fact distinguishing jury instruction was needed to avoid failure of unanimity as to separate charges/acts.

Mr. Jackson has a undisputable right to a unanimous jury verdict on all acts constituting the crimes charged, >State v. Petrich, 101 Wn.2d 566, 683 P.2d 173 (1984); >Jones v. United States, 527 U.S. 373 (1990). The Petrich court held that in cases in which the evidence discloses multiple acts, any one which could form the basis for conviction, jury unanimity must be protected. One way to do this, it said, is to instruct "that all 12 jurors must agree that the same underlying criminal act has been proved beyond a reasonable doubt, Id.at 101 Wn.2d 572. This includes facts so close together, they could easily be incorrectly relied on by the jury in violation of constitutional double jeopardy and due process violations to base verdicts on separate counts, U.S. Const.Amends. 5,6, and 14.

The jury instruction given did not tell the jury that they had to agree on the same underlying act, rather it allowed the jury to convict so long as each juror was convinced of one act per count beyond a reasonable doubt. There was no instruction that one act cannot be relied on in the separate charges permitting double jeopardy and a non unanimous

verdict as to each charged crime. An ordinary juror would not understand that two crimes involving separate but indistinct acts cannot be cross used for separate convictions.

Acts to support felony murder could have been used to convict on aggravated murder in the course of robbery or burglary or vice versa.

Acts to support robbery or burglary in the first degree could have been used to find guilt on any one of the above charges.

Acts of the premeditated murder charges may have also been relied upon to support the other counts. Not providing a unanimity instruction deprived Jackson of his constitutional rights to a properly instructed jury. No operative clause fixed this flaw and amounts to substantial prejudice. The prosecutor tossed the acts of all separate counts, all over the place in closing arguments, making it impossible to distinguish distinct facts requiring a unanimity instruction. Because one was not provided, Jackson's rights are violated.

c. The judge and not a jury found facts that were not defined and proved beyond a reasonable doubt to support Jackson's sentence of life without parole.

Jackson was charged with first degree premeditated murder with "aggravated circumstances". The to convict instructions for premeditated murder, only referenced premeditated murder language and did not include any of the aggravating factors. See Jury Instructions No. 15 and 16. To find Jackson committed "aggravating circumstances", the jury was asked to determine

whether any of the following aggravating circumstances exist, as to each defendant and each count: the defendant committed the murder to conceal the identity of any person committing a crime; there was more than one person murdered and the murders were part of a common scheme or plan or the result of a single act of the person or; the murder was committed in the course of or in furtherance of or immediate flight from robbery in the first degree or burglary in the first degree. See Instruction No. 36.

None of these aggravating elements were defined for the jury and allow for conviction on less than reasonable doubt.

The statutory aggravating factors are now considered elements of the charged crime of first degree premeditated murder and must be defined to a degree that comports with proof beyond a reasonable doubt.

>Alleyne v. United States, supra., unequivocally holds "because mandatory minimum sentences increase the penalty for a crime, is an "element" that must be submitted to the jury and proven beyond a reasonable doubt." "Defining facts that increase a mandatory minimum to a part of the substantive offense enables the defendant to predict the legally applicable penalty from the face of the indictment." >Alleyne, quoting >Apprendi v. New Jersey, 530 U.S. 466 (2000)(Id.at 478-79). "The essential Sixth Amendment inquiry is whether a fact is an element of the crime. When a finding of fact alters the legally prescribed punishment so as to aggravate it, the fact

necessarily forms a constituent part of a new offense that must be submitted to the jury," >Alleyne, supra.

Here the standard range for first degree premeditated murder is \_\_\_\_\_ to \_\_\_\_\_ months. When adding the aggravating factors under RCW 10.95.020 (9)(10) and (11), as charged in Jacksons' case, Jacksons' mandatory minimum increases to a life sentence without parole.

Because the aggravating factors were not defined and set out in the to convict instruction, the state was relieved of it's burden to prove all essential elements of the crimes charged. Jackson seeks remand for resentencing, in accord with >Alleyne, supra., vacating the aggravating circumstances that were not proved beyond a reasonable doubt and violating Jacksons' 6th Amendment jury trial rights under the U.S.Constitution.

#### Ground #4

Jacksons' convictions for first degree burglary and first degree robbery, first degree felony murder in the course or furtherence from a first degree robbery or burglary, and the aggravating circumstances of a first degree robbery and burglary violate the 5th Amendment double jeopardy clause.

As set out above in Ground #3, Jackson was charged and convicted of first degree aggravated murder, alleged to have been committed in the course of a robbery or burglary in the first degree; first degree felony murder in the course of first degree robbery and burglary, and the individual

substantive crimes of first degree robbery and burglary. See Exhibit C (Guilty Verdicts and Special Verdicts).

All crimes were alleged to have been committed with a firearm or deadly weapon and the jury found Jackson or an accomplice was armed with a deadly weapon or firearm.

Jackson was sentenced to life without parole for aggravated murder, 102 months for first degree robbery and 75 months for burglary in the first degree. To avoid a bigger double jeopardy violation, the sentencing court merged all other counts into the aggravated murder and allowed the prosecutor to reference only the "statutory provisions" Jackson was convicted on for purposes of his judgment and sentence. See Judgment and Sentence at Exhibit D. RCW 9A.32.030 (1)(c) is cited upon the judgment and sentence but not named.

As clever as the prosecutors' attempts to hide the double jeopardy errors on Jacksons' J and S was, Jackson asks this court to remedy these errors.

Washington State follows the "same evidence rule" or sometimes referred to as the "same evidence test" set forth in >Blockburger v. United States, 284 U.S. 299 (1932); >State v. Calle, 125 Wn.2d 769, 888 P.2d 155 (1995).

Here Jacksons' convictions on all counts of first degree felony murder (first degree robbery and burglary as predicates) and separate counts of first degree robbery and burglary are the same for purposes of double jeopardy. See >In re PRP of Burchfield, 111 Wn.App 892, 46 P.3d 840 (2002)(Although the

offenses do not contain identical legal elements, we conclude that the legislature did not intend to punish shooting a victim both as an assault and homicide).

Likewise, the same must be said about the crimes of felony murder in course of robbery and burglary and convictions for robbery in burglary. Further, because no distinguishing jury instructions were provided, it's impossible to tell what aggravating circumstances the jury relied on as the unanimity and guilt beyond a reasonable doubt on that charge and underlying acts.

Courts may not enter multiple convictions for the same underlying facts without offending double jeopardy, denying a jury trial based on an adequate jury instruction and a unanimous verdict, >State v. Womac, 160 Wn.2d 643, 160 P.3d 40 (2007); >State v. Hachenev, 160 Wn.2d 503, 158 P.3d 1152 (2006).

See also >Ball v. United States, 470 U.S. 856 (1985) (The separate conviction, apart from the concurrent sentence has potential adverse collateral consequences that may not be ignored).

Here Jacksons' separate convictions on his judgment and sentence for robbery and burglary and the reference to first degree felony murder, RCW 9A.32.030 (1)(c) must be vacated to remedy double jeopardy violations in Jacksons' case. Jackson has raised colorable constitutional claims that can

be raised for the first time, RAP 2.5(a)(3). Manifest errors affecting my constitutional rights to jury trial, fair trial, due process, proof beyond a reasonable doubt and protections from double punishments, U.S.Const.Amends. 5,6 and 14.

RELEVANT FACTS

- A. It was deficient performance when counsel failed to object to the opening remarks of the prosecutor.

The states opening statement outlined Jacksons' participation in the robbery and explained about Spencers' participation in the crimes and his plea bargain with the state.

"The third villain who was responsible will also be here in the court. His name is Pierre Spencer, he will come here and tell you how Warren Abrazado and Ruben Doria died and why. He was a co-defendant with the two defendants here before you. He has agreed with the State of Washington to tell the truth about what happened in exchange for a fairly modest leniency. He has stepped up, he has pled guilty to the charges against him. You will learn that he is looking at approximately 30 years of hard time in prison. I don't mean 30 years sentence, serve five years and get out on "parole". The evidence will show you that he is looking at three decades in prison as punishment for his role and that is after providing truthful testimony to you."

5 VRP at 516-17 Counsel failed to object.

A prosecutors misconduct may deprive the defendant of his constitutional right to a fair trial as guaranteed by the due process clause of the fourteenth amendment, >Smith v. Phillips, 455 U.S. 209,221, 102 S.Ct 940, 71 L.Ed.2d 78

(1982); >State v. Davenport, 100 Wn.2d 757,762, 675 P.2d 1213 (1984).

The prosecutor in Jacksons' case relied on Spencers' testimony therefore he was paramount to the states' case. A defendant claiming ineffective assistance of counsel must show that counsels' performance was objectively deficient and resulted in prejudice, U.S.C.A. Const.Amend. 6.

A deficient performance prejudices the defendants' case when within reasonable probabilities, the trial results would have been different had the deficient performance not occurred, >Hendrickson, 129 Wn.2d 78, 917 P.2d 563.

Trial counsels failure to object to highly prejudicial remarks made by the prosecutor during opening arguments deprived defendant of a fair trial and constitutes ineffective assistance of counsel, >Seehan v. State of Iowa, 37 F.2d 389 (1998).

- B. It was deficient performance when counsel failed to object to the cross-examination of the states witness and use of co-defendants' plea agreement.

Spencers' plea agreement was admitted as Exhibit 263 without objection. The state asked Spencer on direct examination what type of information he was bound to provide under his plea agreement with the state. Spencer replied that he was obligated to cooperate with the investigation and to give a truthful account of the events that had occurred in Dorias'

apartment. This portion of Spencers' testimony proceeds as follows:

Prosecutor

And was it basically your understanding that you had an "ongoing duty" to provide truthful information in connection with this case?

Spencer

Spencer answers in the affirmative.

Prosecutor

If you have failed to comply with the plea agreement, what is your understanding as to what happens?

Spencer

It is life without parole.

Prosecutor

If you provide information that is not truthful, what is your understanding of what happens to you?

Spencer

That I will get life without parole.

Prosecutor

If you provide truthful information, if you cooperate, if you meet with the attorneys for both sides, do everything that you are supposed to do, how much time do you understand that you are looking at, at that point?

Spencer

25 years, something like that.

10 VRP at 1354-55, Counsel failed to object. After

reviewing the agreement terms with Spencer, the state asked:

Prosecutor

So what happens to you today Mr. Spencer, if you say something that is not true?

Spencer

My plea agreement is void.

Prosecutor

What happens to you?

Spencer

I will get life without parole.

10 VRP at 1362, again counsel failed to object. On re-direct, the state asked Spencer:

Prosecutor

Is it your understanding that you will be allowed to withdraw your plea agreement and enter a plea to reduce charges of murder in the first degree and manslaughter in the first degree no matter what you say here today or no matter whether you tell the truth?

11 VRP at 1591, the trial court sustained Jacksons' objection that his question "mischaracterized the agreement". 11 VRP at 1591, the state then re-phrased the question:

Prosecutor

Is it your understanding that you will get that deal regardless of whether you tell the truth?

Spencer

No sir.

11 VRP at 1591-92, counsel again failed to object to the states re-phrasing of the question or to Spencers' answer. One form of vouching occurs where the prosecutor elicits testimony a witness entered into a plea agreement, that contains a requirement the witness testify truthfully, see e.g. >United States v. Brooks, 508 F.3d 1205,1209-10 (9th Cir 2007); >United States v. Rudberg, 122 F.3d 1199 (9th Cir 1997); >United States v. Necoechea, 986 F.2d 1273 (9th Cir 1993); >United States v. Smith, 962 F.2d 923 (9th Cir 1992); >United States v. Wallace, 848 F.2d 1464,1473-74 (9th Cir 1988); >United States v. Shaw, 829 F.2d 714 (9th Cir 1987), cert.den'd 485 U.S. 1022 (1988); >United States v. Roberts, 618 F.2d 530 (9th Cir 1980). Courts condemn this type of evidence because it implies the state can confirm the witness' testimony and thereby enforce the truthfulness condition of its' plea agreement. Citing >Wallace, 848 F.2d at 1474, discussing a plea agreement promise suggests the prosecutor is forcing the truth from his witness and the unspoken message is that the prosecutor knows what the truth is and is assuring its' revelation, >Roberts, 618 F.2d at 536. The prosecutor may not imply the state has "taken steps to assure the veracity of its' witness", >United States v. Simtoh, 901 F.2d 799,805 (9th Cir 1990). Conveying the

message either explicitly or implicitly is improper, >Roberts, 618 F.2d at 536.

To make matters worse, counsel failed to object to the above misconduct. Trial counsels' failure to object to improper cross-examination by the prosecutor constitutes ineffective assistance of counsel and deprived petitioner of a fair trial, >U.S. v. Wolf, 787 F.2d 1094 (7th Cir 1986). Defense counsels' failure to object to prejudicial testimony which was used to inflame the minds of the jury constitutes ineffective assistance, >Vela v. Estelle, 708 F.2d 951 (5th Cir 1983).

In order to show that counsel was ineffective for failing to object to the remarks of the prosecutor, the defendant must show the objection would have been sustained, see >Davis, 152 Wn.2d at 748, 101 P.3d 1. Counsels' decisions regarding whether or when to object fall firmly within the category of strategic or tactical decisions, >State v. Madison, 53 Wn.App 754,763, 770 P.2d 662 (1989).

Only on egregious circumstances on testimony central to the states case will failure to object constitute incompetence of counsel justifying reversal, >Johnson, 143 Wn.App 19, 177 P.3d 1127 (quoting State v. Madison, 53 Wn.App 754,763, 770 P.2d 662 (1989)). Prejudice due to counsels ineffective performance requires a showing of a reasonable probability that for counsels' unprofessional error, the result of the proceeding would have been

different.

In order to be prejudicial to a defendant, counsel must have adversely affected the defendants' right to a fair trial to the extent to undermine the confidence in the outcome. Trial counsels' failure to object to highly inadmissible evidence has no strategic value and failure to request a limiting instruction constitutes ineffective assistance of counsel.

The Washington Court of Appeals relied on Roberts in >State v. Green, 119 Wn.App 15,24-25, 79 P.3d 460 (2003) review den'd 151 Wn.2d 1035 (2004) cert. den'd 543 U.S. (2004). The Green court held the trial judge erred by not first redacting the truthfulness provisions from the agreement because they were prejudicial and improperly vouched for "the witness" veracity, >Green, 119 Wn.App at 24. This court also held the state could have asked the witness about the existence of the agreement as well as reasons for cooperating on direct examination, but not about the purpose of the accord or it's requirement to testify truthfully. By failing to object to the direct examination and allowing the plea agreement to be used, was a poor tactical decision which prejudiced the defendant and violated his sixth amendment right to effective assistance and his fourteenth amendment right to due process of law. By allowing the right's of his client to be violated, counsel was deficient.

C. It was deficient performance when counsel failed to object to the closing argument of the prosecutors vouching for his witness.

Vouching for a government witness in closing argument has always held to be plain error reviewable even though no objection was raised, >Roberts, 618 F.2d at 534.

During closing argument, the state asked the jury to evaluate Spencers' demeanor on the stand and reminded them that they were the sole judges of credibility and argued Spencer was told from day one you need to tell the "truth". Never was he told, hey, you need to implicate Jackson, you need to implicate Smith, you need to make the states case work. What he was told from day one was that you have to tell the "truth". He knows because he has signed this written agreement that tells him in no uncertain terms, if you don't tell the "truth", he would face life in prison with no parole. This is a huge incentive for him to come in here and take his oath seriously and tell you the truth.

14 VRP at 1884-85 counsel failed to object.

The reason for the prohibition on vouching is clear. Great potential for jury persuasion arises from a prosecutors status and role in government, >United States v. Vargas, 583 F.2d 380,387 (7th Cir 1978); see >State v. Demery, 144 Wn.2d 753,763, 30 P.3d 1278 (2001).

(Prosecutors statements made during trial often can be

perceived by jurors as being especially reliable or trustworthy). Where there is conflicting testimony, it is for the jury to determine which witnesses are telling the truth, >United States v. Richter, 826 F.2d 206,208 (2nd Cir 1987); >State v. Castanada-Perez, 61 Wn.App 354, 360, 810 P.2d 74, review den'd 118 Wn.2d 1007 (1991). Vouching for the credibility of a witness is an improper invasion of the jurys' exclusive province as fact finder, >State v. Mendoza-Solorio, 108 Wn.App 823,834, 33 P.3d 411 (2001).

Spencers' credibility was the key to the states' case. No physical evidence implicated Jackson in the killings and in his statement to the police, he said he took no part in the planning of the crimes or the killings. There is therefore, a substantial likelihood the prosecutors' improper invasion of the jurys' truth-finding province unfairly affected the verdict, >State v. Padilla, 69 Wn.App 295,301-02, 846 P.2d 564 (1993). In general, a prosecutor errs by expressing the personal opinion about the credibility of a witness and counsels failure to object to the above misconduct was not only deficient but highly prejudicial.

D. In a credibility contest, counsels deficient performance prejudiced my trial.

A defendant claiming ineffective assistance of counsel must show that counsels' performance was objectively

deficient and resulted in prejudice, U.S.C.A. Const. Amend. 6.

The prosecutor in Jacksons' case relied on Spencers' plea agreement specifically the requirement that he testify truthfully, to vouch for his credibility. A prosecutor may not vouch for the credibility of a witness, >State v. Horton, 116 Wn.App 909,921, 68 P.3d 1145 (2003). Counsel knew that Spencer provided the only evidence directly implicating Jackson in the premeditated murders and his credibility was therefore critical. The grey court found where the deficiencies in counsels performance are severe and cannot be characterized as a strategic judgment, the first prong of Strickland is met. Knowing that Spencers testimony was crucial to the states case, counsel should have objected. Vouching is particularly troubling in cases where the credibility of the witness is crucial, >U.S. v. Combs, 379 F.3d 564,576 (9th Cir 2004).

A successful showing of ineffective assistance of counsel established actual prejudice, i.e., that error was not harmless, U.S.C.A. Const.Amend. 6.

This claim of ineffective assistance cannot be classified as harmless error or strategic tactic. It is the duty of the trial counsel to protect the rights of his client by objecting in order to ensure his/her fourteenth amendment right to a fair trial is met. Objecting is also used to bring about a constitutional claim on appeal.

By failing to object counsels' deficient performance violated Jacksons' sixth amendment right to effective assistance of counsel and his fourteenth amendment right to a fair trial. Counsels' deficient performance caused substantial prejudice to defendants and because of that, this court should reverse Jacksons' premeditated murder convictions and remand for a new trial.

- E. Counsel was deficient by failing to object to misstatements of the law and by not seeking curative instructions causing further prejudice.

Counsels failure to object to the misstatements of the prosecutors burden of proof was prejudicial because the jury was not searching for reasonable doubt but instead solving a puzzle and questioning the "truth" of the states' elements. This is not the jurys' role and not a reasonable tactic not to object. Defense counsels; failure to object to all prosecutorial misconduct denied Jackson a right to appeal.

- F. Counsels' failure to seek alternative means instructions, unanimity instructions, proximate cause instructions, and failure to object to the manner in which the jury was instructed was prejudicial, subjecting Jackson to double jeopardy and a denial of due process.

Defense counsels' failure to object to the uncharged alternatives of attempted first degree robbery and

burglary in the jurys' to convict instructions and definition was extremely prejudicial because Jacksons' defense was that he no longer wanted to participate in the crimes of robbery and burglary once he knew a gun was going to be used.

CONCLUSION

Jacksons' trial was tainted with Constitutional Errors, Prosecutorial Misconduct and Ineffective Advocacy resulting in a trial that was manifestly "unfair". This court should grant Jacksons' petition, reverse the premeditated murder convictions, dismiss the robbery and burglary convictions and remand for a New Trial.

  
Darrell Kantreal Jackson

Respectfully submitted:  
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ATTACHMENT

ATTACHMENT

# **EXHIBIT A**

1 used in describing how he came into the possession of  
2 the marijuana, how he hit a lick, how this medical  
3 marijuana came into his possession, well, you certainly  
4 have reasonable doubt, if you will, as to exact words  
5 that she heard. There is no doubt that she was being  
6 told by her boyfriend, former boyfriend, that he was  
7 personally involved in this criminal episode.

8 I would like you to try to picture in your mind  
9 two sets of railroad tracks, four iron rails, if you  
10 will, parallel to each other. Imagine that the iron  
11 rails are the elements of proof as you will find in the  
12 "to convict" instructions. Now, underneath the iron  
13 rails are the numerous ties, the pieces of wood that  
14 support the iron rails.

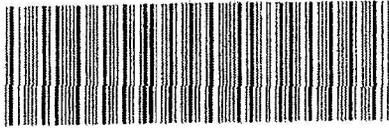
15 Well, the rails are, in this analogy, they are the  
16 elements of proof. The ties are all of the myriad of  
17 facts and supporting issues of evidence that you are  
18 going to have. All right.

19 Now, if you have concerns and issues about some of  
20 that supporting evidence, it is the equivalent of, if  
21 you will, removing one of the supporting railroad ties  
22 or maybe even several, but the iron rails remain. They  
23 are still adequate, more than adequately supported,  
24 even if you have concerns about some of the underlying  
25 evidence.

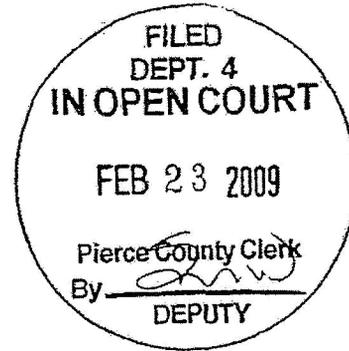
1 To take the analogy a step-father, defense counsel  
2 would undoubtedly like you to believe that Pierre  
3 Spencer is like a -- his testimony is like a railroad  
4 bridge, you know, crossing a gap. If you don't believe  
5 Spencer, if his testimony is incredible in some  
6 respect, well, then the whole bridge falls and the  
7 State's case falls. You see, the Court has instructed  
8 you that it is your duty to consider the evidence as a  
9 whole. The testimony as a whole. You don't put undue  
10 weight on one particular witness or one particular  
11 piece of evidence. Spencer's testimony, as Mr. Blinn  
12 explained to you, is certainly not the linchpin of the  
13 State's case. It is some of those railroad ties as  
14 with all of the other evidence in the case.

15 The suggestion has been made to you that  
16 Pierre Spencer has to be believed entirely in every  
17 respect. That's not the law. The Court's instruction  
18 to caution you about Pierre Spencer's testimony is a  
19 very common sense instruction. When somebody like  
20 Spencer makes a deal with the State of Washington and  
21 he testifies, you are going to look at it cautiously.  
22 That is very appropriate. The Court said to you, in  
23 his instruction, that if the State is relying solely  
24 upon the accomplice's testimony, then you need to  
25 believe that accomplice beyond a reasonable doubt. The

# **EXHIBIT B**



08-1-00299-5 31575339 AMINF2 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 08-1-00299-5

vs.

DARRELL KANTREAL JACKSON,

SECOND AMENDED INFORMATION

Defendant.

DOB: 7/3/1986  
PCN#: 539347438

SEX : MALE  
STD#: UNKNOWN

RACE: BLACK  
DOL#: UNKNOWN

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse DARRELL KANTREAL JACKSON of the crime of AGGRAVATED MURDER IN THE FIRST DEGREE, committed as follows:

That DARRELL KANTREAL JACKSON, acting as an accomplice, in the State of Washington, on or about the 22nd day of September, 2007, did unlawfully and feloniously, with premeditated intent to cause the death of another person, cut or stab Ruben Doria, thereby causing the death of Ruben Doria, a human being, who died on or about the 22nd day of September, 2007, and that further aggravated circumstances exist, to-wit: that the defendant or an accomplice committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, and/or that there was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the defendant, and/or that the murder was committed in the course of, in furtherance of, or in immediate flight from the crime of Robbery in the First Degree or Burglary in the First Degree, contrary to RCW 10.95.020(10) and 10.95.020(11) and 10.95.020(9) and 9A.32.030(1)(a), and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other than a firearm to-wit: a knife or other cutting instrument, that being a deadly weapon as defined in RCW 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and/or in the commission thereof the defendant, or

SECOND AMENDED INFORMATION- 1

ORIGINAL

Office of the Prosecuting Attorney  
930 Tacoma Avenue South, Room 946  
Tacoma, WA 98402-2171  
Main Office (253) 798-7400

1 an accomplice, was armed with a firearm, to-wit: a handgun or a rifle, that being a firearm as defined in  
2 RCW 9.41.010, and invoking the provisions of RCW 9.94A.310/9.94A.510, and adding additional time to  
3 the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and dignity of  
4 the State of Washington.

#### 5 COUNT II

6 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the  
7 authority of the State of Washington, do accuse DARRELL KANTREAL JACKSON of the crime of  
8 AGGRAVATED MURDER IN THE FIRST DEGREE, a crime of the same or similar character, and/or a  
9 crime based on the same conduct or on a series of acts connected together or constituting parts of a single  
10 scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be  
11 difficult to separate proof of one charge from proof of the others, committed as follows:

12 That DARRELL KANTREAL JACKSON, acting as an accomplice, in the State of Washington,  
13 on or about the 22nd day of September, 2007, did unlawfully and feloniously, with premeditated intent to  
14 cause the death of another person, cut or stab Abraham Abrazado, thereby causing the death of Abraham  
15 Abrazado, a human being, who died on or about the 22nd day of September, 2007, and that further  
16 aggravated circumstances exist, to-wit: that the defendant or an accomplice committed the murder to  
17 conceal the commission of a crime or to protect or conceal the identity of any person committing a crime,  
18 and/or that there was more than one victim and the murders were part of a common scheme or plan or the  
19 result of a single act of the defendant, and/or that the murder was committed in the course of, in  
20 furtherance of, or in immediate flight from the crime of Robbery in the First Degree or Burglary in the  
21 First Degree, contrary to RCW 10.95.020(10) and 10.95.020(11) and 10.95.020(9) and 9A.32.030(1)(a),  
22 and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other  
23 than a firearm to-wit: a knife or other cutting instrument, that being a deadly weapon as defined in RCW  
24 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional  
time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and/or in the commission  
thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a handgun or a rifle, that being  
a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.310/9.94A.510, and  
adding additional time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and  
against the peace and dignity of the State of Washington.

#### 25 COUNT III

26 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the  
27 authority of the State of Washington, do accuse DARRELL KANTREAL JACKSON of the crime of  
28 MURDER IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on  
29 the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,

1 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate  
2 proof of one charge from proof of the others, committed as follows:

3 That DARRELL KANTREAL JACKSON, acting as an accomplice, in the State of Washington,  
4 on or about the 22nd day of September, 2007, did unlawfully and feloniously, while committing or  
5 attempting to commit the crime of Robbery in the First Degree or Burglary in the First Degree, and in the  
6 course of or in furtherance of said crime or in immediate flight therefrom, cut or stab Ruben Doria, and  
7 thereby causing the death of Ruben Doria, a human being, not a participant in such crime, on or about the  
8 22nd day of September, 2007, contrary to RCW 9A.32.030(1)(c), and in the commission thereof the  
9 defendant, or an accomplice, was armed with a deadly weapon, other than a firearm to-wit: a knife or  
10 other cutting instrument, that being a deadly weapon as defined in RCW 9.94A.125/9.94A.602, and  
11 invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional time to the presumptive  
12 sentence as provided in RCW 9.94A.370/9.94A.530, and/or in the commission thereof the defendant, or  
13 an accomplice, was armed with a firearm, to-wit: a handgun or a rifle, that being a firearm as defined in  
14 RCW 9.41.010, and invoking the provisions of RCW 9.94A.310/9.94A.510, and adding additional time to  
15 the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and dignity of  
16 the State of Washington.

12 COUNT IV

13 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the  
14 authority of the State of Washington, do accuse DARRELL KANTREAL JACKSON of the crime of  
15 MURDER IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on  
16 the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,  
17 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate  
18 proof of one charge from proof of the others, committed as follows:

19 That DARRELL KANTREAL JACKSON, acting as an accomplice, in the State of Washington,  
20 on or about the 22nd day of September, 2007, did unlawfully and feloniously, while committing or  
21 attempting to commit the crime of Robbery in the First Degree or Burglary in the First Degree, and in the  
22 course of or in furtherance of said crime or in immediate flight therefrom, cut or stab Abraham Abrazado,  
23 and thereby causing the death of Abraham Abrazado, a human being, not a participant in such crime, on  
24 or about the 22nd day of September, 2007, contrary to RCW 9A.32.030(1)(c), and in the commission  
thereof the defendant, or an accomplice, was armed with a deadly weapon, other than a firearm to-wit: a  
knife or other cutting instrument, that being a deadly weapon as defined in RCW 9.94A.125/9.94A.602,  
and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional time to the presumptive  
sentence as provided in RCW 9.94A.370/9.94A.530, and/or in the commission thereof the defendant, or  
an accomplice, was armed with a firearm, to-wit: a handgun or a rifle, that being a firearm as defined in  
RCW 9.41.010, and invoking the provisions of RCW 9.94A.310/9.94A.510, and adding additional time to

1 the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and dignity of  
2 the State of Washington.

COUNT V

3 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the  
4 authority of the State of Washington, do accuse DARRELL KANTREAL JACKSON of the crime of  
5 ROBBERY IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on  
6 the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,  
and/or so closely connected in respect to time, place and occasion that it would be difficult to separate  
proof of one charge from proof of the others, committed as follows:

7 That DARRELL KANTREAL JACKSON, acting as an accomplice, in the State of Washington,  
8 on or about the 22nd day of September, 2007, did unlawfully and feloniously take personal property  
9 belonging to another with intent to steal from the person or in the presence of Ruben Doria, the owner  
10 thereof or a person having dominion and control over said property, against such person's will by use or  
11 threatened use of immediate force, violence, or fear of injury to Ruben Doria, said force or fear being  
12 used to obtain or retain possession of the property or to overcome resistance to the taking, and in the  
13 commission thereof, or in immediate flight therefrom, the Defendant or an accomplice inflicted bodily  
14 injury upon Ruben Doria, and/or displayed what appeared to be a firearm or other deadly weapon, and/or  
15 was armed with a deadly weapon, other than a firearm to-wit: a knife or other cutting instrument, that  
16 being a deadly weapon as defined in contrary to RCW 9.94A.125/9.94A.602, and invoking the provisions  
17 of RCW 9.94A.310/9.94A.510 and adding additional time to the presumptive sentence as provided in  
RCW 9.94A.370/9.94A.530, and/or in the commission thereof the defendant, or an accomplice, was  
armed with a firearm, to-wit: a hand gun or a rifle, that being a firearm as defined in RCW 9.41.010, and  
invoking the provisions of RCW 9.94A.310/9.94A.510, and adding additional time to the presumptive  
sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and dignity of the State of  
Washington.

COUNT VI

19 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the  
20 authority of the State of Washington, do accuse DARRELL KANTREAL JACKSON of the crime of  
21 BURGLARY IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based  
22 on the same conduct or on a series of acts connected together or constituting parts of a single scheme or  
plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to  
separate proof of one charge from proof of the others, committed as follows:

23 That DARRELL KANTREAL JACKSON, acting as an accomplice, in the State of Washington,  
24 on or about the 22nd day of September, 2007, did unlawfully and feloniously, with intent to commit a  
crime against a person or property therein, enter or remain unlawfully in a building, located at 9315 South

1 Ash Street, Apt. C, and in entering or while in such building or in immediate flight therefrom, the  
2 defendant or another participant in the crime was armed with a deadly weapon, other than a firearm to-  
3 wit: a knife or other cutting instrument, that being a deadly weapon as defined in RCW  
4 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional  
5 time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530; and/or in the commission  
6 thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a handgun or a rifle, that being  
7 a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.310/9.94A.510, and  
8 adding additional time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and  
9 against the peace and dignity of the State of Washington.

10 DATED this 20th day of February, 2009.

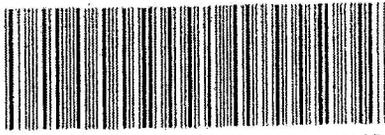
11 TACOMA POLICE DEPARTMENT  
12 WA02703

GERALD A. HORNE  
Pierce County Prosecuting Attorney

13 mrp

14 By:   
15 \_\_\_\_\_  
16 GERALD T. COSTELLO  
17 Deputy Prosecuting Attorney  
18 WSB#: 15738

# **EXHIBIT C**



08-1-00299-5 31576236 VRD 02-27-09

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

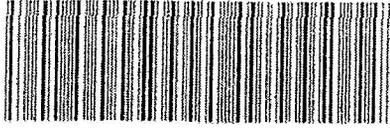
CAUSE NO. 08-1-00299-5

VERDICT FORM A  
COUNT I

We, the jury, find the defendant Guilty (write in the words "Not Guilty" or "Guilty") of the crime of murder in the first degree as charged in Count I.

Ramon Rogers  
PRESIDING JUROR

FILED  
DEPT. 4  
IN OPEN COURT  
FEB 26 2009  
Pierce County Clerk  
By [Signature]  
DEPUTY



08-1-00299-5 31576237 VRD 02-27-09

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

DARRELL KANTREAL JACKSON

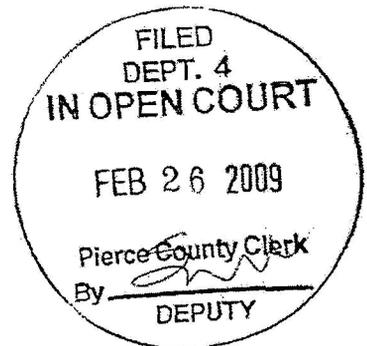
Defendant.

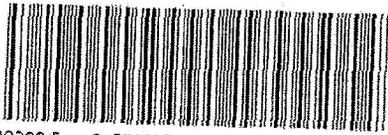
CAUSE NO. 08-1-00299-5

VERDICT FORM B  
COUNT II

We, the jury, find the defendant Guilty (write in the words "Not Guilty" or "Guilty") of the crime of murder in the first degree as charged in Count II.

Ramon Rogers  
PRESIDING JUROR





08-1-00299-5 31576238 VRD 02-27-09

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

DARRELL KANTREAL JACKSON

Defendant.

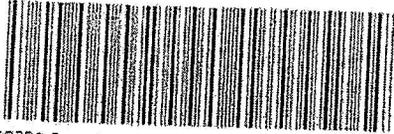
CAUSE NO. 08-1-00299-5

VERDICT FORM C  
COUNT III

We, the jury, find the defendant Guilty (write in the words "Not Guilty" or "Guilty") of the crime of murder in the first degree as charged in Count III.

Ramon Rogers  
PRESIDING JUROR

FILED  
DEPT. 4  
IN OPEN COURT  
FEB 26 2009  
Pierce County Clerk  
By [Signature]  
DEPUTY



08-1-00299-5 31576240 VRD 02-27-09

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5

VERDICT FORM D  
COUNT IV

We, the jury, find the defendant Guilty (write in the words "Not Guilty" or "Guilty") of the crime of murder in the first degree as charged in Count IV.

Ramon Rogers  
PRESIDING JUROR

FILED  
DEPT. 4  
IN OPEN COURT  
FEB 26 2009  
Pierce County Clerk  
By [Signature]  
DEPUTY



08-1-00299-5 31576246 VRD 02-27-09

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 08-1-00299-5

vs.

DARRELL KANTREAL JACKSON

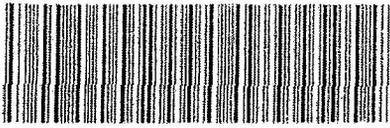
VERDICT FORM E  
COUNT V

Defendant.

We, the jury, find the defendant Guilty (write in the words "Not Guilty" or "Guilty") of the crime of robbery in the first degree as charged in Count V.

Ramon Rogers,  
PRESIDING JUROR

FILED  
DEPT. 4  
IN OPEN COURT  
FEB 26 2009  
Pierce County Clerk  
By [Signature]  
DEPUTY



08-1-00299-5 31576248 VRD 02-27-09

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

DARRELL KANTREAL JACKSON

Defendant.

CAUSE NO. 08-1-00299-5

VERDICT FORM F  
COUNT VI

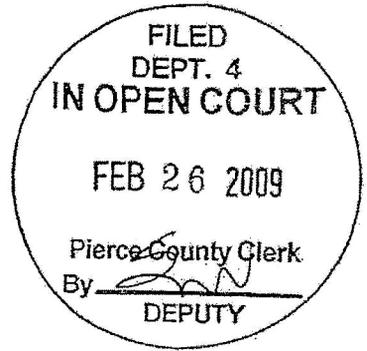
We, the jury, find the defendant Guilty (write in the words "Not Guilty" or "Guilty") of the crime of burglary in the first degree as charged in Count VI.

Ramon Rogers.  
PRESIDING JUROR

FILED  
DEPT. 4  
IN OPEN COURT  
FEB 26 2009  
Pierce County Clerk  
By DM  
DEPUTY



08-1-00299-5 31576298 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5  
SPECIAL VERDICT  
AGGRAVATING CIRCUMSTANCES  
COUNT I

We, the jury, having found the defendant guilty of murder in the first degree for count I, as defined in Instruction 15, make the following answers to the questions submitted by the court:

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

The defendant committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime?

ANSWER: Yes  
(Yes/No)

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

There was more than one person murdered and the murders were part of a common scheme or plan or the result of a single act of the person?

ANSWER: Yes  
(Yes/No)

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

The murder was committed in the course of, in furtherance of, or in immediate flight from robbery in the first degree?

ANSWER: Yes  
(Yes/No)

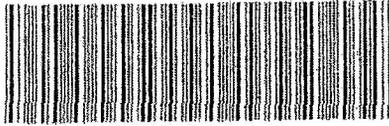
QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

The murder was committed in the course of, in furtherance of, or in immediate flight from burglary in the first degree?

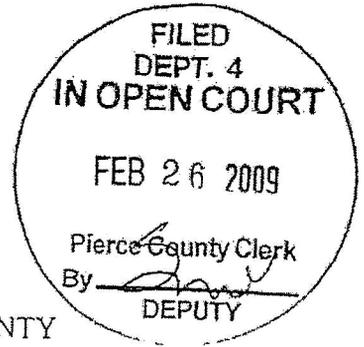
ANSWER: Yes  
(Yes/No)

Ramon Rogers  
PRESIDING JUROR





08-1-00299-5 31576302 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,

CAUSE NO. 08-1-00299-5

vs.

DARRELL KANTREAL JACKSON

SPECIAL VERDICT  
AGGRAVATING CIRCUMSTANCES  
COUNT II

Defendant.

We, the jury, having found the defendant guilty of murder in the first degree for count II, as defined in Instruction 16, make the following answers to the questions submitted by the court:

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

The defendant committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime?

ANSWER: Yes  
(Yes/No)

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

There was more than one person murdered and the murders were part of a common scheme or plan or the result of a single act of the person?

ANSWER: Yes  
(Yes/No)

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

The murder was committed in the course of, in furtherance of, or in immediate flight from robbery in the first degree?

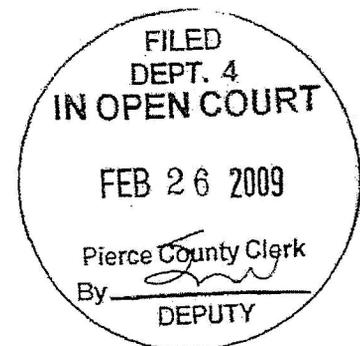
ANSWER: Yes  
(Yes/No)

QUESTION: Has the State proven the existence of the following aggravating circumstance beyond a reasonable doubt?

The murder was committed in the course of, in furtherance of, or in immediate flight from burglary in the first degree?

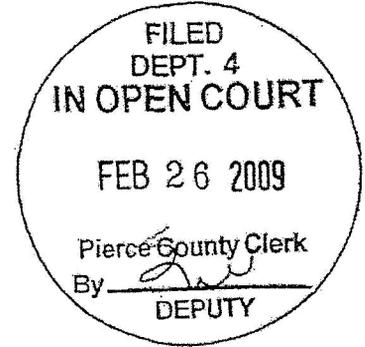
ANSWER: Yes  
(Yes/No)

Ramon Rogers.  
PRESIDING JUROR





08-1-00299-5 31578306 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5  
SPECIAL VERDICT FORM 1  
COUNT I

We, the jury, return a special verdict by answering as follows:

Was the defendant DARRELL JACKSON or an accomplice armed with a deadly weapon at the time of the commission of the crime in COUNT I?

ANSWER: Yes (Yes or No).

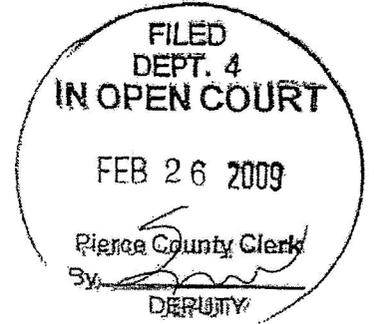
Was the defendant DARRELL JACKSON or an accomplice armed with a firearm at the time of the commission of the crime in COUNT I?

ANSWER: Yes (Yes or No).

Ramon Rogers  
PRESIDING JUROR



08-1-00299-5 31576313 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5  
SPECIAL VERDICT FORM 2  
COUNT II

We, the jury, return a special verdict by answering as follows:

Was the defendant DARRELL JACKSON or an accomplice armed with a deadly weapon at the time of the commission of the crime in COUNT II?

ANSWER: Yes (Yes or No).

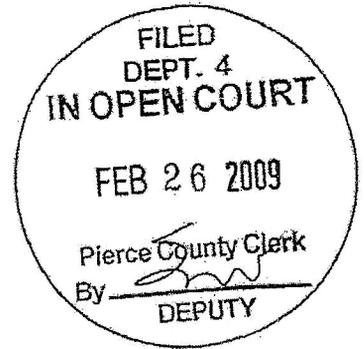
Was the defendant DARRELL JACKSON or an accomplice armed with a firearm at the time of the commission of the crime in COUNT II?

ANSWER: Yes (Yes or No).

Ramon Rogers.  
PRESIDING JUROR



08-1-00299-5 31576314 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5

SPECIAL VERDICT FORM 3  
COUNT III

We, the jury, return a special verdict by answering as follows:

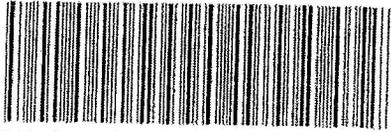
Was the defendant DARRELL JACKSON or an accomplice armed with a deadly weapon at the time of the commission of the crime in COUNT III?

ANSWER: Yes (Yes or No).

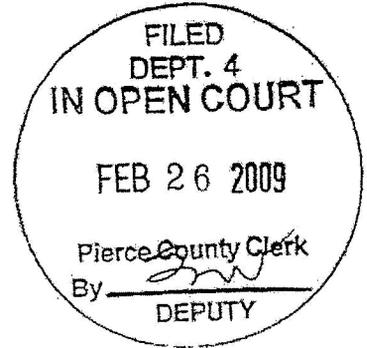
Was the defendant DARRELL JACKSON or an accomplice armed with a firearm at the time of the commission of the crime in COUNT III?

ANSWER: Yes (Yes or No).

Ramon Rogers  
PRESIDING JUROR



08-1-00299-5 31576316 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5  
SPECIAL VERDICT FORM 4  
COUNT IV

We, the jury, return a special verdict by answering as follows:

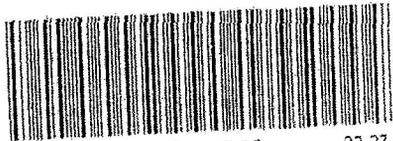
Was the defendant DARRELL JACKSON or an accomplice armed with a deadly weapon at the time of the commission of the crime in COUNT IV?

ANSWER: Yes (Yes or No).

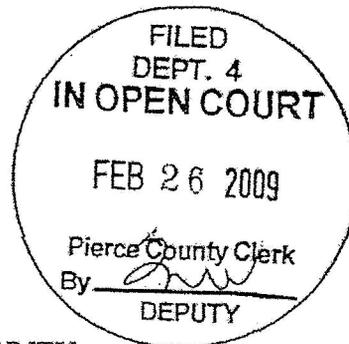
Was the defendant DARRELL JACKSON or an accomplice armed with a firearm at the time of the commission of the crime in COUNT IV?

ANSWER: Yes (Yes or No).

Ramon Rogers  
PRESIDING JUROR



08-1-00299-5 31576339 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,  
vs.  
DARRELL KANTREAL JACKSON  
Defendant.

CAUSE NO. 08-1-00299-5  
SPECIAL VERDICT FORM 6  
COUNT VI

We, the jury, return a special verdict by answering as follows:

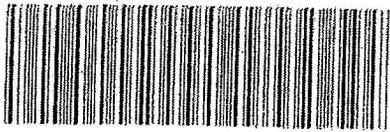
Was the defendant DARRELL JACKSON or an accomplice armed with a deadly weapon at the time of the commission of the crime in COUNT VI?

ANSWER: Yes (Yes or No).

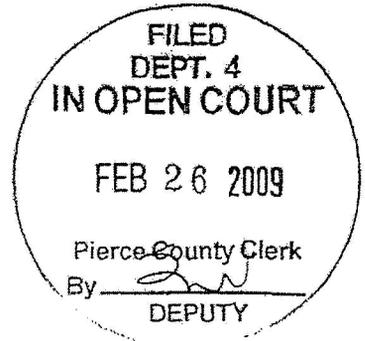
Was the defendant DARRELL JACKSON or an accomplice armed with a firearm at the time of the commission of the crime in COUNT VI?

ANSWER: Yes (Yes or No).

Brian Rogers  
PRESIDING JUROR



08-1-00299-5 31576324 SVRD 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

DARRELL KANTREAL JACKSON

Defendant.

CAUSE NO. 08-1-00299-5

SPECIAL VERDICT FORM 5  
COUNT V

We, the jury, return a special verdict by answering as follows:

Was the defendant DARRELL JACKSON or an accomplice armed with a deadly weapon at the time of the commission of the crime in COUNT V?

ANSWER: Yes (Yes or No).

Was the defendant DARRELL JACKSON or an accomplice armed with a firearm at the time of the commission of the crime in COUNT V?

ANSWER: Yes (Yes or No).

Raman Rogers  
PRESIDING JUROR

# **EXHIBIT D**

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 08-1-00299-5

vs.

DARRELL KANTREAL JACKSON

Defendant.

JUDGMENT AND SENTENCE (FJS)

- Prison [ ] RCW 9.94A.712 Prison Confinement
- [ ] Jail One Year or Less
- [ ] First-Time Offender
- [ ] Special Sexual Offender Sentencing Alternative
- [ ] Special Drug Offender Sentencing Alternative
- [ ] Breaking The Cycle (BTC)
- [ ] Clerk's Action Required, para 4.5 (SDOSA), 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8

SID: NONE  
DOB: 07/03/1986

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 02/26/2009 by [ ] plea [ X ] jury-verdict [ ] bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	AGGRAVATED MURDER IN THE FIRST DEGREE (D14)	10.95.020(9) 10.95.020(10) 10.95.020(11)(a) 10.95.020(11)(c) 10.95.030(1) 9A.32.030(1)(a) 9A.32.030(1)(c)	FIREARM AND DEADLY WEAPON	02/22/2007	07-266-1176 TPD

JUDGMENT AND SENTENCE (JS)  
(Felony) (7/2007) Page 1 of 11

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
II	AGGRAVATED MURDER IN THE FIRST DEGREE (D14)	10.95.020(9) 10.95.020(10) 10.95.020(11)(a) 10.95.020(11)(c) 10.95.030(1) 9A.32.030(1)(a) 9A.32.030(1)(c)	FIREARM AND DEADLY WEAPON	09/22/2007	07-266-1176 TPD
V	ROBBERY IN THE FIRST DEGREE (AAA1)	9A.56.190 9A.56.200(1)(a)(i)	FIREARM AND DEADLY WEAPON	09/22/2007	07-266-1176 TPD
VI	BURGLARY IN THE FIRST DEGREE (AAA1)	9A.52.020(1)(a)	FIREARM AND DEADLY WEAPON	09/22/2007	07-266-1176 TPD

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual Motivation, (SCF) Sexual Conduct with a Child for a Fee. See RCW 9.94A.533(8). (If the crime is a drug offense, include the type of drug in the second column.)

as charged in the SECOND AMENDED Information

- A special verdict/finding for use of firearm was returned on Count(s) I, II, V, AND VI RCW 9.94A.602, 9.94A.533.
- A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) I, II, V AND VI. RCW 9.94A.602, 9.94A.533.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 CRIMINAL HISTORY (RCW 9.94A.525): NONE KNOWN OR CLAIMED

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	7	XVI	LIFE WITHOUT PAROLE	60 MONTHS (F) 24 MONTHS (D)	LIFE WITHOUT PAROLE	LIFE/ \$50,000
II	7	XVI	LIFE WITHOUT PAROLE	60 MONTHS (F) 24 MONTHS (D)	LIFE WITHOUT PAROLE	LIFE/ \$50,000
V	6	IX	77-102 MONTHS	60 MONTHS (F) 24 MONTHS (D)	161-186 MONTHS	LIFE/ \$50,000
VI	6	VII	57-75 MONTHS	60 MONTHS (F) 24 MONTHS (D)	141-159 MONTHS	LIFE/ \$50,000

2.4  EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:

- within  below the standard range for Count(s) \_\_\_\_\_.
- above the standard range for Count(s) \_\_\_\_\_.

[ ] The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

[ ] Aggravating factors were [ ] stipulated by the defendant, [ ] found by the court after the defendant waived jury trial, [ ] found by jury by special interrogatory.

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

2.5 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS. The court has considered the total amount owing, the defend's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

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

[ ] The following extraordinary circumstances exist that make payment of nonmandatory legal financial obligations inappropriate:

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [ ] attached [ ] as follows: JURY VERDICT; NOT APPLICABLE.

III. JUDGMENT

3.1 The defendant is GUILTY of the Counts and Charges listed in Paragraph 2.1.

3.2 [ ] The court DISMISSES Counts \_\_\_\_\_ [ ] The defendant is found NOT GUILTY of Counts \_\_\_\_\_

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

RIN/RIN \$ LOC Restitution to: \_\_\_\_\_

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_

(Name and Address—address may be withheld and provided confidentially to Clerk's Office).

PCV \$ 500.00 Crime Victim assessment

DNA \$ 100.00 DNA Database Fee

PUB \$ 2,000.00 Court-Appointed Attorney Fees and Defense Costs

FRC \$ 200.00 Criminal Filing Fee

FCM \$ \_\_\_\_\_ Fine

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**OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)**

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ 2,800 TOTAL

The above total does not include all restitution which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

shall be set by the prosecutor.

is scheduled for \_\_\_\_\_

**RESTITUTION.** Order Attached

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

All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ \_\_\_\_\_ per month commencing \_\_\_\_\_ RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan.

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

**COSTS OF INCARCERATION.** In addition to other costs imposed herein, the court finds that the defendant has or is likely to have the means to pay the costs of incarceration, and the defendant is ordered to pay such costs at the statutory rate. RCW 10.01.160

**COLLECTION COSTS** The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500

**INTEREST** 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

**COSTS ON APPEAL** An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.160

4.1b **ELECTRONIC MONITORING REIMBURSEMENT.** The defendant is ordered to reimburse \_\_\_\_\_ (name of electronic monitoring agency) at \_\_\_\_\_ for the cost of pretrial electronic monitoring in the amount of \$ \_\_\_\_\_

4.2  **DNA TESTING.** The defendant shall have a blood/biological sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county or DOC, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

**HIV TESTING.** The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340.

4.3 **NO CONTACT**  
The defendant shall not have contact with families of victims: Ruben Doris and Abraham Abrazado including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE (not to exceed the maximum statutory sentence).

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

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4.4 OTHER:

[Empty rectangular box for other information]

4.4a BOND IS HEREBY EXONERATED

4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

LIFE WITHOUT PAROLE ON COUNT I

LIFE WITHOUT PAROLE ON COUNT II

102 MONTHS ON COUNT V

75 MONTHS ON COUNT VI

A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

84 months on Count No I

84 months on Count No II

84 months on Count No V

84 months on Count No VI

Sentence enhancements in Counts I, II, V AND VI shall run

concurrent  consecutive to each other.

Sentence enhancements in Counts I, II, V AND VI shall be served

flat time  subject to earned good time credit

Actual number of months of total confinement ordered is: LIFE WITHOUT PAROLE.

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

The confinement time on Count(s) I AND II contain(s) a mandatory minimum term of LIFE WITHOUT PAROLE.

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: COUNTS I AND II SHALL BE SERVED CONSECUTIVELY.

The sentence herein shall run consecutively to all felony sentences in other cause numbers imposed prior to the commission of the crime(s) being sentenced. The sentence herein shall run concurrently with felony sentences in other cause numbers imposed after the commission of the crime(s) being sentenced except for the following cause numbers. RCW 9.94A.589: \_\_\_\_\_

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 435 days

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4.6 [ ] COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count \_\_\_\_\_ for \_\_\_\_\_ months;

Count \_\_\_\_\_ for \_\_\_\_\_ months;

[X] COMMUNITY CUSTODY is ordered as follows:

*Counts I & II 24 - 48 months EACH*

Count V for a range from: 18 to 36 Months;

Count VI for a range from: 18 to 36 Months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and chapter 69.50 or 69.52 RCW offense not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories, or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:		
i) Sex offense	ii) Violent offense	iii) Crime against a person (RCW 9.94A.413)
iv) Domestic violence offense (RCW 10.99.020)	v) Residential burglary offense	
vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers,		
vii) Offense for delivery of a controlled substance to a minor, or attempt, solicitation or conspiracy (vi, vii)		
b) the conditions of community placement or community custody include chemical dependency treatment.		
c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.		

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC, and (8) for sex offenses, submit to electronic monitoring if imposed by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

[ ] The defendant shall not consume any alcohol.

[X] Defendant shall have no contact with: families of victims: Ruben Doria and Abraham Abraszado.

[ ] Defendant shall remain [ ] within [ ] outside of a specified geographical boundary, to wit: \_\_\_\_\_

[ ] Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school). (RCW 9.94A.030(8))

08-1-00299-3

The defendant shall participate in the following crime-related treatment or counseling services: \_\_\_\_\_

The defendant shall undergo an evaluation for treatment for  domestic violence  substance abuse  
 mental health  anger management and fully comply with all recommended treatment.

The defendant shall comply with the following crime-related prohibitions: \_\_\_\_\_

Other conditions may be imposed by the court or DOC during community custody, or are set forth here: \_\_\_\_\_

For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

**PROVIDED:** That under no circumstances shall the total term of confinement plus the term of community custody actually served exceed the statutory maximum for each offense

4.7  **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

4.8 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: \_\_\_\_\_

#### V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion 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, must be filed 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.** For an offense committed prior to July 1, 2000, the defendant 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. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505. The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her 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 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 may be taken without further notice. RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 RESTITUTION HEARING

Defendant waives any right to be present at any restitution hearing (sign initials): DS

5.5 CRIMINAL ENFORCEMENT AND CIVIL COLLECTION. Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.

5.6 FIREARMS. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

5.7 SEX AND KIDNAPPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200.

N/A

5.8 [ ] The court finds that Court \_\_\_\_\_ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.

5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

5.10 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date: 3/27/09

JUDGE

Print name

Roger Chubert

Deputy Prosecuting Attorney

Gerald Costello  
GRANT E. BLINN Gerald Costello  
WSB # 45570 15778

Attorney for Defendant

Ronald D. Ness  
RONALD D. NESS  
WSB # 5299

Defendant

Print name: Darrell Jackson

08-1-00299-5

**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 08-1-00299-5

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_

Clerk of said County and State, by: \_\_\_\_\_, Deputy Clerk

**IDENTIFICATION OF COURT REPORTER**

\_\_\_\_\_  
Court Reporter

IDENTIFICATION OF DEFENDANT

SID No. NONE Date of Birth 07/03/1986  
(If no SID take fingerprint card for State Patrol)

FBI No. NONE Local ID No. NONE

PCN No. 539347438 Other

Alias name, SSN, DOB

Race: [ ] Asian/Pacific [X] Black/African-American [ ] Caucasian [ ] Hispanic [X] Male  
[ ] Native American [ ] Other [X] Non-Hispanic [ ] Female

FINGERPRINTS

Left four fingers taken simultaneously

Left Thumb



Right Thumb

Right four fingers taken simultaneously



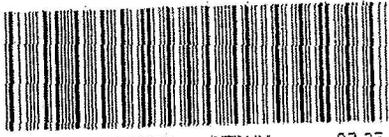
I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, Erwan M. Whinn Dated: 3-27-09

DEFENDANT'S SIGNATURE: Donald [Signature]

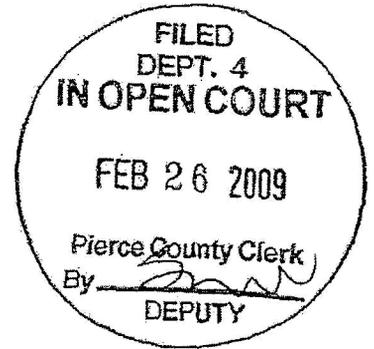
DEFENDANT'S ADDRESS: \_\_\_\_\_

# APPENDIX

APPENDIX



08-1-00299-5 31576235 CTINJY 02-27-09



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  
Plaintiff,

CAUSE NO. 08-1-00299-5 ✓

vs.

08-1-00298-7

DARRELL KANTREAL JACKSON ✓

TYREEK DEANTHONY SMITH  
Defendant.

COURT'S INSTRUCTIONS TO THE JURY

DATED this 23 day of February, 2009.

[Signature]  
JUDGE

INSTRUCTION NO. 1

It is your duty to decide the facts in this case based upon the evidence presented to you during this trial. It also is your duty to accept the law from my instructions, regardless of what you personally believe the law is or what you personally think it should be. You must apply the law from my instructions to the facts that you decide have been proved, and in this way decide the case.

Keep in mind that a charge is only an accusation. The filing of a charge is not evidence that the charge is true. Your decisions as jurors must be made solely upon the evidence presented during these proceedings.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses, stipulations, and the exhibits that I have admitted, during the trial. If evidence was not admitted or was stricken from the record, then you are not to consider it in reaching your verdict.

Exhibits may have been marked by the court clerk and given a number, but they do not go with you to the jury room during your deliberations unless they have been admitted into evidence. The exhibits that have been admitted will be available to you in the jury room.

discuss that evidence during your deliberations or consider it in reaching your verdict.

In order to decide whether any proposition has been proved, you must consider all of the evidence that I have admitted that relates to the proposition. Each party is entitled to the benefit of all of the evidence, whether or not that party introduced it.

You are the sole judges of the credibility of each witness. You are also the sole judges of the value or weight to be given to the testimony of each witness. In considering a witness's testimony, you may consider these things: the opportunity of the witness to observe or know the things he or she testifies about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while testifying; any personal interest that the witness might have in the outcome or the issues; any bias or prejudice that the witness may have shown; the reasonableness of the witness's statements in the context of all of the other evidence; and any other factors that affect your evaluation or belief of a witness or your evaluation of his or her testimony.

The lawyers' remarks, statements, and arguments are intended to help you understand the evidence and apply the law. It is important, however, for you to remember that the lawyers' statements are not evidence. The evidence is the testimony and the exhibits. The law is contained in my instructions to you. You must disregard any remark, statement, or argument that is not supported by the evidence or the law in my instructions.

You may have heard objections made by the lawyers during trial. Each party has the right to object to questions asked by another lawyer, and may have a duty to do so. These objections should not influence you. Do not make any assumptions or draw any conclusions based on a lawyer's objections.

Our state constitution prohibits a trial judge from making a comment on the evidence. It would be improper for me to express, by words or conduct, my personal opinion about the value of testimony or other evidence. I have not intentionally done this. If it appeared to you that I have indicated my personal opinion in any way, either during trial or in giving these instructions, you must disregard this entirely.

You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. You may not consider the fact that punishment may follow conviction except insofar as it may tend to make you careful.

The order of these instructions has no significance as to their relative importance. They are all important. In closing arguments, the lawyers may properly discuss specific instructions. During your deliberations, you must consider the instructions as a whole.

As jurors, you are officers of this court. You must not let your emotions overcome your rational thought process. You must reach your decision based on the facts proved to you and on the law given to you, not on sympathy, prejudice, or personal preference. To assure that all parties receive a fair trial, you must act impartially with an earnest desire to reach a proper verdict.

INSTRUCTION NO. 2

As jurors, you have a duty to discuss the case with one another and to deliberate in an effort to reach a unanimous verdict. Each of you must decide the case for yourself, but only after you consider the evidence impartially with your fellow jurors. During your deliberations, you should not hesitate to re-examine your own views and to change your opinion based upon further review of the evidence and these instructions. You should not, however, surrender your honest belief about the value or significance of evidence solely because of the opinions of your fellow jurors. Nor should you change your mind just for the purpose of reaching a verdict.

INSTRUCTION NO. 3

Each defendant has entered a plea of not guilty. That plea puts in issue every element of each crime charged. The State is the plaintiff and has the burden of proving each element of each crime beyond a reasonable doubt. The defendant has no burden of proving that a reasonable doubt exists as to these elements.

A defendant is presumed innocent. This presumption continues throughout the entire trial unless during your deliberations you find it has been overcome by the evidence beyond a reasonable doubt.

A reasonable doubt is one for which a reason exists and may arise from the evidence or lack of evidence. It is such a doubt as would exist in the mind of a reasonable person after fully, fairly, and carefully considering all of the evidence or lack of evidence.

INSTRUCTION NO. 4

A separate crime is charged in each count. You must separately decide each count charged against each defendant. Your verdict on one count as to one defendant should not control your verdict on any other count or as to the other defendant.

INSTRUCTION NO. 5

Evidence may be either direct or circumstantial. Direct evidence is that given by a witness who testifies concerning facts that he or she has directly observed or perceived through the senses. Circumstantial evidence is evidence of facts or circumstances from which the existence or nonexistence of other facts may be reasonably inferred from common experience. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. One is not necessarily more or less valuable than the other.

INSTRUCTION NO. 6

You may consider a statement made out of court by one defendant as evidence against that defendant, but not as evidence against another defendant.

INSTRUCTION NO. 7

You may give such weight and credibility to any alleged out-of-court statements of the defendant as you see fit, taking into consideration the surrounding circumstances.

INSTRUCTION NO. 8

Testimony of an accomplice, given on behalf of the State of Washington, should be subjected to careful examination in the light of other evidence in the case, and should be acted upon with great caution. You should not find the defendant guilty upon such testimony alone unless, after carefully considering the testimony, you are satisfied beyond a reasonable doubt of its truth.

INSTRUCTION NO. 9

The defendant is not compelled to testify, and the fact that the defendant has not testified cannot be used to infer guilt or prejudice him in any way.

INSTRUCTION NO. 10

A person is guilty of a crime if it is committed by the conduct of another person for which he or she is legally accountable. A person is legally accountable for the conduct of another person when he or she is an accomplice of such other person in the commission of the crime.

A person is an accomplice in the commission of a crime if, with knowledge that it will promote or facilitate the commission of the crime, he or she either:

- (1) solicits, commands, encourages, or requests another person to commit the crime; or
- (2) aids or agrees to aid another person in planning or committing the crime.

The word "aid" means all assistance whether given by words, acts, encouragement, support, or presence. A person who is present at the scene and ready to assist by his or her presence is aiding in the commission of the crime. However, more than mere presence and knowledge of the criminal activity of another must be shown to establish that a person present is an accomplice.

A person who is an accomplice in the commission of a crime is guilty of that crime whether present at the scene or not.

A person legally accountable for the conduct of another person may be convicted on proof of the commission of the crime and his complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted or has been convicted of a different crime or degree of crime.

INSTRUCTION NO. 11

A person acts with intent or intentionally when acting with the objective or purpose to accomplish a result, which constitutes a crime.

INSTRUCTION NO. 12

A person knows or acts knowingly or with knowledge with respect to a fact, circumstance or result when he or she is aware of that fact, circumstance or result. It is not necessary that the person know that the fact, circumstance or result is defined by law as being unlawful or an element of a crime.

If a person has information which would lead a reasonable person in the same situation to believe that a fact exists, the jury is permitted but not required to find that he or she acted with knowledge of that fact.

When acting knowingly is required to establish an element of a crime, the element is also established if a person acts intentionally.

INSTRUCTION NO. 13

A person commits the crime of murder in the first degree, as charged in counts I and II for each defendant, when with a premeditated intent to cause the death of another person, he or she causes the death of such person or of a third person.

INSTRUCTION NO. 14

Premeditated means thought over beforehand. When a person, after any deliberation, forms an intent to take human life, the killing may follow immediately after the formation of the settled purpose and it will still be premeditated. Premeditation must involve more than a moment in point of time. The law requires some time, however long or short, in which a design to kill is deliberately formed.

INSTRUCTION NO. 15

To convict the defendant Darrell Jackson of the crime of murder in the first degree, Count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 22nd day of September, 2007, the defendant Darrell Jackson, or an accomplice acted with intent to cause the death of Ruben Doria;

(2) That the intent to cause the death was premeditated;

(3) That Ruben Doria died as a result of defendant's or an accomplice's acts; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 16

To convict the defendant Darrell Jackson of the crime of murder in the first degree, count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about 22nd day of September, 2007, the defendant Darrell Jackson or an accomplice acted with intent to cause the death of Abraham Abrazado;

(2) That the intent to cause the death was premeditated;

(3) That Abraham Abrazado died as a result of defendant's or an accomplice's acts; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 17

To convict the defendant Tyreek Smith of the crime of murder in the first degree count I, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about 22nd day of September, 2007, the defendant Tyreek Smith or an accomplice acted with intent to cause the death of Ruben Doria;
- (2) That the intent to cause the death was premeditated;
- (3) That Ruben Doria died as a result of defendant's or an accomplice's acts; and
- (4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 18

To convict the defendant Tyreek Smith of the crime of murder in the first degree, count II, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about 22nd day of September, 2007, the defendant Tyreek Smith or an accomplice acted with intent to cause the death of Abraham Abrazado;
- (2) That the intent to cause the death was premeditated;
- (3) That Abraham Abrazado died as a result of defendant's or an accomplice's acts; and
- (4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 19

A person commits the crime of murder in the first degree, as charged in counts III and IV for each defendant, when he or an accomplice commits or attempts to commit robbery in the first degree or burglary in the first degree and in the course of or in furtherance of such crime or in immediate flight from such crime he or another participant causes the death of a person other than one of the participants.

INSTRUCTION NO. 20

A "participant" in a crime is a person who is involved in committing that crime, either as a principal or as an accomplice. A victim of a crime is not a "participant" in that crime.

INSTRUCTION NO. 21

A person commits the crime of robbery when he or she unlawfully and with intent to commit theft thereof takes personal property, not belonging to the defendant, from the person or in the presence of another against that person's will by the use or threatened use of immediate force, violence, or fear of injury to that person. The force or fear must be used to obtain or retain possession of the property or to prevent or overcome resistance to the taking, in either of which cases the degree of force is immaterial. The taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom it was taken, such knowledge was prevented by the use of force or fear. The taking constitutes robbery, even if death precedes the taking, whenever the taking and a homicide are part of the same transaction.

INSTRUCTION NO. 22

A person commits the crime of robbery in the first degree when in the commission of a robbery or in immediate flight therefrom he or an accomplice is armed with a deadly weapon or displays what appears to be a firearm or other deadly weapon or inflicts bodily injury.

INSTRUCTION NO. 23

A person commits the crime of burglary in the first degree when he or she enters or remains unlawfully in a building with intent to commit a crime against a person or property therein, and if, in entering or while in the building or in immediate flight therefrom, that person or an accomplice in the crime is armed with a deadly weapon.

INSTRUCTION NO. 24

A person commits the crime of attempted robbery in the first degree or burglary in the first degree when, with intent to commit that crime, he or she does any act which is a substantial step toward the commission of that crime.

INSTRUCTION NO. 25

A substantial step is conduct, which strongly indicates a criminal purpose and which is more than mere preparation.

INSTRUCTION NO. 26

To convict the defendant Darrell Jackson of the crime of murder in the first degree, count III, each of the following elements of the crime must be proved beyond a reasonable doubt;

(1) That on or about the 22<sup>nd</sup> day of September, 2007 the defendant or an accomplice was committing or attempting to commit robbery in the first degree or burglary in the first degree;

(2) That the defendant or an accomplice caused the death of Ruben Doria in the course of and in furtherance of such crime or in immediate flight from such crime;

(3) That Ruben Doria was not a participant in the crime; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 27

To convict the defendant Darrell Jackson of the crime of murder in the first degree, count IV, each of the following elements of the crime must be proved beyond a reasonable doubt;

(1) That on or about the 22<sup>nd</sup> day of September, 2007 the defendant or an accomplice was committing or attempting to commit robbery in the first degree or burglary in the first degree;

(2) That the defendant or an accomplice caused the death of Abraham Abrazado in the course of and in furtherance of such crime or in immediate flight from such crime;

(3) That Abraham Abrazado was not a participant in the crime; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 28

To convict the defendant Tyreek Smith of the crime of murder in the first degree, count III, each of the following elements of the crime must be proved beyond a reasonable doubt;

(1) That on or about the 22<sup>nd</sup> day of September, 2007 the defendant or an accomplice was committing or attempting to commit robbery in the first degree or burglary in the first degree;

(2) That the defendant or an accomplice caused the death of Ruben Doria in the course of and in furtherance of such crime or in immediate flight from such crime;

(3) That Ruben Doria was not a participant in the crime; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 29

To convict the defendant Tyreek Smith of the crime of murder in the first degree, count IV, each of the following elements of the crime must be proved beyond a reasonable doubt;

(1) That on or about the 22<sup>nd</sup> day of September, 2007 the defendant or an accomplice was committing or attempting to commit robbery in the first degree or burglary in the first degree;

(2) That the defendant or an accomplice caused the death of Abraham Abrazado in the course of and in furtherance of such crime or in immediate flight from such crime;

(3) That Abraham Abrazado was not a participant in the crime; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 30

It is a defense to a charge of murder in the first degree based upon committing or attempting to commit robbery in the first degree or burglary in the first degree that the defendant:

- (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and
- (2) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury; and
- (3) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article or substance; and
- (4) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

The defendant has the burden of proving this defense by a preponderance of the evidence. Preponderance of the evidence means that you must be persuaded, considering all the evidence in the case, that it is more probably true than not true. If you find that the defendant has established this defense, it will be your duty to return a verdict of not guilty as to this charge.

INSTRUCTION NO. 31

To convict the defendant Darrell Jackson of the crime of robbery in the first degree, count V, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 22nd day of September, 2007 the defendant or an accomplice unlawfully took personal property, not belonging to the defendant, from the person or in the presence of Ruben Doria;
- (2) That the defendant or an accomplice intended to commit theft of the property;
- (3) That the taking was against the person's will by the defendant's or an accomplice's use or threatened use of immediate force, violence or fear of injury to that person ;
- (4) That the force or fear was used by the defendant or an accomplice to obtain or retain possession of the property or to prevent or overcome resistance to the taking or to prevent knowledge of the taking;
- (5) That in the commission of these acts or in immediate flight therefrom the defendant or an accomplice was armed with a deadly weapon or displayed what appeared to be a firearm or other deadly weapon or inflicted bodily injury; and
- (6) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 32

To convict the defendant Tyreek Smith of the crime of robbery in the first degree, count V, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 22nd day of September, 2007 the defendant or an accomplice unlawfully took personal property, not belonging to the defendant, from the person or in the presence of Ruben Doria;
- (2) That the defendant or an accomplice intended to commit theft of the property;
- (3) That the taking was against the person's will by the defendant's use or threatened use of immediate force, violence or fear of injury to that person;
- (4) That the force or fear was used by the defendant or an accomplice to obtain or retain possession of the property or to prevent or overcome resistance to the taking or to prevent knowledge of the taking;
- (5) That in the commission of these acts or in immediate flight therefrom the defendant or an accomplice was armed with a deadly weapon or displayed what appeared to be a firearm or other deadly weapon or inflicted bodily injury; and
- (6) That any of these acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 33

To convict the defendant Darrell Jackson of the crime of burglary in the first degree, count VI, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 22nd day of September, 2007, the defendant or an accomplice entered or remained unlawfully in a building located at 9315 South Ash Street, Apt. C;

(2) That the entering or remaining was with intent to commit a crime against a person or property therein;

(3) That in so entering or while in the building or in immediate flight from the building the defendant or an accomplice in the crime charged was armed with a deadly weapon; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 34

To convict the defendant Tyreek Smith of the crime of burglary in the first degree, count VI, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about the 22nd day of September, 2007, the defendant entered or remained unlawfully in a building located at 9315 South Ash Street, Apt. C;

(2) That the entering or remaining was with intent to commit a crime against a person or property therein;

(3) That in so entering or while in the building or in immediate flight from the building the defendant or an accomplice in the crime charged was armed with a deadly weapon; and

(4) That the acts occurred in the State of Washington.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all of the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

INSTRUCTION NO. 35

When you begin deliberating, you should first select a presiding juror. The presiding juror's duty is to see that you discuss the issues in this case in an orderly and reasonable manner, that you discuss each issue submitted for your decision fully and fairly, and that each one of you has a chance to be heard on every question before you.

During your deliberations, you may discuss any notes that you have taken during the trial, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume, however, that your notes are more or less accurate than your memory.

You will need to rely on your notes and memory as to the testimony presented in this case. *Testimony will rarely, if ever, be repeated for you during your deliberations.*

If, after carefully reviewing the evidence and instructions, you feel a need to ask the court a legal or procedural question that you have been unable to answer, write the question out simply and clearly. For this purpose, use the form provided in the jury room. In your question, do not state how the jury has voted. The presiding juror should sign and date the question and give it to the judicial assistant. I will confer with the lawyers to determine what response, if any, can be given.

You will be given the exhibits admitted in evidence, these instructions and several verdict forms for recording your verdict. Some exhibits and visual aids may have been used in court but will not go with you to the jury room. The exhibits that have been admitted into evidence will be available to you in the jury room.

You must fill in the blank provided in each verdict form the words "not guilty" or the word "guilty", according to the decision you reach.

Because this is a criminal case, each of you must agree for you to return a verdict. When all of you have so agreed, fill in the verdict form(s) to express your decision. The presiding juror must sign the verdict form(s) and notify the judicial assistant. The judicial assistant will bring you into court to declare your verdict.

INSTRUCTION NO. 36

If you find a defendant guilty of premeditated murder in the first degree, count I or count II, as defined in Instruction 17 or 18 as to defendant Smith or Instruction 15 or 16 as to defendant Jackson, you must then determine whether any of the following aggravating circumstances exist as to each defendant and as to each count:

The defendant committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, or

There was more than one person murdered and the murders were part of a common scheme or plan or the result of a single act of the person or

The murder was committed in the course of, in furtherance of, or in immediate flight from robbery in the first degree.

The murder was committed in the course of, in furtherance of, or in immediate flight from burglary in the first degree.

The State has the burden of proving the existence of an aggravating circumstance beyond a reasonable doubt. In order for you to find that there is an aggravating circumstance in this case, you must unanimously agree that the aggravating circumstance has been proved beyond a reasonable doubt.

You should consider each of the aggravating circumstances above separately. If you unanimously agree that a specific aggravating circumstance has been proved beyond a reasonable doubt, you should answer the special verdict "yes" as to that circumstance.

For any of the aggravating circumstances to apply, the defendant must have been a major participant in acts causing the death of Ruben Doria or Abraham Abrazado and the aggravating factors must specifically apply to the defendant's actions. The State has the burden of proving

this beyond a reasonable doubt. If you have a reasonable doubt whether the defendant was a major participant, you should answer the special verdict "no."

INSTRUCTION NO. 37

You will also be furnished with special verdict forms. If you find the defendant not guilty as to any particular count do not use the special verdict form for that count. If you find the defendant guilty as to any particular count, you will then use the special verdict form for that count and fill in the blank with the answer "yes" or "no" according to the decision you reach. In order to answer the special verdict forms "yes", you must unanimously be satisfied beyond a reasonable doubt that "yes" is the correct answer. If you have a reasonable doubt as to the question, you must answer "no."

INSTRUCTION NO. 38

For purposes of a special verdict the State must prove beyond a reasonable doubt that the defendant was armed with a deadly weapon at the time of the commission of the crime in counts I, II, III, IV, V, VI.

If one participant in a crime is armed with a deadly weapon, all accomplices to that participant are deemed to be so armed, even if only one deadly weapon is involved.

A deadly weapon is an implement or instrument that has the capacity to inflict death and, from the manner in which it is used, is likely to produce or may easily produce death. A knife having a blade longer than three inches is a deadly weapon. Whether a knife having a blade less than three inches long is a deadly weapon is a question of fact that is for you to decide. A pistol, revolver, or any other firearm is a deadly weapon whether loaded or unloaded. A "firearm" is a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

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

2014 JUN -3 PM 2:00  
COURT CLERK  
5

Darrell Jackson  
Appellant/ Petitioner,

vs.

State of Washington  
Respondent.

PROOF OF SERVICE

I, Darrell Jackson, pro se, do declare that on  
the 1 day of June, 2014. I have served the  
enclosed Personal Restraint Petition

on ever other person required to be served, by presenting an envelope to  
state prison officials at the Clallam Bay Corrections Center, containing the  
above documents for U.S. mailing properly addressed to each of them  
and with first-class postage prepaid.

The names and addresses of those served are as follows:

Court of Appeals Div II  
950 Broadway #300 m/s TB-06  
Tacoma, WA 98402

I declare under penalty of perjury under the laws of the State of  
Washington, pursuant to RCW 9A.72.085, and the laws of the United  
States, pursuant to Title 28 U.S.C. § 1746, that the forgoing is true and  
correct.

Executed on this 1 day of June, 2014.

Darrell Jackson  
Pro se

MAILED PURSUANT GR 3.1

Clallam Bay Corrections Center  
1830 Eagle Crest Way  
Clallam Bay, WA 98326-9723