

**NO. 49149-4-II**

**IN THE COURT OF APPEALS OF THE STATE OF  
WASHINGTON,**

**DIVISION II**

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**STATE OF WASHINGTON,**

**Respondent,**

**vs.**

**CORY DANIEL REED,**

**Appellant.**

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**RESPONDENT'S BRIEF**

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**I. ISSUES**

1. WAS THERE SUFFICIENT EVIDENCE FOR THE JURY TO FIND THE APPELLANT WAS ARMED WITH A DEADLY WEAPON AT THE TIME OF THE COMMISSION OF THE CRIME OF ROBBERY IN THE FIRST DEGREE?
2. WAS THE STATE REQUIRED TO PROVE THE APPELLANT'S CRIMINAL HISTORY WHEN THE STATE CORRECTLY CALCULATED THE APPELLANT'S OFFENDER SCORE AND SENTENCING RANGE, AND THE APPELLANT AND HIS ATTORNEY STIPULATED TO THE APPELLANT'S CORRECT OFFENDER SCORE AND SENTENCING RANGE?

**II. SHORT ANSWERS**

1. YES. THERE WAS SUFFICIENT EVIDENCE FOR THE JURY TO FIND THE APPELLANT WAS ARMED WITH A DEADLY WEAPON AT THE TIME OF THE COMMISSION OF THE CRIME OF ROBBERY IN THE FIRST DEGREE.
2. NO. THE STATE WAS NOT REQUIRED TO PROVE THE APPELLANT'S CRIMINAL HISTORY WHEN THE STATE CORRECTLY CALCULATED THE APPELLANT'S OFFENDER SCORE AND SENTENCING RANGE, AND THE APPELLANT AND HIS ATTORNEY STIPULATED TO THE APPELLANT'S CORRECT OFFENDER SCORE AND SENTENCING RANGE.

**III. FACTS**

Prior to August 28, 2016, the appellant had three active cases. In Cause # 16-1-00244-4, the appellant was charged in an amended information with (I) Robbery In The First Degree With Deadly Weapon Enhancement, (II) Harassment, and (III) Making False Or Misleading

Statement To A Public Servant. In Cause # 15-1-01436-3, the appellant was charged with (I) Possession Of A Stolen Vehicle and (II) Trafficking In Stolen Property In The First Degree. Attachment # 1. In Cause # 16-1-00372-6, the appellant was charged with a single count of Violation Uniform Controlled Substances Act, Possession Of Methamphetamine. Attachment # 2.

On August 28, 2016, the appellant exercised his right to a jury trial in Cause # 16-1-00244-4. A trial, the State filed a second amended information charging the appellant with a single count of Robbery In The First Degree With A Deadly Weapon Enhancement. Transcript, p. 14-16. The Honorable James Warne presided over the appellant's jury trial. Transcript, p. 3-335. The following testimonies were presented during trial:

Sony Sandu worked with David Bonilla at the 20<sup>th</sup> Avenue Grocery Store. Transcript, p. 119-120 and 125. On February 17, 2016, Mr. Sandu and Mr. Bonilla both worked together at the store. On that day, Mr. Sandu gave Mr. Bonilla two Elvis Presley coins. Transcript, p. 120-122 and 125-127. The first coin had a picture of Elvis Presley as a young boy for his first concert at the Alabama fair, Mississippi. The second coin had a picture of Elvis Presley as an adult smiling with his mouth open for his last concert at Market Square. The coins were individually packaged in plastic

containers with a piece of paper describing each coin. Transcript, p. 185-188 and 190-192. Mr. Bonilla worked from 6 PM to closing at midnight on that day. Transcript, p. 126.

After the store closed, Mr. Bonilla did not have any other plans for that night and walked home alone. Mr. Bonilla lived five blocks from the store. Transcript, p. 127, 129-130, and 265-267. As Mr. Bonilla walked on Beech Street to go home, he noticed a group of people on the other side of Beech Street, at the corner of Beech Street and 18<sup>th</sup>. Transcript, p. 130-131 and 133. The group consisted of 4 to 5 people and Mr. Bonilla recognized 2 people in the group, the appellant and Ashley Leonard. Transcript, p. 131 and 215-216. Ms. Leonard had blue hair that night. Transcript, p. 158-159.

Mr. Bonilla knew the appellant as Cory Reed but he did not have any kind of relationship with the appellant otherwise. The appellant is cousin with Mr. Bonilla's ex-roommate and was a good friend with Mr. Bonilla's brother-in-law. The appellant visited and stayed a couple of days with his cousin when the appellant's cousin was a roommate with Mr. Bonilla at their residence. Transcript, p. 132-133, 151-155, and 271. There was no animosity between Mr. Bonilla and the appellant. Transcript, p. 224 and 270. Mr. Bonilla and the appellant know each other by name, sight, and voice. Transcript, p. 131 and 271.

Mr. Bonilla knew Ashley Leonard as the appellant's girlfriend, but he did not know her last name and did not have any kind of relationship with her otherwise. Ms. Leonard was with the appellant when the appellant visited and stayed a couple of days with his cousin at Mr. Bonilla's residence. Transcript, p. 132-133, 151-155, and 212-213. There was no animosity between Mr. Bonilla and Ms. Leonard. Transcript, p. 224.

Mr. Bonilla had no desire to talk to the appellant or Ms. Leonard that night, and continued to walk home on Beech Street, on his side of the street. Transcript, p. 134. The appellant proceeded to leave his group, walk across Beech Street, and approach Mr. Bonilla. Transcript, p. 134, 147, 153, 217, 224-225, and 265-267. The appellant approached Mr. Bonilla very fast from behind and had a bat in his hand. Transcript, p. 135-136. The appellant and Ms. Leonard disputed the appellant having a bat in hand, but otherwise confirmed Mr. Bonilla's testimony about how the appellant and Mr. Bonilla came to have contact with each other that night. Transcript, p. 218-219, 224-225, and 265-269.

The appellant contacted Mr. Bonilla and asked if he had any money? Transcript, p. 136-137. After Mr. Bonilla told the appellant that he did not have any money, the appellant said let me find out, placed his left hand into Mr. Bonilla's pockets, and held the bat in his right hand.

Transcript, p. 136-138. At the time, Mr. Bonilla only had his identification and the two Elvis Presley coins in his possession. Transcript, p. 128 and 136-137.

When the appellant placed his left hand into Mr. Bonilla's pockets, Mr. Bonilla asked the appellant what was he doing? The appellant told Mr. Bonilla that, this was a robbery in progress. Transcript, p. 138. With his left hand, the appellant went into all of Mr. Bonilla's pockets and took the two Elvis Presley coins from Mr. Bonilla's back pocket. Transcript, p. 138-139. With his right hand, the appellant held the bat in a ready position the whole time. The appellant's use of the bat caused Mr. Bonilla to believe that if he moved, the appellant would probably use the bat and swing it at him. Transcript, p. 138-139 and 147.

Mr. Bonilla did not resist and allowed the appellant to do whatever he did because Mr. Bonilla was concern for his safety and did not feel he was in a position to fight back. Transcript, p. 140-141. Mr. Bonilla took the situation seriously because there was no one else around other than the appellant's group and appellant, it was dark and late at night, and the appellant's actions and use of the bat were threatening. Transcript, p. 140, 144, 147, and 183-184.

After the appellant took the coins from Mr. Bonilla, Mr. Bonilla walked away, told the appellant that he was going to call 911, and

proceeded to run from the appellant. The defendant chased Mr. Bonilla for a short distance. Transcript, p. 141. Mr. Bonilla did not look back and focused on getting away because he felt he felt his physical safety was in danger. Transcript, p. 143 and 150. Mr. Bonilla ran to the first house with a lit exterior light on 17<sup>th</sup> and banged on the door. Mr. Bonilla did not know who resided at the residence. Transcript, p.142-143.

Joseph Tarabochia resided at the residence and awoke to Mr. Bonilla banging on the door. Mr. Tarabochia opened the door and saw Mr. Bonilla. Mr. Tarabochia did not know Mr. Bonilla and never saw him before. Transcript, p. 200-201. Mr. Bonilla said, “Call 911, I’ve just been robbed. Call 911.” Transcript, p. 201-203. Mr. Bonilla was under the stress of his encounter with the appellant. Transcript, p. 144-145. Mr. Tarabochia noticed Mr. Bonilla was breathing heavily and sweating as if he had been physically exerting himself. Mr. Tarabochia thought Mr. Bonilla appeared hurried and stressed by some kind of event. Transcript, p. 201. Mr. Tarabochia gave Mr. Bonilla a phone to call 911. Transcript, p. 144-145 and 203.

When Mr. Bonilla called 911, Longview police officers, Officer Hartley and Officer Bishop, were nearby going to a noise complaint. Transcript, p. 156, 179, and 181-183. Dispatch informed the officers of the robbery in progress that happened within the last 5 minutes. Dispatch

informed the officers that the incident occurred close to their locations and involved a bat and a group of people, with one female named Ashley who had blue hair. Dispatch provided the officers with a suspect description. Transcript, p. 158-159. Officer Bishop was tasked with locating the suspect and Officer Hartley was tasked with contacting Mr. Bonilla. Transcript, p. 165, 175, and 181-183.

Based on the information provided by the dispatcher, Officer Bishop located a group of people with a blue hair female and a male matching the lone suspect description. Officer Bishop stopped and identified the male as the appellant, Cory Reed, and the female as Ashley Leonard. Transcript, p. 160 and 162. The appellant was detained as he matched the lone suspect description and everyone from the group were free to leave and did leave the area. Transcript, p. 171, 194, and 220-221.

When Officer Bishop first contacted the appellant, he saw a bat in the appellant's back pocket. The bat was pointed down and tucked into the appellant's back pants wallet pocket. The appellant's hands were free and the bat was very accessible to the appellant. Transcript, p. 162-163 and 263-264. Officer Bishop had safety concerns and secured the bat given its nature, time of day, and number of people in the group. Transcript, p. 163-164. The bat was a metal baseball bat. Transcript, p. 165. Officer Bishop searched the appellant and found two Elvis Presley

coins in the appellant's pants pocket. Transcript, p. 167. The parties agreed that Officer Bishop arrested and searched the appellant for a separate incident and the arrest for the separate incident was not made known to the jury per the parties' agreement. Transcript, p. 90 and 99-101.

When Officer Bishop recovered the two Elvis Presley coins, he did not know the circumstances involving Mr. Bonilla's 911 call and did not initially realize the significance of the recovered coins. Transcript, p. 165-166 and 168. Shortly after the stop, Officer Hartley arrived and apprised Officer Bishop of specifics of Mr. Bonilla's 911 call. Officer Bishop then realized the significance of the Elvis Presley coins and turned the coins and metal bat over to Officer Hartley. Officer Hartley then took over the investigation involving Mr. Bonilla's 911 call. Transcript, p.168-169.

Prior to meeting with Officer Bishop, Officer Hartley went to Mr. Tarabochia's residence to contact Mr. Bonilla and arrived at the residence within a minute or two of the 911 call. Transcript, p. 145, 181-183, and 203. Mr. Bonilla was extremely upset, cried, and shook. Mr. Bonilla appeared intimidated and terrified, and had trouble talking to Officer Hartley. Officer Hartley asked Mr. Bonilla several times to try and breath, and to calm down. Transcript, p. 184-185.

Mr. Bonilla told Officer Hartley about his encounter with the appellant. Mr. Bonilla indicated the appellant was the only person responsible for taking his two Elvis Presley coins, one with a picture of Elvis Presley when he was young and one with a picture of Elvis Presley for his last concert. Transcript, p. 145-146.

When he talked to Mr. Bonilla, Officer Hartley learned that Cory Reed was the lone suspect and the incident involved a black metal bat and two Elvis Presley coins. The first coin had a picture of Elvis Presley as a young boy for his first concert at the Alabama county fair. The second coin had a picture of Elvis Presley as an adult with his mouth open for his last concert. Officer Hartley was told the coins were individually packaged in plastic containers with a piece of paper describing each coin. When Officer Hartley contacted Mr. Bonilla, he was not aware of what had transpired between Officer Bishop and the appellant. Transcript, p. 185-188 and 199.

After talking to Mr. Bonilla and Mr. Tarabochia, Officer Hartley went to contact Officer Bishop and the appellant. Transcript, p. 188-189. Prior to arriving and talking to Officer Bishop, Officer Hartley did not know what Officer Bishop had uncovered during his contact with the appellant. Transcript, p. 189. At the scene of the detention, Officer Hartley learned that Officer Bishop had recovered a black metal bat and

two Elvis Presley coins from the appellant and took possession of those items. The first coin had a picture of Elvis Presley as a young boy for his first concert at the Alabama fair, Mississippi. The second coin had a picture of Elvis Presley as an adult smiling with his mouth open for his last concert at Market Square. The coins were individually packaged in plastic containers with a piece of paper describing each coin. Transcript, p. 185-188 and 190-192.

Ms. Leonard and the appellant confirmed much of Mr. Bonilla's testimony regarding the nature of their relationships, the existence of the black metal bat, and how the appellant initiated contact with Mr. Bonilla on the night in question. Ms. Leonard and the appellant disputed the appellant carrying the bat in his right hand and having it at a ready position. The appellant disputed making any threats and taking the two coins from Mr. Bonilla. Ms. Leonard and the appellant testified it was another unknown male who threatened and chased Mr. Bonilla. Ms. Leonard and the appellant testified to doing nothing upon seeing Mr. Bonilla be chased and walked away until being stopped by Officer Bishop. Transcript, p. 212-227 and 263-280.

The appellant did not proposed any jury instructions, had no objections to the State's proposed jury instructions, and adopted the State's jury instructions. Transcript, p. 231 and 251. The court informed

the jury that, “You will be asked to complete a special verdict form, Special Verdict Form A. If you do not find the defendant guilty of robbery in the first degree, do not use the special verdict form. If you find the defendant guilty of robbery in the first degree, then you will complete the special verdict form...for the purpose of the special verdict form, 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 of robbery in the first degree. A person is armed with a deadly weapon if at the time of the commission of the crime the weapon is easily accessible and readily available for offensive or defensive use. The State must prove beyond a reasonable doubt that there was a connection between the weapon and the defendant. The State must also prove beyond a reasonable doubt that there was a connection between the weapon and the crime. In determining whether these connections existed, you should consider, among other factors, the nature of the crime and the circumstances surrounding the commission of the crime, including the location of the weapon at the time of the crime and the type of weapon. 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 and readily produce death.” Transcript, p. 290-292.

The jury found the appellant guilty of the lone charge of Robbery In The First Degree and found the appellant was armed with a deadly weapon at the time of the commission of the crime of Robbery In The First Degree. Transcript, p. 329-330.

After the verdict, the parties reached an agreement to resolve the appellant's two other pending cases with Cause # 16-1-00244-4. The State agreed to amend the charges in Cause # 15-1-01436-3 and Cause # 16-1-00372-6 to misdemeanor/gross misdemeanor charges to not increase the appellant's offender score and sentencing range and to recommend a low end sentence of 81 months for Cause # 16-1-00244-4. The appellant agreed plea to the misdemeanor/gross misdemeanor charges in his two pending cases and for Cause # 16-1-00244-4, the appellant agreed to waive appeal, an offender score of 5, and a sentence of 81 months.

On May 24, 2016, the appellant's three cases were resolved per the above agreement. In Cause # 15-1-01436-3, the State filed an amended information to misdemeanor/gross misdemeanor charges. Attachment # 3. The appellant pled to the amended information and attached the plea agreement for all three cases with his plea statement. Attachment # 4. In Cause # 16-1-00372-6, the State filed an amended information to a gross misdemeanor charge. Attachment # 5. The appellant pled to the amended information and attached the plea agreement for all three cases with his

plea statement. Attachment # 6. In Cause # 16-1-00244-4, the appellant was sentenced to 81 months and agreed to waive appeal per the agreement of the parties. At no time did appellant contest his offender score or sentencing range. Transcript, p. 338- 347.

During sentencing, the State laid a factual basis for the misdemeanor/gross misdemeanor charges in the two pending cases and the Court interacted with the appellant and attorneys as follows:

Court: All right. Mr. Reed, do you understand that's the case that the State would present if these matters went to trial?

Appellant: Yes, sir.

Court: Do you agree based on that you could end up doing a lot more time and you want to take advantage of the State's offer; is that right?

Appellant: Yes, please.

Court: Do you have any question about your rights?

Appellant: No, sir.

Court: Do you want me to accept your guilty pleas in both those cases?

Appellant: Yes, sir.

Court: And as part and parcel of that, you understand that you're waiving your right to appeal in that robbery trial that you just had?

Appellant: Yes, sir.

Court: And even if there were some error committed in that trial that might otherwise earn you a new trial or dismissal you're giving all that up in exchange for this proposal; do you understand that?

Appellant: Yes, sir.

Court: And after talking to your attorney, you think that's in your best interest and that's how you want to proceed?

Appellant: Yes, sir.

Court: All right. I'll accept the waiver as well. All right, Mr. Nguyen, what's his range on the robbery matter?

State: On the robbery, his range is -- he comes in with a score of five out of nine...So he comes in with a range of 57 to 75 months. The State's recommendation is 57 months, and there was a deadly weapon enhancement which is 24 months, for a total of 81 months...

Court: Counsel.

Defense attorney: Thank you, your Honor. I'd ask the court to follow the recommendation...because the minimum range is 57 months up to the higher range, and he's got a deadly weapon enhancement on top of that...that's what the range is on that...

Court: Mr. Reed, anything you wish to say?

Appellant: No, sir. Transcript, p. 342-346.

On May 26, 2016, the appellant and his attorney were in court for entry of the judgement on Cause No. 16-1-00244-4. The state incorrectly

prepared the judgement and the appellant's attorney informed the court, "It's 57 to 75 for the range." Transcript, p. 348. Entry of judgement was set over to May 31, 2016, for the State to fix the judgment and for entry of the judgment. Transcript, p. 349.

The appellant now appeals his conviction in Cause # 16-1-00244-4.

#### IV. ARGUMENTS

1. **THERE WAS SUFFICIENT EVIDENCE FOR THE JURY TO FIND THE APPELLANT WAS ARMED WITH A DEADLY WEAPON AT THE TIME OF THE COMMISSION OF THE CRIME OF ROBBERY IN THE FIRST DEGREE.**

The appellant does not challenge his conviction for Robbery In The First Degree. Rather, he argues that the evidence was insufficient to impose the deadly weapon sentencing enhancement. There are two types of deadly weapon, the first being those that are deadly per se and the second being those that are deadly in fact based upon the circumstances of their use. State v. Thompson, 88 Wn.2d 546, 548-549 (1977). The black metal bat in this case is both a deadly weapon per se and a deadly weapon in fact.

Pursuant to RCW 9.94A.825, "a deadly weapon is an implement or instrument which has the capacity to inflict death and from the manner in which it is used, is likely to produce or may easily and readily produce death. The following instruments are included in the term deadly weapon:

Blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas.”

A metal baseball bat is a per se deadly weapon because it is a metal pipe used or intended to be used as a club. Therefore, the State need only prove that the defendant was armed with the weapon, that is, the weapon was easily accessible and readily available for use and that there was a nexus or connection between the appellant, the crime, and the weapon. State v. Eckenrode, 159 Wn.2d 488, 490-491 (2007). State v. Bradley, 181 Wash.App. 1034 (2014), and State v. Freedman, 176 Wash.App. 1024 (2013), are two unpublished opinions filed on or after March 1, 2013, that are not binding authorities, but may be accorded such persuasive value as the court deems appropriate under GR 14.1.

In Bradley, the victim hired the appellant to do some work. A dispute arose over how much the appellant was owed for the work resulting in the appellant retrieving an aluminum baseball bat, hitting the victim’s truck and leaving dents with the bat, chasing the victim with the bat raised, and demanding payment. The appellant never swung the bat at the victim. The appellant was charged and convicted by a jury of Assault

In *The Second Degree with a deadly weapon enhancement*. Bradley, 181 Wash.App. at 1-2. On appeal, the appellant did not challenge his conviction for second degree assault and argued there was insufficient evidence to impose the deadly weapon enhancement. Id. at 2. The appellate court noted that “[t]he jury could have found that an aluminum bat qualifies as a deadly weapon per se because it meets the definition of ‘any metal pipe or bar used or intended to be used as a club,’” Id. at 2, and affirmed the conviction. Id. at 8.

In Freedman, the appellant was charged and found guilty of Assault In The Second Degree with a deadly weapon enhancement for hitting the victim with an aluminum baseball bat. On appeal, the appellant argued there was insufficient evidence to support the deadly weapon enhancement. Freedman, 176 Wash.App. at 1. The appellate court found that an aluminum bat “is sufficiently similar to a ‘metal pipe or bar used or intended to be used as a club,’ which would make it a deadly weapon as a matter of law,” Id. at 2, and affirmed the appellant’s conviction. Id. at 3.

Additionally, the metal bat was a deadly weapon in fact based on the facts of this case. “When the sufficiency of the evidence is challenged in a criminal case, all reasonable inferences from the evidence must be drawn in favor of the State and interpreted most strongly against the defendant. A claim of insufficiency admits the truth of the State’s

evidence and all inferences that can be drawn therefrom.” State v. Salinas, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992) (citing State v. Partin, 88 Wn.2d 899, 906-07, 567 P.2d 1136 (1977); State v. Theroff, 25 Wn.App. 590, 593, 608 P.2d 1254, aff’d, 95 Wn.2d 385, 622 P.2d 1240 (1980).

When determining the sufficiency of evidence the standard of review is “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the necessary facts to be proven beyond a reasonable doubt.” State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980). At trial, the State has the burden of proving each element of the offense beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970). However, a reviewing court need not itself be convinced beyond a reasonable doubt, State v. Jones, 63 Wn.App. 703, 708, 821 P.2d 543, review denied, 118 Wn.2d 1028, 828 P.2d 563 (1992), and must defer to the trier of fact on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. State v. Walton, 64 Wn.App. 410, 415-16, 824 P.2d 533, review denied, 119 Wn.2d 1011 (1992). For purposes of a challenge to the sufficiency of the evidence, the appellant admits the truth of the State’s evidence. Jones, 63 Wn.App. at 707-08. “In determining the sufficiency of the evidence, circumstantial evidence is not to be considered any less reliable than direct evidence.” State v.

Delmarter, 94 Wn.2d 634, 638, 618 P.2d 99 (1980). “Nothing forbids a jury, or a judge, from logically inferring intent from proven facts, so long as it is satisfied the state has proved that intent beyond a reasonable doubt.” State v. Bencivenga, 137 Wn.2d 703, 709, 974 P.2d 832 (1999). All reasonable inferences must be drawn in the State’s favor and interpreted most strongly against the defendant. State v. Joy, 121 Wn.2d 333, 338-39, 851 P.2d 654 (1993).

In State v. Thompson, 88 Wash.2d 546 (1977), the appellant held an open pocketknife, with a blade between 2 and 3 inches in length against the neck of the victim, a motel clerk, while he demanded she turn over the money in her possession. During the robbery, she sustained a cut on her neck and bruises on her right arm. Id. at 550. The appellant was charged and convicted of assault in the second degree and robbery with a special verdict finding the appellant was armed with a deadly weapon. Id. at 547. On appeal, the Court held that the pocketknife with the 2 or 3 inches blade was not a deadly weapon per se and was a deadly weapon in fact base upon how the appellant had used the knife. Id. at 548-549.

In State v. Cook, 69 Wash.App. 412 (1993), the appellant and the victim had a dispute over money that led to the appellant brandishing a pocket knife and holding the blade to the victim’s throat. The victim sustained no injury and the appellant fled when the police arrived. Id. at

414. The appellant was charged and a jury found the appellant guilty of attempted robbery with a deadly weapon enhancement. Id. at 415. On appellate court noted that the trial court had used an erroneous deadly weapon jury instruction and that, “[w]hen seeking an enhanced sentence, however, the State must prove that the weapon had the capacity to cause death and death alone.” Id. at 417. The appellate affirmed the conviction because “[i]t is undisputed here that [appellant] held a pocket knife to Wright’s throat. Clearly, under these facts, the knife had the ‘capacity to inflict death’, and was used in a manner which would ‘likely...or [might] easily and readily produce death.’” Id. at 417.

In State v. Peterson, 138 Wash.App. 477 (2007), the appellant used a knife to steal a stereo from a car. Witnesses observed appellant exiting the car with the stereo. The victim pursued and confronted the appellant. Id. at 479. When confronted, the appellant extended his right hand, approached the victim, and shouted, “I have a knife, I will cut you.” Id. at 479-480. The victim tackled and disarmed the appellant from the knife. The knife that the appellant used to threaten the victim was the same knife he had used to pry the stereo from the car. The knife had a three inch blade. The victim sustained no injury from the altercation. Id. at 480. The appellant was charged with (I) attempted robbery in the first degree while armed with a deadly weapon and (II) malicious mischief in the first

degree while armed with a deadly weapon. The trial court found the appellant guilty of both charges with deadly weapon enhancements. Id. at 480-481. The appellant did not appeal his conviction for attempted robbery in the first degree with a deadly weapon enhancement. On appeal, the appellant argued there was insufficient evidence to support the deadly weapon enhancement as it pertained to the malicious mischief charge. Id. at 481.

In Peterson, the appellate court noted that the 3 inch blade knife was not a deadly weapon per se and “RCW 9.94A.602 requires that, if an instrument is not on the statute’s list of per se deadly weapons, then the instrument qualifies as ‘deadly weapon’ only if it has (1) the capacity to inflict death and (2) the defendant uses it in a way likely to produce death or that may easily and readily produce death.” Id. at 484. The appellate court also noted that the “second criterion - ‘from the manner in which it is used, is likely to produce or may easily and readily produce death.’ RCW 9.94A.602 - implies the presence of another person against whom [appellant] could have readily used the knife while committing the malicious mischief.” Id. at 484. The court found “no evidence that any other person was present or nearby while [appellant] was using the knife to cut the stereo wires.” Id. at 484. Therefore, the appellate court found

there was insufficient evidence as it related to the deadly weapon enhancement for the malicious mischief charge. Id. at 484-485.

State v. Strasser, 191 Wash.App. 1034 (2015), is an unpublished opinion filed on or after March 1, 2013, that is not binding authority, but may be accorded such persuasive value as the court deems appropriate under GR 14.1. In Strasser, the applicant and his accomplices forced their way into the victims' home, yelled at and threatened the inhabitants, rifled through the victims' property, and left the residence with a number of property from the residence. The appellant and his accomplices wielded baseball bats during the home invasion. The victims were not injured in the encounter. A victim knew the appellant and reported the appellant to the police. The appellant was charged with (I) first degree burglary with deadly weapon enhancement and (II) first degree robbery with deadly weapon enhancement. Id. at 1. A jury found appellant guilty of the charges with the deadly weapon enhancements. Id. at 2. On appeal, the appellant, "argued that because the bat was never used to strike anyone during the home invasion, it was not used in a manner likely, easily, or readily to produce death." Id. at 2.

In Strasser, witnesses testified to the intruders threatening to use their baseball bats. "Karin testified that in the course of the chaos and confusion, 'I was threatened by a baseball bat.' RP at 124. She testified

that as the intruders were leaving the home and Sean followed in an effort to get a license plate number from their car, [appellant] tried to block him and ‘at one point held a bat up and was going to hit Sean, and [a] neighbor stepped in between.’ RP at 129. She later reiterated that [appellant] ‘went to hit my son. He brought [the bat] up to bring it down on my son.’” Id. at 3. “Sean testified to begin threatened with a baseball bat both at the inception and toward the conclusion of the crime. He testified that one of the first things that happened was that one of the intruders ‘comes right in the door and grabs my baseball bat and comes right for me, and I step out of the way.’” Id. at 3. The appellate court found “there was sufficient testimony about the threatening manner in which baseball bats were used during the burglary and robbery to support the trial court’s decision to instruct the jury on the deadly weapon enhancement.” Id. at 4.

In the present case, there was sufficient for the jury to find the metal bat was a dangerous weapon in fact. Sometime after midnight, the appellant quickly approached Mr. Bonilla from behind, with bat in hand. The bat was not tucked into his back pocket as witnessed by Officer Bishop. The appellant knows Mr. Bonilla and there was no animosity between the two. Mr. Bonilla was not a threat to the appellant and there was no need for the appellant to draw his bat. The appellant’s action of approaching Mr. Bonilla with bat in hand is analogous to a person

unsheathing a sword and holding it or a person upholstering a gun and holding it. It indicates an aggressive desire and willingness to use the bat, otherwise, the bat would have been sheathed, holstered, or tucked away. Once he made contact with Mr. Bonilla, the appellant held the bat in his right hand in a ready position the whole time as his left hand went into Mr. Bonilla's pockets. When asked what he was doing, the appellant told Mr. Bonilla that it was a robbery in progress. Mr. Bonilla felt helpless to resist because the appellant held the bat in a ready position and appeared ready to use the bat to swing and hit Mr. Bonilla. The appellant removed and took two coins against Mr. Bonilla's will. The appellant's actions, use of the bat, threats, and words were similar to defendants in the Cook, the Peterson, and the Strasser cases. There was sufficient evidence to support the jury's finding that the appellant was armed with a deadly weapon during his commission of the crime of Robbery In The First Degree.

2. **THE STATE WAS NOT REQUIRED TO PROVE THE APPELLANT'S CRIMINAL HISTORY WHEN THE STATE CORRECTLY CALCULATED THE APPELLANT'S OFFENDER SCORE AND SENTENCING RANGE, AND THE APPELLANT AND HIS ATTORNEY STIPULATED TO THE APPELLANT'S CORRECT OFFENDER SCORE AND SENTENCING RANGE.**

In State v. Hunter, 116 Wash.App. 300 (2003), the appellant pled guilty to second degree robbery. On appeal, the appellant "argues that the

State failed to prove that his out-of-state convictions were comparable to Washington felonies.” *Id.* at 301. The appellate court noted that “[a]t the time [appellant] entered his guilty plea, [appellant] disputed the State’s assertion that his offender score was five, based on five out-of-state convictions. At sentencing, the deputy prosecutor acknowledged that the State was unable to prove that one of the five out-of-state convictions was comparable to a Washington felony and that [appellant’s] offender score was therefore four. In response, the defense counsel expressly conceded that the only other conviction that [appellant] was challenging was properly included in his offender score. Defense counsel also acknowledged that the State had properly calculated [appellant’s] standard range.” *Id.* at 302. Therefore, the appellate court noted that the appellant “does not allege that his prior out-of-state convictions were erroneously classified; rather, his sole claim is that the State failed to prove comparability at sentencing. Because [appellant] affirmatively acknowledged the correctness of the State’s classification, the sentencing court was not required to consider any further proof.” *Id.* at 372.

In State v. Hickman, 112 Wash.App. 187 (2002), “the record is clear that [appellant] knowingly and affirmatively agreed to the offender score stipulation, despite his apparent misgivings, because the plea agreement was based on that stipulation. Defense counsel acknowledged

that ‘we did put down eight...and [appellant] did initial that. The problem...is he had some concurrent convictions that he interprets as being the same criminal act...and [the State] made our agreement to eight as being part of the plea offer.’” Id. at 190. The appellate court noted “the record reflects that [appellant] knowingly, voluntarily, and affirmatively stipulated to his offender score to gain the benefit of the plea bargain, he waived the right to appeal his offender score calculation and/or invited any error in that calculation,” Id. at 191, and dismissed the appellant’s appeal. Id. at 191.

In the present case, the appellant does not allege that his offender score and sentencing range were miscalculated, rather he claims the state failed to prove the appellant’s criminal convictions that are the basis for the correct calculation of his offender score. As in Hunter and in Hickman, the State is not required to prove the appellant’s criminal convictions per the agreement of the parties, stipulations of the appellant, and acknowledgment of the appellant’s defense counsel. The parties had reached an agreement to resolve all three of the appellant’s cases to the benefit of the appellant. The agreement was attached to appellant’s pleas in Cause No. 15-1-01436-3 and Cause No. 16-1-00372-6. The “Combined Plea Offer” states “The defendant agrees that the Prosecutor’s Statement of the Defendant’s Criminal History is accurate...” The offer also states

“The Defendant agrees that his/her offender score is 5 for Case 16-1-00244-4 and standard range is I: 57-75 months for Case 16-1-00244-4...” The offer also states “The parties agree to the following sentence: 16-1-00244-4: (1) 57 months + 24 months dwe for total of 81 months, cc, nco with victim, waives appeal on case 16-1-00244-4.” The appellant and appellant’s attorney signed the offer. At sentencing, the court asked the appellant if he wanted to proceed per the plea agreement and the appellant indicated yes.

On May 24, 2016, and May 26, 2016, the appellant’s attorney acknowledged that the defendant had an offender score of 5 and sentencing range of 57 to 75 months. On May 24, 2016, the appellant’s attorney said, “Thank you, your Honor. I’d ask the court to follow the recommendation...because the minimum range is 57 months up to the higher range, and he’s got a deadly weapon enhancement on top of that...that’s what the range is on that...” Transcript, p. 345. On May 26, 2016, the appellant’s attorney stated, “It’s 57 to 75 for the range.” Transcript, p. 348. Therefore, the State is not required to prove the appellant’s criminal history because it correctly calculated the appellant’s offender score and sentencing range, and the appellant and his attorney stipulated to the appellant’s correct offender score and sentencing range.

V. CONCLUSIONS

The appellant's appeal should be denied because there was sufficient evidence for the jury to find the appellant was armed with a deadly weapon during his commission of Robbery In The First Degree and the appellant waived his right to appeal the State's accurate calculation of his offender score and sentencing range. The case should be remanded back to the trial court for resentencing as the appellant appealed Cause No. 16-1-00244-4 in violation of the parties plea agreement.

Respectfully submitted this 29 day of March, 2017.

  
MIKE NGUYEN/WSBA # 31641  
Deputy Prosecuting Attorney  
Representing Respondent

**COWLITZ COUNTY PROSECUTOR**  
**March 29, 2017 - 11:02 AM**  
**Transmittal Letter**

Document Uploaded: 7-491494-Respondent's Brief.pdf

Case Name: State of Washington v. Cory D. Reed

Court of Appeals Case Number: 49149-4

Is this a Personal Restraint Petition?    Yes     No

**The document being Filed is:**

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

Statement of Arrangements

Motion: \_\_\_\_\_

Answer/Reply to Motion: \_\_\_\_\_

Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: \_\_\_\_\_

**Comments:**

1 Of 2 Attachments to follow

Sender Name: Michelle Sasser - Email: [sasserm@co.cowlitz.wa.us](mailto:sasserm@co.cowlitz.wa.us)

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

[wapofficemail@washapp.org](mailto:wapofficemail@washapp.org)

[maureen@washapp.org](mailto:maureen@washapp.org)

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SUPERIOR COURT

2015 DEC 18 A 10:41

COWLITZ COUNTY  
STAG. L. MYKLEBUST, CLERK

BY: *[Signature]*

**SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY**

STATE OF WASHINGTON,  
Plaintiff,

- vs. -

CORY DANIEL REED,

Defendant.

No. 15-1-01436-3

**INFORMATION CHARGING:**

**COUNT I - POSSESSION OF A  
STOLEN VEHICLE  
COUNT II - TRAFFICKING IN  
STOLEN PROPERTY IN THE  
FIRST DEGREE**

COMES NOW, RYAN JURVAKAINEN, Prosecuting Attorney of Cowlitz County, State of Washington, and by this Information accuses the above-named defendant of violating the criminal laws of the State of Washington as follows:

**COUNT I - POSSESSION OF A STOLEN VEHICLE**

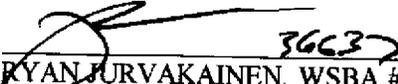
The defendant, in the County of Cowlitz, State of Washington, on or about 12/15/2015, did knowingly POSSESS a stolen motor vehicle, to-wit: motor cycle, knowing that it was stolen and WITHHELD such property to the use of a person other than JAMES MILLER, the TRUE OWNER, contrary to RCW 9A.56.160(1)(d) and RCW 9A.56.140(1) and against the peace and dignity of the State of Washington.

**COUNT II - TRAFFICKING IN STOLEN PROPERTY IN THE FIRST DEGREE**

The defendant, in the County of Cowlitz, State of Washington, on or about 12/15/2015, did knowingly INITIATE or PLAN the theft of property, to-wit: motorcycle, for sale to others, or did knowingly traffic in stolen property, to-wit: MOTOR CYCLE, contrary to RCW 9A.82.050(1) and against the peace and dignity of the State of Washington.

*[Handwritten mark: a circle containing the letter 'C']*

1 DATED: Friday, December 18, 2015

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4  36637  
5 RYAN JURVAKAINEN, WSBA #37864  
6 Office Identification #: 91091  
7 Cowlitz County Prosecuting Attorney

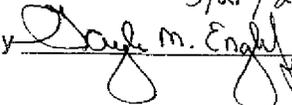
fore  
8 Mike Nguyen  
9 WSBA # 31641

DEFENDANT INFORMATION						
NAME: CORY DANIEL REED				DOB: 10/21/1986		
ADDRESS: 1122 9TH AVE.				CITY: LONGVIEW		
STATE: WA		ZIP CODE: 98632-		PHONE #(s):		
DRIV. LIC. NO.:	DL ST :	SEX: MALE	RACE:	HGT: 6'0"	WGT: 200	EYES: GREEN
HAIR: ORANGE	OTHER IDENTIFYING INFORMATION:					

18 STATE'S WITNESSES:

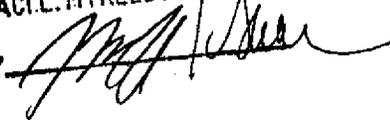
19 STEVE DENNIS, LVPD

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21  
22 I, STACI MYKLEBUST, Clerk of the  
23 Superior Court of Cowlitz County,  
24 State of Washington, hereby certify  
25 that this instrument is a true and  
26 correct copy of the original on file  
27 in my office. 3/27/2017

By  Deputy

FILED  
SUPERIOR COURT  
2016 MAR 18 PM 2 41

COWLITZ COUNTY  
STACI L. MYKLEBUST/CLERK

BY 

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,  
Plaintiff,

- vs. -

CORY DANIEL REED,

Defendant.

No. 16-1-00372-6

INFORMATION CHARGING:

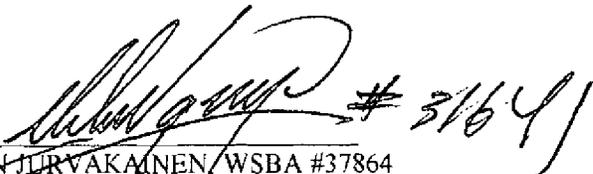
COUNT I - VIOLATION UNIFORM  
CONTROLLED SUBSTANCES ACT

COMES NOW, RYAN JURVAKAINEN, Prosecuting Attorney of Cowlitz County, State of Washington, and by this Information accuses the above-named defendant of violating the criminal laws of the State of Washington as follows:

COUNT I - VIOLATION UNIFORM CONTROLLED SUBSTANCES ACT

The defendant, in the County of Cowlitz, State of Washington, on or about 10/20/2015, did possess Methamphetamine, a controlled substance, without obtaining such substance directly from or pursuant to a valid prescription or order of a practitioner acting in the course of his or her professional practice, contrary to RCW 69.50.4013(1) and against the peace and dignity of the State of Washington.

DATED: Friday, March 18, 2016

 # 31641  
RYAN JURVAKAINEN, WSBA #37864  
Office Identification #: 91091  
Cowlitz County Prosecuting Attorney

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DEFENDANT INFORMATION						
NAME: CORY DANIEL REED				DOB: 10/21/1986		
ADDRESS: 376 CAMAS CIRCLE LOOP				CITY: HAMILTON		
STATE: MT		ZIP CODE: 59840-9721		PHONE #(s):		
DRIV. LIC. NO.:	DL ST :	SEX: M	RACE:	HGT:	WGT:	EYES:
HAIR:	OTHER IDENTIFYING INFORMATION:					

**STATE'S WITNESSES:**

- BENJAMIN MORTENSEN, LVPD**
- BRIAN DURBIN, LVPD**
- CALVIN RIPP, LVPD**
- ROCKY EPPERSON, OTHER**
- SETH LIBBEY, LVPD**
- CRIME LAB REP**

I, STACI MYKLEBUST, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 3/27/2017  
 By Paul M. Engh, Deputy

2016 MAY 24 PM 4 29

COWLITZ COUNTY  
STACI L. MYKLEBUST, CLERK

BY *[Signature]*

**SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY**

STATE OF WASHINGTON,  
Plaintiff,

- vs. -

CORY DANIEL REED,

Defendant.

No. 15-1-01436-3

AMENDED

INFORMATION CHARGING:

COUNT I - THEFT IN THE THIRD  
DEGREE

COUNT II - TAMPERING WITH  
PHYSICAL EVIDENCE

COUNT III - POSSESSING STOLEN  
PROPERTY IN THE THIRD  
DEGREE

COUNT IV - MAKING FALSE OR  
MISLEADING STATEMENT TO A  
PUBLIC SERVANT

COMES NOW, RYAN JURVAKAINEN, Prosecuting Attorney of Cowlitz County, State of Washington, and by this Information accuses the above-named defendant of violating the criminal laws of the State of Washington as follows:

**COUNT I - THEFT IN THE THIRD DEGREE**

The defendant, in the County of Cowlitz, State of Washington, on or about 12/12/2015, did wrongfully obtain or exert unauthorized control over property belonging to another, of a value not exceeding \$750, with intent to deprive James Miller of such property; contrary to RCW 9A.56.050(1)(a) and RCW 9A.56.020(1)(a) and against the peace and dignity of the State of Washington.

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DEFENDANT INFORMATION						
NAME: CORY DANIEL REED				DOB: 10/21/1986		
ADDRESS: 1122 9TH AVE.				CITY: LONGVIEW		
STATE: WA		ZIP CODE: 98632-		PHONE #(s):		
DRIV. LIC. NO.:	DL ST :	SEX: MALE	RACE:	HGT: 6'0"	WGT: 200	EYES: GREEN
HAIR: ORANGE	OTHER IDENTIFYING INFORMATION:					

**STATE'S WITNESSES:**

I, STACI MYKLEBUST, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 3-27-2017  
By Stacy M. Engle Deputy

FILED  
SUPERIOR COURT

2015 MAY 24 PM 4 29

COWLITZ COUNTY  
STACI L. MYRLE, ST. CLERK

BY [Signature]

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff

No. 15-1-01436-3

vs.

CORY DANIEL REED,

Defendant

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

1. My true name is: CORY DANIEL REED

2. My age is: 29

3. The last level of education I completed was: GED

4. I Have Been Informed and Fully Understand That:

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with: CT I = THEFT 3<sup>rd</sup>; CT. II = TAMPERING WITH PHYSICAL EVIDENCE; CT III = POSSESSING STOLEN PROPERTY 3<sup>rd</sup>; CT. IV = MAKING A FALSE/MISLEADING STATEMENT TO A PUBLIC SERVANT.

The elements are: CT I = DID WRONGFULLY OBTAIN OR EXERT UNAUTHORIZED CONTROL OVER PROPERTY BELONGING TO ANOTHER, OF A VALUE NOT EXCEEDING \$750<sup>00</sup>, WITH INTENT TO DEPRIVE THE OWNER OF SUCH PROPERTY;

CT III = HAVING REASON TO BELIEVE THAT AN OFFICIAL PROCEEDING WAS PENDING OR ABOUT TO BE INSTITUTED, AND ACTING WITHOUT LEGAL AUTHORITY, DID REMOVE, CONCEAL AND/OR ALTER PHYSICAL EVIDENCE (A MOTORCYCLE) WITH INTENT TO IMPAIR ITS APPEARANCE AND/OR AVAILABILITY IN SUCH PENDING OR PROSPECTIVE OFFICIAL PROCEEDING;

CT III = DID KNOWINGLY RECEIVE, RETAIN, AND/OR POSSESS STOLEN PROPERTY OF A VALUE NOT OVER \$750, KNOWING IT TO BE STOLEN, AND WITHHELD IT FROM THE OWNER;  
 CT IV = DID KNOWINGLY MAKE A FALSE/MISLEADING MATERIAL STATEMENT TO A PUBLIC SERVANT.

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

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

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

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	N/A	0 - 364 DAYS	N/A	NO	364 DAYS; \$5000 FINE
2	N/A	0 - 364 DAYS	N/A	NO	364 DAYS; \$5,000 FINE
3	N/A	0 - 364 DAYS	N/A	NO	364 DAYS \$5000 FINE
	N/A	0 - 364 DAYS	N/A	NO	364 DAYS \$5300 FINE

\*The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (JP) Juvenile present, (VH) Veh. Hom, see RCW 46.61.520, (P16) Passenger(s) under age 16.

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

- 1 (c) The prosecuting attorney's statement of my criminal history is attached to this agreement.  
2 Unless I have attached a different statement, I agree that the prosecuting attorney's  
3 statement is correct and complete. If I have attached my own statement, I assert that it is  
4 correct and complete. If I am convicted of any additional crimes between now and the time  
5 I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- 6 (d) If I committed the above crime(s) while under age 18 and am sentenced to more than 20  
7 years of confinement:
- 8 (i) As long as my conviction is not for aggravated first degree murder or certain sex  
9 crimes, and I have not been convicted of any crime committed after I turned 18 or  
10 committed a disqualifying serious infraction as defined by DOC in the 12 months  
11 before the petition is filed, I may petition the Indeterminate Sentence Review Board  
12 (Board) for early release after I have served 20 years.
- 13 (ii) If I am released early because my petition was granted or by other action of the  
14 Sentence Review Board, I will be subject to community custody under the supervision  
15 of the DOC for a period of time determined by the Board, up to the length of the court-  
16 imposed term of incarceration. I will be required to comply with any conditions  
17 imposed by the Board.
- 18 (iii) If I violate the conditions of community custody, the Board may return me to  
19 confinement for up to the remainder of the court-imposed term of incarceration.
- 20 (e) If I committed aggravated murder in the first degree and I was under the age of 18 at the  
21 time of the offense.
- 22 (i) If I was under the age of 16 at the time of the offense, the judge will impose a  
23 maximum term of life and impose a minimum term of total confinement of 25 years for  
24 that crime.
- 25 (ii) If I was at least 16 but less than 18 years old at the time of the offense, the judge will  
26 impose a maximum term of life and will impose a minimum term of total confinement  
27 that is at least 25 years and may be as long as life without the possibility of parole or  
28 early release for that crime.
- 29 (iii) During the minimum term, I will not be eligible for earned early release time, home  
30 detention, partial confinement, work release or any form of early release.
- 31 (iv) After the minimum term, if I am released by the Sentence Review Board (Board), I will  
32 be subject to community custody under the supervision of the DOC for a period of time  
33 determined by the board, and must comply with conditions imposed.
- 34 (v) If I violate the conditions of community custody, the Board may return me to  
35 confinement.
- 36 (f) If I am convicted of any new crimes before sentencing, or if any additional criminal history  
37 is discovered, both the standard sentence range and the prosecuting attorney's  
38 recommendation may increase. Even so, my plea of guilty to this charge is binding on me.  
I cannot change my mind if additional criminal history is discovered even though the

1 standard sentencing range and the prosecuting attorney's recommendation increase or a  
2 mandatory sentence of life imprisonment without the possibility of parole is required by  
3 law.

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

11 (h) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement,  
12 the judge may order me to serve up to one year of community custody if the total period of  
13 confinement ordered is not more than 12 months. If the total period of confinement is more  
14 than 12 months, and if this crime is a drug offense, assault in the second degree, assault of a  
15 child in the second degree, or any crime against a person in which a specific finding was  
16 made that I or an accomplice was armed with a deadly weapon, the judge will order me to  
17 serve at least one year of community custody. If this crime is a vehicular homicide,  
18 vehicular assault, or a serious violent offense, the judge will order me to serve at least two  
19 years of community custody. The actual period of community custody may be longer than  
20 my earned early release period. During the period of community custody, I will be under  
21 the supervision of the Department of Corrections, and I will have restrictions and  
22 requirements placed upon me.

23 For crimes committed on or after July 1, 2000: In addition to sentencing me to  
24 confinement, under certain circumstances the judge may order me to serve up to one year of  
25 community custody if the total period of confinement ordered is not more than 12 months,  
26 but only if the crime I have been convicted of falls into one of the offense types listed in the  
27 following chart. For the offense of failure to register as a sex offender, regardless of the  
28 length of confinement, the judge will sentence me for up to 12 months of community  
custody. If the total period of confinement ordered is more than 12 months, and if the  
crime I have been convicted of falls into one of the offense types listed in the following  
chart, the court will sentence me to community custody for the term established for that  
offense type unless the judge finds substantial and compelling reasons not to do so. If the  
period of earned release awarded per RCW 9.94A.729 is longer, that will be the term of my  
community custody. If the crime I have been convicted of falls into more than one category  
of offense types listed in the following chart, then the community custody term will be  
based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by	12 months

RCW 9.94A.411(2)	
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

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

If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

- (i) The prosecuting attorney will make the following recommendation to the judge:
- CT I = 364 DAYS / 364 SUSPENDED (AGREE TO ADULTS AND CAUSATION UP TO \$5,000 FOR RESTITUTION, CAN ARGUE IF OVER),
- CT II, III & IV = 364 DAYS / 364 SUSPENDED
- (CONCURRENT WITH CAUSE #'S K0-1-00372-6 AND 16-1-00244-4),

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

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

- (i) The judge may impose an exceptional sentence below the standard range if the

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judge finds mitigating circumstances supporting an exceptional sentence.

- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.
- (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

- ~~(k) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.~~
- ~~(l) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.~~
- ~~(m) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.~~
- (n) Government assistance may be suspended during any period of confinement.
- (o) I will be required to have a biological sample collected for purposes of DNA identification analysis. I will be required to pay a \$100.00 DNA collection fee.

**Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that DO APPLY.**

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

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~~X~~ (q)

~~The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph 6(g). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~

~~X~~ (r)

~~The judge may sentence me under the Parenting Sentencing Alternative if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.~~

~~X~~ (s)

~~If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, or if this crime is promoting prostitution in the first or second degree and I have at least one prior conviction for promoting prostitution in the first or second degree, or if this crime is (human) trafficking in the first degree under RCW 9A.40.100(1)(a)(i)(A)(III) or (IV) or (1)(a)(i)(B) (relating to sexually explicit acts or commercial sex acts), I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~

~~X~~ (t)

~~If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$115.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150. If I am convicted under RCW 26.50.110, for a violation of a domestic violence protection order issued under chapter 26.50 RCW, the court shall impose a mandatory fine of \$15.00.~~

~~X~~ (u)

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

~~X~~ (v)

~~The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.~~

~~If the judge imposes the prison-based alternative, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12~~

1 months, whichever is greater. During confinement, I will be required to undergo a  
2 comprehensive substance abuse assessment and to participate in treatment. The judge will  
3 also impose a term of community custody of one-half of the midpoint of the standard range.

4 If the judge imposes the residential chemical dependency treatment-based alternative,  
5 the sentence will consist of a term of community custody equal to one-half of the midpoint  
6 of the standard sentence range or two years, whichever is greater, and I will have to enter  
7 and remain in a certified residential chemical dependency treatment program for a period of  
8 *three to six months*, as set by the court.

9 As part of this sentencing alternative, the court is required to schedule a progress hearing  
10 during the period of residential chemical dependency treatment and a treatment termination  
11 hearing scheduled three months before the expiration of the term of community custody.  
12 At either hearing, based upon reports by my treatment provider and the department of  
13 corrections on my compliance with treatment and monitoring requirements and  
14 recommendations regarding termination from treatment, the judge may modify the  
15 conditions of my community custody or order me to serve a term of total confinement  
16 equal to one-half of the midpoint of the standard sentence range, followed by a term of  
17 community custody under RCW 9.94A.701.

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

(w)

If I am subject to community custody and the judge finds that I have a chemical  
dependency that has contributed to the offense, the judge may order me to participate in  
rehabilitative programs or otherwise to perform affirmative conduct reasonably related to  
the circumstances of the crime for which I am pleading guilty. Rehabilitative programs  
may include an order to obtain an evaluation for alcohol or controlled substance chemical  
dependency treatment. The court may also prohibit me from possessing or consuming  
alcohol or controlled substances without a valid prescription.

(x)

If this crime involves the manufacture, delivery, or possession with the intent to deliver  
methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine,  
including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fine  
may not be suspended. RCW 69.50.401(2)(b).

(y)

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

1 ~~21 U.S.C. § 862a.~~

2 ~~X (z) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the~~  
3 ~~judge finds I used a motor vehicle in the commission of this felony.~~

4 ~~X (aa) If this crime involves the offense of vehicular homicide while under the influence of~~  
5 ~~intoxicating liquor, or any drug, as defined by RCW 46.61.520, committed on or after~~  
6 ~~January 1, 1999, an additional two years shall be added to the presumptive sentence for~~  
7 ~~vehicular homicide for each prior offense as defined in RCW 46.61.5055(14).~~

8 ~~X (bb) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any~~  
9 ~~drugs, or felony actual physical control of a motor vehicle while under the influence of~~  
10 ~~intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I~~  
11 ~~will be required to undergo alcohol or chemical dependency treatment services during~~  
12 ~~incarceration. I will be required to pay the costs of treatment unless the court finds that I~~  
13 ~~am indigent. My driving privileges will be suspended, revoked or denied. Following the~~  
14 ~~period of suspension, revocation or denial, I must comply with the Department of~~  
15 ~~Licensing ignition interlock device requirements. In addition to any other costs of the~~  
16 ~~ignition interlock device, I will be required to pay an additional fee of \$20 per month.~~

17 ~~X (cc) For the crimes of vehicular homicide committed while under the influence of~~  
18 ~~intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault~~  
19 ~~committed while under the influence of intoxicating liquor, or any drug as defined by~~  
20 ~~RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or~~  
21 ~~felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12~~  
22 ~~months to the standard sentence range for each child passenger under the age of 16 who~~  
23 ~~is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall~~  
24 ~~be served in total confinement, and shall run consecutively to all other sentencing~~  
25 ~~provisions.~~

26 ~~X (dd) I am pleading guilty to the crime of driving without a required ignition interlock device~~  
27 ~~(RCW 46.20.740), or the crime of circumventing or tampering with a required ignition~~  
28 ~~interlock device (RCW 46.20.750(1)), and the offense occurred on or after September~~  
29 ~~26, 2015. The sentence for that offense must be served consecutively with any other~~  
30 ~~sentence imposed for violations of either of those statutes and with any sentence imposed~~  
31 ~~under RCW 46.61.502 (DUI), RCW 46.61.504 (physical control under the influence), or~~  
32 ~~RCW 46.61.5055. The sentence for violation of RCW 46.20.750(1) also must be served~~  
33 ~~consecutively with any sentence imposed under RCW 46.61.520(1)(a) or 46.61.522(1)(b)~~  
34 ~~(vehicular homicide/assault while under the influence of alcohol/drugs).~~

35 ~~X (ee) For the crimes of felony driving under the influence of intoxicating liquor, or any drug,~~  
36 ~~for vehicular homicide while under the influence of intoxicating liquor, or any drug, or~~  
37 ~~vehicular assault while under the influence of intoxicating liquor, or any drug, the court~~  
38 ~~may order me to reimburse reasonable emergency response costs up to \$2,500 per~~  
39 ~~incident.~~

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~~(ff) The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(p).~~

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

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

~~(ii) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~

~~(jj) If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve the sentences for these crimes consecutively to one another. If I am pleading guilty to unlawful possession of more than one firearm, I must serve each of the sentences for unlawful possession consecutively to each other.~~

~~(kk) I may be required to register as a felony firearm offender under RCW 9.41.330. The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.~~

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

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

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2 7. I plead guilty to:

3 count I = THEFT 3<sup>rd</sup>; COUNT II = TAMPERING W/<sup>PHYSICAL</sup> EVIDENCE;  
4 count III = POSSESSING STOLEN PROPERTY 3<sup>rd</sup>;  
5 count IV = MAKING A FALSE/MISLEADING MATERIAL STATEMENT TO PUBLIC  
6 in the \_\_\_\_\_ Information. I have received a copy of that Information. <sup>SEWANT.</sup>

7 8. I make this plea freely and voluntarily.

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

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

10 11. The judge has asked me to state what I did in my own words that makes me guilty of this crime.

11 This is my statement: ON 12/12/2015 IN ~~THE~~ COWLITZ COUNTY, WA,

12 I STOLE A MOTORCYCLE BELONGING TO JAMES MILLER,

13 OF A VALUE NOT EXCEEDING \$750<sup>00</sup>, WITH INTENT TO

14 DEPRIVE HIM OF IT, AND (BETWEEN 12/12/15 AND 12/13/15,

15 I UNLAWFULLY POSSESSED PROPERTY OF ANOTHER, OF A

16 VALUE NOT EXCEEDING \$750<sup>00</sup> AND ~~W~~ TAKEN IT FROM THE

17 OWNER IN COWLITZ CO., WA; AND ON 12/15/15, IN

18 COWLITZ COUNTY, WA, WITH A BELIEF THAT AN OFFICIAL

19 PROCEEDING, WAS ABOUT TO BE INSTITUTED, I TRIED TO

20 SELL THE STOLEN MOTORCYCLE TO IMPAIR ITS

21 AVAILABILITY AND SUCH PROCEEDINGS AND ALSO

22 DENIED SEARCHING THE MOTORCYCLE TO INVESTIGATING

23 OFFICERS; AND ON 12/15/15 I MADE

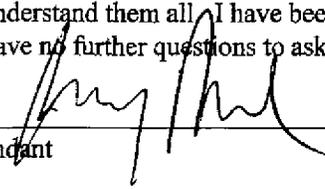
24 A FALSE/MISLEADING MATERIAL

25 STATEMENT TO INVESTIGATING

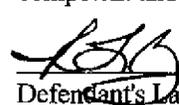
26 OFFICERS

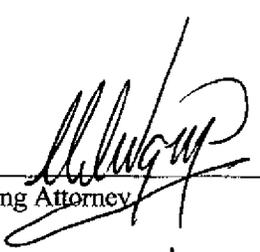
1  Instead of making a statement, I agree that the court may review the police reports and/or a  
2 statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

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

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7 \_\_\_\_\_  
8 Defendant

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

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13 \_\_\_\_\_  
14 Defendant's Lawyer

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16 \_\_\_\_\_  
17 Prosecuting Attorney

18   
19 \_\_\_\_\_  
20 Print Name

21 M. N. Nguyen 31641  
22 \_\_\_\_\_  
23 WSBA No.

24 R. L. S. ...  
25 \_\_\_\_\_  
26 Print Name

27 13263  
28 \_\_\_\_\_  
29 WSBA No.

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

- 32  (a) The defendant had previously read the entire statement above and that the defendant understood it  
33 in full;
- 34  (b) The defendant's lawyer had previously read to him or her the entire statement above and that the  
35 defendant understood it in full; or
- 36  (c) An interpreter had previously read to the defendant the entire statement above and that the  
37 defendant understood it in full. The Interpreter's Declaration is included below.

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

41 Dated: 5/24/16  
42 \_\_\_\_\_  
43 Judge

44

RS

# COMBINED PLEA OFFER

IS THIS A FAST TRACK OFFER?:  YES

**Defendant: CORY DANIEL REED**

**Cause Number(s): 15-1-01436-3, 16-1-00372-6, 16-1-00244-4**

**Deputy Prosecutor: PA-NGUYENM      Defense Attorney: OPD**

The parties agree to enter into this agreement, which is accepted only by entry of a guilty plea on or before  2 weeks after arraignment ("fast track")  the first pre-trial  or \_\_\_\_\_.

**The defendant shall plead guilty to Counts:**

of the  Original /

Amended Information.

15-1-01436-3: (I) THEFT 3 (FOR MOTOR CYCLE), (II) TAMPERING EVIDENCE (FOR TRYING TO SELL MOTOR CYCLE), (III) PSP3 (FOR USING LEANORD'S INFO AND ACCOUNT), (IV) MAKING FALSE STATEMENT

16-1-00372-6: (1) PSP 3 (IN RE BARR)

**The Prosecutor will dismiss Count/Cause:**

*The defendant agrees that the Prosecutor's Statement of the Defendant's Criminal History is accurate and that all out-of-state convictions used to calculate the offender score are the equivalent of Washington felonies. If there are other convictions that exist and the defendant does not reveal them prior to pleading guilty, this agreement is void and the Prosecutor may proceed on all charges, and the defendant will be re-sentenced upon conviction according to his or her correct and complete criminal history. The defendant understands that this sentence must run consecutive to any sentence for any prior felony conviction, including any DOC sanctions. The defendant agrees to forfeiture of any weapon, contraband, or items used to facilitate the crimes charged.*

**The Defendant agrees that his/her offender score is 5 FOR CASE 16-1-00244-4 and standard range is I: 57-75 MONTHS FOR CASE 16-1-00244-4, FOR ALL OTHER CHARGES 0-364 DAYS**

**The Prosecutor will recommend the following sentence:**  **The parties agree to the following sentence:**

16-1-00244-4:

(1) 57 MONTHS + 24 MONTHS DWE FOR TOTAL OF 81 MONTHS, CC, NCO WITH VICTIM, WAIVES APPEAL ON CASE 16-1-00244-4

15-1-01436-3:

(1) 364/364, REST (AGREE TO AMOUNTS AND CAUSATION UP TO \$3,000 FOR ANY DAMAGES TO MOTOR CYCLE, IF MORE DEF CAN CONTEST)

(II) 364/364

(III) 364/364

(IV) 364/3654

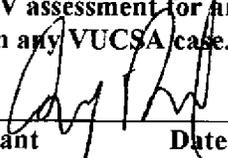
16-1-00372-6:

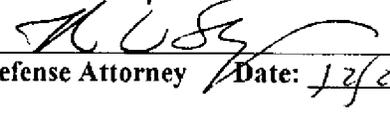
(1) 364/364

The defendant agrees not to seek a SSOSA, DOSA, PSA or FOSA sentence.

The Prosecutor's recommendation is based upon the following:

The defendant agrees to pay restitution and agrees to causation on all charged counts including those dismissed as part of this agreement. The defendant agrees that restitution is \$ TBD . The defendant waives his presence at any restitution hearing and authorizes his/her attorney to agree to any final restitution amount. The Prosecutor will recommend all statutory costs, fines and fees, including a \$100 DV assessment for any DV case and a \$250/\$500 contribution to the Prosecutor's Drug Enforcement Fund in any VUCSA case.

  
\_\_\_\_\_  
Defendant Date: \_\_\_\_\_

  
\_\_\_\_\_  
Defense Attorney Date: 12/24/16

Plea date: \_\_\_\_\_

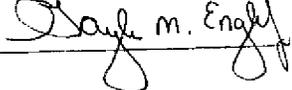


Signed,

MIKE NGUYEN WSBA# 31641  
DATED: 5/4/2016  
DEPUTY PROSECUTING ATTORNEY

DPA will accept *Alford* plea? Yes  No

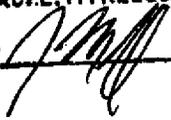
I, STACI MYKLEBUST, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 3-27-2017

By  Deputy

FILED  
SUPERIOR COURT

2016 MAY 24 PM 4 29

COWLITZ COUNTY  
STACI L. MYKLEBUST, CLERK

BY 

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,  
Plaintiff,

- vs. -

CORY DANIEL REED,

Defendant.

No. 16-1-00372-6

AMENDED

INFORMATION CHARGING:

COUNT I - POSSESSING STOLEN  
PROPERTY IN THE THIRD  
DEGREE

COMES NOW, RYAN JURVAKAINEN, Prosecuting Attorney of Cowlitz County, State of Washington, and by this Information accuses the above-named defendant of violating the criminal laws of the State of Washington as follows:

COUNT I - POSSESSING STOLEN PROPERTY IN THE THIRD DEGREE

The defendant, in the County of Cowlitz, State of Washington, on or about 10/20/2015, did knowingly receive, retain, and/or possess stolen property, with a value not exceeding \$750, knowing that it was stolen and withheld such property to the use of a person other than the true owner or person entitled to such property, contrary to RCW 9A.56.170(1)(a) and RCW 9A.56.140(1) and against the peace and dignity of the State of Washington.

DATED: Monday, May 23, 2016

 #31641

RYAN JURVAKAINEN, WSBA #37864

Office Identification #: 91091

Cowlitz County Prosecuting Attorney

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DEFENDANT INFORMATION						
NAME: CORY DANIEL REED				DOB: 10/21/1986		
ADDRESS: 376 CAMAS CIRCLE LOOP				CITY: HAMILTON		
STATE: MT		ZIP CODE: 59840-9721		PHONE #(s):		
DRIV. LIC. NO.:	DL ST :	SEX: M	RACE:	HGT:	WGT:	EYES:
HAIR:	OTHER IDENTIFYING INFORMATION:					

**STATE'S WITNESSES:**

- BENJAMIN MORTENSEN, LVPD**
- BRIAN DURBIN, LVPD**
- CALVIN RIPP, LVPD**
- ROCKY EPPERSON, OTHER**
- SETH LIBBEY, LVPD**

I, STACI MYKLEBUST, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 3/27/2017

By Stacy M. Engle, Deputy

FILED  
SUPERIOR COURT

2016 MAY 24 PM 4 29

COWLITZ COUNTY  
STACIL MYKLEBUST, CLERK

BY [Signature]

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff

No. 16-1-00372-6

vs.

CORY DANIEL REED,

Defendant

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

1. My true name is: CORY DANIEL REED

2. My age is: 29

3. The last level of education I completed was: GED

4. I Have Been Informed and Fully Understand That:

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with POSSESSING STOLEN PROPERTY 3<sup>rd</sup>  
(IN RE BARR PLEA)

The elements are: DID KNOWINGLY RECEIVE, RETAIN, AND/OR  
POSSESS STOLEN PROPERTY, WITH A VALUE NOT  
EXCEEDING \$750<sup>00</sup>, KNOWING THAT IT WAS STOLEN  
AND WITHHELD SUCH PROPERTY TO THE USE OF A  
PERSON OTHER THAN THE TRUE OWNER  
OR PERSON ENTITLED TO SUCH PROPERTY.

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

- 6 (a) The right to a speedy and public trial by an impartial jury in the county where the crime  
7 was allegedly committed;
- 8 (b) The right to remain silent before and during trial, and the right to refuse to testify against  
9 myself;
- 10 (c) The right at trial to hear and question the witnesses who testify against me;
- 11 (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be  
12 made to appear at no expense to me;
- 13 (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable  
14 doubt or I enter a plea of guilty;
- 15 (f) The right to appeal a finding of guilt after a trial.

16 6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

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

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1	N/A	0-364 DAYS	N/A	NO	364 DAYS; \$5,000 FINE
2					
3					

19  
20  
21 \*The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (JP) Juvenile present, (VH) Veh. Hom, see RCW 46.61.520, (P16) Passenger(s) under age 16.

- 22  
23 (b) The standard sentence range is based on the crime charged and my criminal history.  
24 Criminal history includes prior convictions and juvenile adjudications or convictions,  
25 whether in this state, in federal court, or elsewhere.

- 1 (c) The prosecuting attorney's statement of my criminal history is attached to this agreement.  
2 Unless I have attached a different statement, I agree that the prosecuting attorney's  
3 statement is correct and complete. If I have attached my own statement, I assert that it is  
4 correct and complete. If I am convicted of any additional crimes between now and the time  
5 I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- 6 (d) If I committed the above crime(s) while under age 18 and am sentenced to more than 20  
7 years of confinement:  
8 (i) As long as my conviction is not for aggravated first degree murder or certain sex  
9 crimes, and I have not been convicted of any crime committed after I turned 18 or  
10 committed a disqualifying serious infraction as defined by DOC in the 12 months  
11 before the petition is filed, I may petition the Indeterminate Sentence Review Board  
12 (Board) for early release after I have served 20 years.  
13 (ii) If I am released early because my petition was granted or by other action of the  
14 Sentence Review Board, I will be subject to community custody under the supervision  
15 of the DOC for a period of time determined by the Board, up to the length of the court-  
16 imposed term of incarceration. I will be required to comply with any conditions  
17 imposed by the Board.  
18 (iii) If I violate the conditions of community custody, the Board may return me to  
19 confinement for up to the remainder of the court-imposed term of incarceration.
- 20 (e) If I committed aggravated murder in the first degree and I was under the age of 18 at the  
21 time of the offense.  
22 (i) If I was under the age of 16 at the time of the offense, the judge will impose a  
23 maximum term of life and impose a minimum term of total confinement of 25 years for  
24 that crime.  
25 (ii) If I was at least 16 but less than 18 years old at the time of the offense, the judge will  
26 impose a maximum term of life and will impose a minimum term of total confinement  
27 that is at least 25 years and may be as long as life without the possibility of parole or  
28 early release for that crime.  
(iii) During the minimum term, I will not be eligible for earned early release time, home  
detention, partial confinement, work release or any form of early release.  
(iv) After the minimum term, if I am released by the Sentence Review Board (Board), I will  
be subject to community custody under the supervision of the DOC for a period of time  
determined by the board, and must comply with conditions imposed.  
(v) If I violate the conditions of community custody, the Board may return me to  
confinement.
- (f) If I am convicted of any new crimes before sentencing, or if any additional criminal history  
is discovered, both the standard sentence range and the prosecuting attorney's  
recommendation may increase. Even so, my plea of guilty to this charge is binding on me.  
I cannot change my mind if additional criminal history is discovered even though the

1 standard sentencing range and the prosecuting attorney's recommendation increase or a  
2 mandatory sentence of life imprisonment without the possibility of parole is required by  
3 law.

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

11 (h) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement,  
12 the judge may order me to serve up to one year of community custody if the total period of  
13 confinement ordered is not more than 12 months. If the total period of confinement is more  
14 than 12 months, and if this crime is a drug offense, assault in the second degree, assault of a  
15 child in the second degree, or any crime against a person in which a specific finding was  
16 made that I or an accomplice was armed with a deadly weapon, the judge will order me to  
17 serve at least one year of community custody. If this crime is a vehicular homicide,  
18 vehicular assault, or a serious violent offense, the judge will order me to serve at least two  
19 years of community custody. The actual period of community custody may be longer than  
20 my earned early release period. During the period of community custody, I will be under  
21 the supervision of the Department of Corrections, and I will have restrictions and  
22 requirements placed upon me.

23 For crimes committed on or after July 1, 2000: In addition to sentencing me to  
24 confinement, under certain circumstances the judge may order me to serve up to one year of  
25 community custody if the total period of confinement ordered is not more than 12 months,  
26 but only if the crime I have been convicted of falls into one of the offense types listed in the  
27 following chart. For the offense of failure to register as a sex offender, regardless of the  
28 length of confinement, the judge will sentence me for up to 12 months of community  
custody. If the total period of confinement ordered is more than 12 months, and if the  
crime I have been convicted of falls into one of the offense types listed in the following  
chart, the court will sentence me to community custody for the term established for that  
offense type unless the judge finds substantial and compelling reasons not to do so. If the  
period of earned release awarded per RCW 9.94A.729 is longer, that will be the term of my  
community custody. If the crime I have been convicted of falls into more than one category  
of offense types listed in the following chart, then the community custody term will be  
based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by	12 months

RCW 9.94A.411(2)	
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

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

If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

- (i) The prosecuting attorney will make the following recommendation to the judge: \_\_\_\_\_  
364 DAYS WITH 364 SUSPENDED (CONCURRENT  
WITH CAUSE # 16-1-00244-4 AND 15-1-0436-3).

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

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

(i) The judge may impose an exceptional sentence below the standard range if the

- 1 judge finds mitigating circumstances supporting an exceptional sentence.
- 2 (ii) The judge may impose an exceptional sentence above the standard range if I am
- 3 being sentenced for more than one crime and I have an offender score of more
- 4 than nine.
- 5 (iii) The judge may also impose an exceptional sentence above the standard range if
- 6 the State and I stipulate that justice is best served by imposition of an
- 7 exceptional sentence and the judge agrees that an exceptional sentence is
- 8 consistent with and in furtherance of the interests of justice and the purposes of
- 9 the Sentencing Reform Act.
- 10 (iv) The judge may also impose an exceptional sentence above the standard range if
- 11 the State has given notice that it will seek an exceptional sentence, the notice
- 12 states aggravating circumstances upon which the requested sentence will be
- 13 based, and facts supporting an exceptional sentence are proven beyond a
- 14 reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by
- 15 stipulated facts.

16 If the court imposes a standard range sentence, then no one may appeal the sentence. If

17 the court imposes an exceptional sentence after a hearing, either the State or I can appeal

18 the sentence.

- 19 (k) ~~If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime~~
- 20 ~~under state law is grounds for deportation, exclusion from admission to the United States,~~
- 21 ~~or denial of naturalization pursuant to the laws of the United States.~~
- 22 (l) ~~I may not possess, own, or have under my control any firearm, and under federal law any~~
- 23 ~~firearm or ammunition, unless my right to do so is restored by the court in which I am~~
- 24 ~~convicted or the superior court in Washington State where I live, and by a federal court if~~
- 25 ~~required. I must immediately surrender any concealed pistol license.~~
- 26 (m) ~~I will be ineligible to vote until that right is restored in a manner provided by law. If I am~~
- 27 ~~registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3,~~
- 28 ~~RCW 29A.04.079, 29A.08.520.~~
- (n) Government assistance may be suspended during any period of confinement.
- (o) I will be required to have a biological sample collected for purposes of DNA identification analysis. I will be required to pay a \$100.00 DNA collection fee.

21 **Notification Relating to Specific Crimes: If any of the following paragraphs DO NOT**

22 **APPLY, counsel and the defendant shall strike them out. The defendant and the judge**

23 **shall initial all paragraphs that DO APPLY.**

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

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~~(q)~~

~~The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph 6(g). Additionally, the judge could require me to undergo treatment to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.~~

~~(r)~~

~~The judge may sentence me under the Parenting Sentencing Alternative if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.~~

~~(s)~~

~~If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, or if this crime is promoting prostitution in the first or second degree and I have at least one prior conviction for promoting prostitution in the first or second degree, or if this crime is (human) trafficking in the first degree under RCW 9A.40.100(1)(a)(i)(A)(II) or (IV) or (1)(a)(i)(B) (relating to sexually explicit acts or commercial sex acts), I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.~~

~~(t)~~

~~If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$115.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150. If I am convicted under RCW 26.50.110, for a violation of a domestic violence protection order issued under chapter 26.50 RCW, the court shall impose a mandatory fine of \$15.00.~~

~~(u)~~

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

~~(v)~~

~~The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.~~

~~If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12~~

1 months, whichever is greater. During confinement, I will be required to undergo a  
2 comprehensive substance abuse assessment and to participate in treatment. The judge will  
also impose a term of community custody of one-half of the midpoint of the standard range.

3 If the judge imposes the **residential chemical dependency treatment-based alternative**,  
4 the sentence will consist of a term of community custody equal to one-half of the midpoint  
of the standard sentence range or two years, whichever is greater, and I will have to enter  
5 and remain in a certified residential chemical dependency treatment program for a period of  
*three to six months*, as set by the court.

6 As part of this sentencing alternative, the court is required to schedule a progress hearing  
7 during the period of residential chemical dependency treatment and a treatment termination  
8 hearing scheduled three months before the expiration of the term of community custody.  
At either hearing, based upon reports by my treatment provider and the department of  
9 corrections on my compliance with treatment and monitoring requirements and  
10 recommendations regarding termination from treatment, the judge may modify the  
conditions of my community custody or order me to serve a term of total confinement  
equal to one-half of the midpoint of the standard sentence range, followed by a term of  
community custody under RCW 9.94A.701.

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

18 ~~(w)~~ If I am subject to community custody and the judge finds that I have a chemical  
19 dependency that has contributed to the offense, the judge may order me to participate in  
rehabilitative programs or otherwise to perform affirmative conduct reasonably related to  
20 the circumstances of the crime for which I am pleading guilty. Rehabilitative programs  
may include an order to obtain an evaluation for alcohol or controlled substance chemical  
21 dependency treatment. The court may also prohibit me from possessing or consuming  
alcohol or controlled substances without a valid prescription.

22 ~~(x)~~ If this crime involves the manufacture, delivery, or possession with the intent to deliver  
23 methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine,  
including its salts, isomers, and salts of isomers, and if a fine is imposed, \$3,000 of the fine  
24 may not be suspended. RCW 69.50.401(2)(b).

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

1 ~~21 U.S.C. § 862a.~~

2 ~~X (z) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the~~  
3 ~~judge finds I used a motor vehicle in the commission of this felony.~~

4 ~~X (aa) If this crime involves the offense of vehicular homicide while under the influence of~~  
5 ~~intoxicating liquor, or any drug, as defined by RCW 46.61.520, committed on or after~~  
6 ~~January 1, 1999, an additional two years shall be added to the presumptive sentence for~~  
7 ~~vehicular homicide for each prior offense as defined in RCW 46.61.5055(14).~~

8 ~~X (bb) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any~~  
9 ~~drugs, or felony actual physical control of a motor vehicle while under the influence of~~  
10 ~~intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I~~  
11 ~~will be required to undergo alcohol or chemical dependency treatment services during~~  
12 ~~incarceration. I will be required to pay the costs of treatment unless the court finds that I~~  
13 ~~am indigent. My driving privileges will be suspended, revoked or denied. Following the~~  
14 ~~period of suspension, revocation or denial, I must comply with the Department of~~  
15 ~~Licensing ignition interlock device requirements. In addition to any other costs of the~~  
16 ~~ignition interlock device, I will be required to pay an additional fee of \$20 per month.~~

17 ~~X (cc) For the crimes of vehicular homicide committed while under the influence of~~  
18 ~~intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault~~  
19 ~~committed while under the influence of intoxicating liquor, or any drug as defined by~~  
20 ~~RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or~~  
21 ~~felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12~~  
22 ~~months to the standard sentence range for each child passenger under the age of 16 who~~  
23 ~~is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall~~  
24 ~~be served in total confinement, and shall run consecutively to all other sentencing~~  
25 ~~provisions.~~

26 ~~X (dd) I am pleading guilty to the crime of driving without a required ignition interlock device~~  
27 ~~(RCW 46.20.740), or the crime of circumventing or tampering with a required ignition~~  
28 ~~interlock device (RCW 46.20.750(1)), and the offense occurred on or after September~~  
29 ~~26, 2015. The sentence for that offense must be served consecutively with any other~~  
30 ~~sentence imposed for violations of either of those statutes and with any sentence imposed~~  
31 ~~under RCW 46.61.502 (DUI), RCW 46.61.504 (physical control under the influence), or~~  
32 ~~RCW 46.61.5055. The sentence for violation of RCW 46.20.750(1) also must be served~~  
33 ~~consecutively with any sentence imposed under RCW 46.61.520(1)(a) or 46.61.522(1)(b)~~  
34 ~~(vehicular homicide/assault while under the influence of alcohol/drugs).~~

35 ~~X (ee) For the crimes of felony driving under the influence of intoxicating liquor, or any drug,~~  
36 ~~for vehicular homicide while under the influence of intoxicating liquor, or any drug, or~~  
37 ~~vehicular assault while under the influence of intoxicating liquor, or any drug, the court~~  
38 ~~may order me to reimburse reasonable emergency response costs up to \$2,500 per~~  
39 ~~incident.~~

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~~X~~ (ff) ~~The crime of \_\_\_\_\_ has a mandatory minimum sentence of at least \_\_\_\_\_ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(p).~~

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

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

~~X~~ (ii) ~~The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~

~~X~~ (jj) ~~If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve the sentences for these crimes consecutively to one another. If I am pleading guilty to unlawful possession of more than one firearm, I must serve each of the sentences for unlawful possession consecutively to each other.~~

~~X~~ (kk) ~~I may be required to register as a felony firearm offender under RCW 9.41.330. The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.~~

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

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

1  
2 7. I plead guilty to:  
3 count 1 = POSSESSING STOLEN PROPERTY 3<sup>o</sup>  
4 count \_\_\_\_\_  
5 in the AMENDED Information. I have received a copy of that Information.

6 8. I make this plea freely and voluntarily.

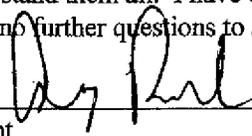
7 9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

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

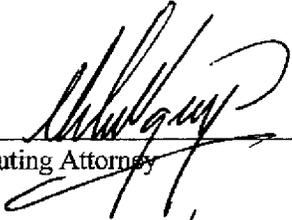
9  
10 11. The judge has asked me to state what I did in my own words that makes me guilty of this crime.  
11 This is my statement: ALTHOUGH THERE ARE NO FACTS  
12 PRESENTED TO SUPPORT THE AMENDED  
13 CHARGE, I BELIEVE I WOULD LIKELY BE  
14 CONVICTED AT TRIAL OF THE MORE SERIOUS  
15 CHARGE ORIGINALLY FILED, AND THEREFORE,  
16 PURSUANT TO "IN RE BARR" I AM ENTERING  
17 THIS GUILTY PLEA TO TAKE ADVANTAGE  
18 OF THE PLEA OFFER.  
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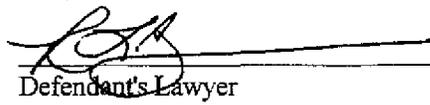
1  Instead of making a statement, I agree that the court may review the police reports and/or a  
2 statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

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

6   
Defendant

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

10   
Prosecuting Attorney

10   
Defendant's Lawyer

11   
Print Name

11 31641  
WSBA No.

11   
Print Name

11 13263  
WSBA No.

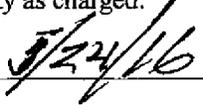
13 The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and  
14 the undersigned judge. The defendant asserted that [check appropriate box]:

15  (a) The defendant had previously read the entire statement above and that the defendant understood it  
16 in full;

16  (b) The defendant's lawyer had previously read to him or her the entire statement above and that the  
17 defendant understood it in full; or

18  (c) An interpreter had previously read to the defendant the entire statement above and that the  
19 defendant understood it in full. The Interpreter's Declaration is included below.

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

22 Dated: 

22   
Judge

**COMBINED PLEA OFFER**

IS THIS A FAST TRACK OFFER?:  YES

Defendant: CORY DANIEL REED

Cause Number(s): 15-1-01436-3, 16-1-00372-6, 16-1-00244-4

Deputy Prosecutor: PA-NGUYENM Defense Attorney: OPD

The parties agree to enter into this agreement, which is accepted only by entry of a guilty plea on or before  2 weeks after arraignment ("fast track")  the first pre-trial  or 5/10/16

The defendant shall plead guilty to Counts: of the  Original /  Amended Information.

15-1-01436-3: (I) THEFT 3 (FOR MOTOR CYCLE), (II) TAMPERING EVIDENCE (FOR TRYING TO SELL MOTOR CYCLE), (III) PSP3 (FOR USING LEANORD'S INFO AND ACCOUNT), (IV) MAKING FALSE STATEMENT  
16-1-00372-6: (I) PSP 3 (IN RE BARR)

The Prosecutor will dismiss Count/Cause:

*The defendant agrees that the Prosecutor's Statement of the Defendant's Criminal History is accurate and that all out-of-state convictions used to calculate the offender score are the equivalent of Washington felonies. If there are other convictions that exist and the defendant does not reveal them prior to pleading guilty, this agreement is void and the Prosecutor may proceed on all charges, and the defendant will be re-sentenced upon conviction according to his or her correct and complete criminal history. The defendant understands that this sentence must run consecutive to any sentence for any prior felony conviction, including any DOC sanctions. The defendant agrees to forfeiture of any weapon, contraband, or items used to facilitate the crimes charged.*

The Defendant agrees that his/her offender score is 5 FOR CASE 16-1-00244-4 and standard range is I: 57-75 MONTHS FOR CASE 16-1-00244-4, FOR ALL OTHER CHARGES 0-364 DAYS

The Prosecutor will recommend the following sentence:  The parties agree to the following sentence:

16-1-00244-4:  
(1) 57 MONTHS + 24 MONTHS DWE FOR TOTAL OF 81 MONTHS, CC, NCO WITH VICTIM, WAIVES APPEAL ON CASE 16-1-00244-4

15-1-01436-3:  
(1) 364/364, REST (AGREE TO AMOUNTS AND CAUSATION UP TO \$3,000 FOR ANY DAMAGES TO MOTOR CYCLE, IF MORE DEF CAN CONTEST)  
(II) 364/364  
(III) 364/364  
(IV) 364/3654

16-1-00372-6:  
(1) 364/364

The defendant agrees not to seek a SSOSA, DOSA, PSA or FOSA sentence.

The Prosecutor's recommendation is based upon the following:

The defendant agrees to pay restitution and agrees to causation on all charged counts including those dismissed as part of this agreement. The defendant agrees that restitution is \$ TBD . The defendant waives his presence at any restitution hearing and authorizes his/her attorney to agree to any final restitution amount. The Prosecutor will recommend all statutory costs, fines and fees, including a \$100 DV assessment for any DV case and a \$250/\$500 contribution to the Prosecutor's Drug Enforcement Fund in any VUCSA case.

[Signature]  
Defendant Date: 5/24

[Signature]  
Defense Attorney Date: 5/24/16

Plea date: 5/24/16

[Signature]

Signed,

MIKE NGUYEN WSBA# 31641  
DATED: 5/4/2016  
DEPUTY PROSECUTING ATTORNEY

DPA will accept *Alford* plea? Yes  No

ENDORSED FILED  
SUPERIOR COURT

MAR 23 2016

COWLITZ COUNTY  
STACI MYKLEBUST, Clerk

**SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY**

STATE OF WASHINGTON,

Plaintiff,

Cause No. 16-1-00372-6

v.

CORY DANIEL REED,

Defendant.

**PROSECUTOR'S STATEMENT  
OF DEFENDANT'S CRIMINAL  
HISTORY**

Crime	Sentencing Date	Adult / Juv.	Date of Crime	Cause Number
ROB 2	10/22/02	J	09/11/02	COWLITZ CO., WA 02-8-00563-5
TAMPERING WITH A WITNESS	05/26/09	A	03/14/09	COWLITZ CO., WA 09-1-00313-8
VUCSA - POSS	04/03/12	A	03/18/12	COWLITZ CO., WA 12-1-00284-1
UNLAWFUL POSS FIREARM 1 (36 MO PRISON)	11/07/12	A	09/20/12	COWLITZ CO., WA 12-1-01097-5

**PENDING: COWLITZ COUNTY SUPERIOR COURT CAUSE NUMBER**  
**15-1-01436-3 POSS STOL VEH**  
**TRAF STOL PROP 1**  
**16-1-00244-4 ROBBERY 1**  
**HARASS**  
**MAKING FALSE OR MISLEADING STATEMENTS TO A PUBLIC SERVANT**

I, STACI MYKLEBUST, Clerk of the Superior Court of Cowlitz County, State of Washington, hereby certify that this instrument is a true and correct copy of the original on file in my office. 3-27-2017  
*Staci M. Engh* Deputy

\*Prior convictions counted as one offense in determining the offender score. RCW 9A.525(5)(a)(i).

DATE:3/22/2016

SIGNED:

*Staci Myklebust*  
#31641

Office ID: 91091

## CERTIFICATE OF SERVICE

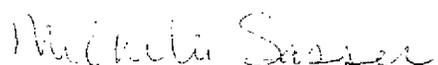
Michelle Sasser, certifies that opposing counsel was served electronically via the Division II portal:

Maureen M. Cyr  
Washington Appellate Project  
Melbourne Tower, Suite 701  
1151 Third Ave.  
Seattle, WA 98101  
[wapofficemail@washapp.org](mailto:wapofficemail@washapp.org)

[maureen@washapp.org](mailto:maureen@washapp.org)

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Kelso, Washington on March 29<sup>th</sup>, 2017.

  
\_\_\_\_\_  
Michelle Sasser

**COWLITZ COUNTY PROSECUTOR**  
**March 29, 2017 - 11:04 AM**  
**Transmittal Letter**

Document Uploaded: 7-491494-SKMBT\_65417032911051.pdf

Case Name: State of Washington v. Cory D. Reed

Court of Appeals Case Number: 49149-4

Is this a Personal Restraint Petition?    Yes     No

**The document being Filed is:**

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

Statement of Arrangements

Motion: \_\_\_\_

Answer/Reply to Motion: \_\_\_\_

Brief: \_\_\_\_

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: \_\_\_\_

Hearing Date(s): \_\_\_\_\_

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: Attachments with Cert of Service for Brief and Attachments

**Comments:**

2 of 2 Attachments with Cert of Service for Brief and Attachments

Sender Name: Michelle Sasser - Email: [sasserm@co.cowlitz.wa.us](mailto:sasserm@co.cowlitz.wa.us)

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

[maureen@washapp.org](mailto:maureen@washapp.org)

[wapofficemail@washapp.org](mailto:wapofficemail@washapp.org)