

NO. \_\_\_\_\_  
Pierce County Sup. Ct. No. 06-01-02134-9

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

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In re Personal Restraint of:

JARRELL MAURICE MARSHALL

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ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON FOR PIERCE COUNTY

The Honorable Thomas P. Larkin

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BRIEF OF PETITIONER

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A. STATUS OF PETITIONER

Jarrell Maurice Marshall, DOC #309755, applies for relief from personal restraint. This is Mr. Marshall's first court challenge to his restraint. Mr. Marshall is currently incarcerated at the Monroe Correctional Complex, where he is serving a prison sentence of 189 months under the jurisdiction of the Washington State Department of Corrections. The Court in which Mr. Marshall was sentenced is Pierce County Superior Court, under cause #06-1-02134-9. The Judgment and Sentence was issued on November 9, 2007, and is attached as Appendix A.

Mr. Marshall did not file a direct appeal following his conviction. Mr. Marshall contends his petition should be considered timely under RCW 10.73.100, as there has been a significant change in the law which is material to the conviction and sentence.

B. ASSIGNMENTS OF ERROR

1. The automatic decline process violates the Eighth Amendment bar on cruel and unusual punishment and the right to fundamental fairness guaranteed by the Fourteenth Amendment.

2. The application of the Sentence Reform Act ("SRA") in this case violates the Eighth Amendment bar on cruel and unusual punishment, the right to fundamental fairness guaranteed by the Fourteenth

Amendment and *State v. O'Dell*, 183 Wn.2d 680, 691-93, 358 P.3d 359 (2015).

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Case law from the United States Supreme Court holds that mandatory criminal processes that do not provide courts the discretion to consider a juvenile's youth and attendant circumstances violate the Eighth Amendment's prohibition on cruel and unusual punishment. Mr. Marshall was subject to an automatic decline process wherein his case was transferred to adult court without the court having any opportunity to consider his youth and attendant circumstances. Did this application of the auto-decline statute violate the Eighth Amendment?

2. When a child commits a crime and faces a sentencing scheme crafted for adult offenders, the sentencing court must consider whether the sentence should be adjusted in order to account for the offender's reduced blameworthiness and increased capacity for rehabilitation under controlling case law from the United States Supreme Court. The SRA, as it was applied in this case, provided no opportunity for consideration of these factors. Did this application violate the constitutional prohibition on cruel and unusual punishment?

D. THE PETITION IS TIMELY

Collateral attacks must generally be filed within one year of the date that the conviction became final. RCW 10.73.090. Mr. Marshall's conviction became final many years ago. But, there is an exception, however, for a "significant change in the law ... which is material to the . . . sentence" and a court "determines that sufficient reasons exist to require retroactive application of the changed legal standard." RCW 10.73.100.

In the instant case *O'Dell* is a significant change in the law, as the prior decisions prohibited youth as a mitigating factor. Until *O'Dell*~~Error! Bookmark not defined.~~ was decided, the Court of Appeals decisions in *Ha'mim*<sup>1</sup> and *Law*<sup>2</sup> stood as binding precedent in Washington. The *O'Dell* decision is certainly "material" to Mr. Marshall's sentence because the standard range adult sentence he received without being able to argue leniency for his youth is unconstitutional under *O'Dell*.

E. STATEMENT OF THE CASE

On May 10, 2006, Jarrell Maurice Marshall was charged as an accomplice to five counts, First Degree Murder; Assault in the First Degree; and three counts of Robbery in the First Degree. App. B 1-3; Information. Mr. Marshall was accused of acting as a lookout for, and

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<sup>1</sup> *State v. Ha'mim*, 132 Wn.2d 834, 847, 940 P.2d 633 (1997).

<sup>2</sup> *State v. Law*, 154 Wn.2d 85, 97-98, 110 P.3d 717 (2005).

therefore an accomplice of, his two co-defendants, Daniel Demetrius Harris and Cyril Delanto Walrond. *Id.*

The declaration for determination of probable cause alleged that co-defendant Walrond had a “sheet-rock hammer” and first hit one of two persons in the head from behind and took his wallet, while the other co-defendant Harris searched the victims’ car for valuable items. App. C at 1; Declaration for Determination of Probable Cause at 1. The Petitioner, Mr. Marshall was the lookout who signaled once that a car was coming, while the other two co-defendants took all the property from the victims. *Id.* Walrond then drove Harris and Marshall away from the scene. *Id.*

A short time later, Walrond and Harris confronted spotted a 55-year-old man, Dien Huynh, near his car. *Id.* When the man tried to run away, Harris first grabbed the man and put him in a headlock. *Id.* When the man escaped from the headlock and ran again, Walrond chased after him, stopped him, and struck him with his hammer 4 to 5 times on his head, severely cracking the man’s skull and causing his death days later. *Id.* The defendants took the victim’s wallet, credit cards, cash, and car keys. *Id.* When police found the defendants, each defendant confessed his involvement in the assaults and robberies. *Id.*

Ultimately, each defendant pled guilty to the offenses. Mr. Marshall pled guilty to the charges in an Amended Information: murder in

the second degree for the death of Mr. Huynh, and two counts of robbery for acting as a lookout for the robbery of the first two victims. Amended Information 1-2; Agreement Between Pierce County Prosecutor's Office and Jarrell Marshall at 1; Statement of Defendant on Plea of Guilty at 1-2. In exchange for his agreement to plead guilty to these offenses, Pierce County Prosecutors agreed to recommend a sentence of 165 months incarceration, the low end of the standard range for each offense (165-265 months; 51-68 months; 51-68 months, all to run concurrently).

With no criminal history, Jarrell was sentenced on November 9, 2007, and received a sentence of 189 months, or 24 months greater than the parties' joint recommendation of 165 months. Judgment & Sentence at 4.<sup>3</sup>

At sentencing, Mr. Marshall's current and future ability to pay was neither discussed nor considered before he was ordered to pay \$1200.00 in legal financial obligations ("LFOs") consisting of a \$500 Crime Victim Assessment, a \$100 DNA Database Fee, a \$400 Court-Appointed Attorney Fee, and a \$200 Criminal Filing Fee. Judgment & Sentence, Appendix A. The Judgment and Sentence also contained pre-printed language indicating that the costs of an appeal may be added and that

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<sup>3</sup> Jarrell Marshall did not file a direct appeal and the court reporter who was present at the sentencing hearing has since retired. Appendix D (Declaration Concerning Sentencing Transcript)

interest would accumulate from the date of judgment. *Id.* Mr. Marshall was also ordered to pay \$3,055.67 for a Crime Victim Compensation Claim, #VK88926.

Years later, on February 5, 2014, Jarrell filed *pro se* a Motion to Modify or Terminate Legal Financial Obligations. App. E. On August 8, 2014, the Honorable Phil Sorensen heard Mr. Marshall's request to amend the LFOs imposed. App. F; Restitution Hearing (RP) at 3. Mr. Marshall asked the court to set aside and terminate the legal financial obligations imposed and/or to modify the LFOs to forbear the interest imposed because of his poor finances and the financial hardship to him and his family. *Id.* at 4.

The State responded that Mr. Marshall had argued that fines can be amended based on his ability to pay, but that was not true. *Id.*, citing *State v. Lundy*,<sup>4</sup> the court must impose mandatory fines and has no authority to consider a defendant's ability to pay. *Id.* at 4-5. The court instantly interrupted the State and said that he would deny the motion to terminate any of the fees or restitution. *Id.* at 5.

The court then ruled that he would not allow any forbearance of the interest on restitution. *Id.* at 5-6. Concerning interest on legal financial obligations that were non-restitution, the State argued there was no actual

showing of a hardship for the offender or his immediate family. *Id.*; App. G, 2014 Order re LFO.

The court granted Mr. Marshall's motion as to the interest on the non-restitution LFOs. *Id.* at 7; App. G at 1.

F. ARGUMENT

1. SENTENCING A 16 YEAR-OLD CHILD TO AN ADULT STANDARD RANGE SENTENCE VIOLATES THE 8<sup>TH</sup> AMENDMENT, ARTICLE I, SECTION 14 OF THE WASHINGTON CONSTITUTION, and *STATE V. O'DELL* UNLESS THE SENTENCING COURT CONSIDERS THE CHILD'S YOUTH AND UNIQUE CIRCUMSTANCES AT THE TIME OF SENTENCING

The United States Supreme Court has held that “[c]hildren are constitutionally different than adults for purposes of sentencing.” *Miller v. Alabama*, \_\_\_ U.S. \_\_\_, 132 S.Ct. 2455, 2460, 183 L.Ed.2d 407 (2012); *Graham v. Florida*, 560 U.S. 48, 74, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010); and *Roper v. Simmons*, 543 U.S. 551, 578, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005); U.S. Const. amend. 8; Const. art. I, § 14. An “increasing body of settled research” in psychology and brain science show “fundamental differences” between the minds of children and adults that render lengthy sentences unconstitutional. *Miller*, 132 S.Ct. at 2464 n.5; *Graham*, 560 U.S. at 68.

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<sup>4</sup> 176 Wn.App. 96, 308 P.3d 755 (2013).

This case involves the clash between what science and facts have demonstrated versus mandatory processes dependent upon legal labels. Here, Jarrell Marshall was automatically given the legal label of “adult” and was therefore subject to all the mandatory criminal procedures that applied to adults, regardless of any concern that doing so would result in an injustice. Yet scientific facts demonstrated that he was not an adult. Well-established case law holds that his treatment in this case violated the Eighth Amendment.

## 2. JUVENILES ARE DIFFERENT THAN ADULTS.

Courts may not impose adult penalties on juveniles “as though they were not children” because categorically, they are less blameworthy. *Miller v. Alabama*, 567 U.S. \_\_\_, 132 S.Ct. 2455, 2464, 2466, 183 L.Ed.2d 407 (2012); *Roper v. Simmons*, 543 U.S. 551, 572, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005).

Youth is a time of immaturity, underdeveloped responsibility, impetuousness, and recklessness. *Miller*, 132 S.Ct. at 2467. “It is a moment and condition of life” when people are vulnerable, and most susceptible to peer pressure and psychological damage.<sup>5</sup> *Roper*, 543 U.S.

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<sup>14</sup> Researchers have established a significant connection between adolescent crime and peer pressure. Research demonstrates that “most adolescent decisions to break the law take place on a social stage where the immediate pressure of peers is the real motive for most teenage crime.” Indeed, “group context” is the single most important characteristic of adolescent criminality. *Id.* at 281. Although a

at 553; *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010). These “developmentally normal impairments in making decisions can be exacerbated” when they are under stress.<sup>6</sup> Youths are “less able to escape from poverty or abuse” and their “characters are not well formed.” *Miller*, 132 S.Ct. at 2464, 2468; *Graham*, 560 U.S. at 68. They have a comparative lack of control over their environment, and therefore “have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.” *Roper*, 543 U.S. at 553.

Three traits are particularly relevant to sentencing. First, children are “irresponib[le],” “immature” and “impetuous.” *Roper*, 543 U.S. at 569. Second, children are susceptible to the harmful influences of family and peers. *Id.* Not only are they psychologically vulnerable, they lack the power to extricate themselves from negative environments. *Id.* Third, children’s personalities are in flux before maturity. *Id.* at 570. Portions of the brain that regulate behavior develop through late adolescence. *Graham*, 560 U.S. at 68. The malleability means that children are more

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young person may be able to discriminate between right and wrong when alone, resisting temptation in the presence of others requires social experience; it is a distinctive skill that many adolescents have not yet fully developed.

Marsha L. Levick and Elizabeth-Ann Tierney, *The United States Supreme Court Adopts a Reasonable Juvenile Standard in J.D.B. v. North Carolina for Purposes of the Miranda Custody Analysis: Can a More Reasoned Justice System for Juveniles Be Far Behind?* 47 Harv. C.R.-C.L. L. Rev. 501, note 49 (2012). (Internal citations omitted).

<sup>6</sup> Levick and Tierney, *supra* at 509 (2012).

likely to change than adults. *Id.* Only a small percentage of children who “engage in illegal activity develop entrenched patterns of problem behavior.” *Miller*, 132 S.Ct. at 2464 (internal quotations omitted.).

Neurological and physiological evidence shows that these “qualities that distinguish juveniles from adults do not disappear when an individual turns 18.” *Roper*, 543 U.S. at 574.<sup>7</sup> In fact, “the brain does not reach full maturation until the age of 25.”<sup>8</sup>

In the present case, Jarrell was only 16 at the time of the offense. What the sentencing court did not consider was all the mitigating circumstances that existed because of Jarrell’s youth. Private Mitigation

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<sup>7</sup> “Physiological research suggests that age-based brain maturation, which may be linked to maturity of judgment factors does not occur until the early twenties.” *Id.* at 79. The prefrontal cortex, the portion of the brain which controls executive functioning, “remains structurally immature until early adulthood, around the mid-twenties. Until that time, adolescents’ decision-making and responses to stimuli are largely directed by ... more primitive neurological regions [of the brain].” Nick Straley, *Miller’s Promise: Re-evaluating Extreme Criminal Sentences for Children*, 89 Wash. L. Rev. 963, 971 (2014).

<sup>8</sup> Continued immaturity beyond the age of 18 is recognized in many other areas of the law, such as when weapons, alcohol or money is involved. A person must be 21 to obtain a concealed weapons permit. RCW 9.41.070. Only those over the age of 21 may purchase alcohol, rent a car without strict conditions, or rent a hotel room. RCW 66.44.290, [http://www.dollar.com/en/Car\\_Rental\\_Information/Main/Rent\\_a\\_Car\\_Under\\_25.aspx](http://www.dollar.com/en/Car_Rental_Information/Main/Rent_a_Car_Under_25.aspx); <http://www.hyatt.com/hyatt/customer-service/faqs/reservations.jsp>. The Washington State Patrol limits applicants to those over age 21. <http://www.wsp.wa.gov/employment/requirements.htm>.

Specialist Janell Wagner was retained by Mr. Marshall to conduct a mitigation investigation. Appendix H, Declaration of Janell Wagner at 2. She reviewed police reports, newspaper articles, case documents from cause number 06-1-02136-5, and interviewed Jarrell Marshall, his wife, GuruAmrit Ramos, his mother Yves Nichols, his sister D'Andrea Parker, as well as other family and friends. *Id.* at 2-3.

As Ms. Wagner's report indicates, what the superior court did not hear at Jarrell's sentencing was that Jarrell's parents were very young when they had Jarrell (mother 15, father 17). *Id.* at 5. Jarrell did not know his father, Maurice Marshall, because he was incarcerated for drug and pistol charges when Jarrell was born. *Id.* Jarrell's mother left California at that time and moved to Washington State, where she had Jarrell's brother. *Id.*

At the age of three, Jarrell's mother married Vincent Sr., but Jarrell never got along with his stepfather and never felt any connection to him. *Id.* at 5. But Vincent Sr.'s eldest son, Vincent Jr. did become a real brother to Jarrell, who he looked up to and wanted to please. *Id.* at 5-6. When Jarrell was 11, Vincent Jr.'s best friend was incarcerated for robbery, and Vincent Jr. soon ran away from home and Jarrell never again heard from him. *Id.*

Jarrell's maternal aunt was killed by the D.C. Snipers; this made him fear for his life and was a traumatic experience again for Jarrell. *Id.* at 6. Jarrell got in trouble at school and he acted out at home. Vincent Sr. refused to let Jarrell join the sports he wanted to join and, finally, Jarrell left home at 15 years of age to move in with his maternal grandmother and great-grandmother. *Id.* at 6, 7. According to the Mitigation Specialist, "[d]evelopmentally, Jarrell's thoughts and emotions were filtered through and processed in the immature fashion that is notable of a teenage brain." *Id.* at 8.

Jarrell's immaturity at the age of 16 was also apparent in the peer pressure he experienced and his need to fit in with the older boys at school. Jarrell looked up to older boys at school, including his co-defendant, Cyril Walrond. Without a strong family support system, Jarrell got into trouble and Jarrell did not have anyone to really help him figure out to guide him or make him feel accepted. *Id.* Instead, he wanted to be accepted by his peers even when he knew that some of the things they did were not "right," but peer pressure was strong and he did not want to be shunned by his peers. *Id.*

As Ms. Wagner reported in her investigation, Jarrell wanted to go along with his friends who were all that mattered to him at the time. *Id.* He was young, impulsive, failed to understand the consequences and risks

associated with hanging out with the older boys. *Id.* at 9. He did not know that Cyril would hit any person with a hammer and cause any injury. *Id.* When Cyril did, he was surprised, and even believes that Cyril was surprised that he hit the people being robbed so hard. *Id.*

3. CRIMINAL PROCESSES THAT FAIL TO CONSIDER YOUTH AND ITS ATTENDANT CHARACTERISTICS VIOLATE THE EIGHTH AMENDMENT

Relying extensively on the well-research opinions of social scientists and the Eighth Amendment to the United States Constitution,<sup>9</sup> recent United States Supreme Court cases hold that, not only *are* juveniles different than adults, they must also be *treated* differently in the justice system.<sup>10</sup>

The Eighth Amendment “reaffirms the duty of the government to respect the dignity of all persons” and “guarantees individuals the right not to be subjected to excessive sanctions.” *Roper*, 543 U.S. at 560-61. The right to be free from excessive sanctions “‘flows from the basic precept of justice that punishment for crime should be graduated and proportioned’ to

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<sup>9</sup> The Eighth Amendment states: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.” U.S. Const. Amendment VIII. The Eighth Amendment applies to the states under the Fourteenth Amendment’s incorporation doctrine. *Graham*, 543 U.S. at 560, quoting *Robinson v. California*, 370 U.S. 660, 82 S.Ct. 1417, 8 L.Ed.2d 758 (1962)

<sup>10</sup> *Miller*, 132 S.Ct. at 2466; *Graham*, 560 U.S. at 68, 71; *Roper*, 543 U.S. at 569.

both the offender and the offense.” *Miller*, 132 S.Ct. at 2463, quoting *Roper*, 543 U.S. at 560. This “concept of proportionality is central.” *Miller*, 132 S.Ct. at 2463.

The Eighth Amendment is not static but,

like other expansive language in the Constitution, must be interpreted according to its text, by considering history, tradition, and precedent, and with due regard for its purpose and function in the constitutional design.

*Roper*, 543 U.S. at 560. When considering whether punishment is cruel and unusual, courts “must look beyond historical conceptions to the evolving standards of decency that mark the progress of a maturing society” because

[t]he standard of extreme cruelty is not merely description, but necessarily embodies a moral judgment. The standard itself remains the same, but its applicability must change as the basic mores of society change.<sup>11</sup>

4. THE SENTENCING FRAMEWORK  
APPLICABLE IN THIS CASE BARRED  
MEANINGFUL CONSIDERATION OF YOUTH  
IN VIOLATION OF THE EIGHTH  
AMENDMENT

The Sentencing Reform Act was enacted to allow judges to impose a sentence on adults that presumes a standard range sentence. Youth is irrelevant under the presumptive guideline range under the SRA. RCW

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<sup>11</sup> *Graham*, 560 U.S. at 58, quoting *Kennedy v. Louisiana*, 554 U.S. 407, 128 S.Ct. 2641, 171 L.Ed.2d 525 (2008); Levick and Tierney, *supra* at 507 (2012).

9.94A.510; *State v. O'Dell*, 13 Wn.2d 680, 691-93, 358 P.3d 359 (2015). The SRA provides the court the sentencing authority for any defendant in adult court. *State v. Ronquillo*, 190 Wn.App. 765, 781-82 (2015); RCW 9.94A.340; RCW 9.94A.505. While a child's case may be transferred to adult court, standard ranges sentences under the SRA were intended for adults. *O'Dell*, 183 Wn.2d at 691; RCW 13.04.030(1)(e).

Under the auspices of the SRA, Jarrell was tried in a system that denied the Court any opportunity to consider his youthfulness. Jarrell's case was auto-declined and filed in adult court. Once there, he was subject to the SRA, as it governs sentencing for all persons in adult court, regardless if the individual is an adult or a child.

Under the SRA, a standard range sentence presumptively applies unless the court finds substantial and compelling reasons to depart from it. *State v. Law*, 154 Wn.2d 85, 94, 110 P.3d 717 (2005) ("Generally, a trial court must impose a sentence within the standard range."); RCW 9.94A.535; see Former RCW 9.94A.390 (1993). But as interpreted by current case law, the SRA does not permit a court to depart from the standard range for "personal factors" like an offender's age and individual circumstances. *Law*, 154 Wn.2d at 97-98. The Court in *Law* relied upon

*State v. Ha'mim*, as it also precluded consideration of youth or immaturity as a mitigating factor. See 132 Wn.2d 834, 847, 940 P.2d 633 (1997).<sup>12</sup>

*Ha'mim* explained that while young adults tend to exercise bad judgment, age alone “may not be used as a factor” to justify a reduced sentence. 132 Wn.2d at 846. Instead, a lesser sentence based on youth could not be considered unless the defendant proves that age significantly impaired the ability to appreciate the wrongfulness of his or her conduct or conform to the law, which is a “stringent test.” 132 Wn.2d at 846; *State v. Rogers*, 112 Wn.2d 180, 185, 770 P.2d 180 (189).

In fact, the *Ha'mim* Court approvingly quoted a Court of Appeals Division One case, labeling it “absurd” for a teenager to get a reduced sentence based on age, because a young person’s impulsivity and immaturity applies merely to “common teenage vices,” not serious offenses. *Id.* at 846-47 (relying on *State v. Scott*, 72 Wn.App. 207, 218-19, 866 P.2d 1258 (1993)).

The *O'Dell*~~Error! Bookmark not defined.~~ Court changed the law under *Ha'mim*, now acknowledging that youth may indeed be a mitigating factor even for young adults, if they meet the stringent test that age significantly impaired their ability to conform their conduct to the law.

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<sup>12</sup> *Ha'mim* held that “the age of the defendant does not relate to the crime or the previous record of the defendant” and finding that it could not “*seriously* be” contended that youth affected the maturity of judgment. (Italics in the original.) 132 Wn.2d at 847.

*Ronquillo*, 190 Wn.App. at 789. The defendant in *O'Dell* was 18, and therefore an “adult” under the law, but still was able to argue youth was a factor. *O'Dell*'s sentence did not raise the same constitutional issues present when sentencing a 16-year-old, like Jarrell.

*Law* and *Ha'mim* were the law at the time Jarrell was charged and later pled and sentenced. Under the precedent at the time, Judge Larkin would not consider Jarrell's youth as a mitigating factor. Instead, the court was left with its only option at the time, which was to impose a standard range sentence.

In the instant case, the sentencing hearing could not be transcribed. App. D (Declaration of Jason Saunders). Judge Larkin is retired from the bench as is the court reporter who was present at the sentencing hearing, Amy Roetto is retired and was unable to locate any record of the hearing. *Id* at 1-2. The undersigned attorney attempted to recreate the record, but neither defense counsel nor the prosecutor's office had any recollection of the hearing. *Id* at 2; Declaration of Jason Saunders at 2.

Jarrell does remember, however, that the family of the deceased victim, Dien Huynh, asked the court for leniency for Jarrell due to his very young age at the time of the offense (16) as well as his minor participation in the offense as a lookout and not the person who chased down Mr. Huynh nor the person who hit him so hard with a hammer that his skull

fractured causing Mr. Huynh's death. App. I; Declaration of Jarrell Marshall at 1-2.

Jarrell's recollection of the Huynh's family request for leniency due to Jarrell's age and minor participation is corroborated by Alison Haack. Ms. Haack told Ms. Wagner that the family asked for leniency for Jarrell but that Jarrell still received a standard range sentence for 189 months. App. H at 12 (Wagner Report).

This Court must follow the spirit of *Miller*, which requires sentencing courts to evaluate the juvenile's individual circumstances and impose a sentence proportional to his culpability.<sup>13</sup> 132 S.Ct. at 2468. A youth's individual circumstances is a "relevant mitigating factor of great weight." *Miller*, 132 S.Ct. at 2467 (quoting *Eddings v. Oklahoma*, 455 U.S. 104, 116, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982)) The court "must" also take into account the child's "background and emotional development." *Miller*, 132 S.Ct. at 2467. Criminal procedure laws that do not permit this are flawed. *Miller*, 132 S.Ct. at 2465; *Graham*, 130 S.Ct. at 2027.

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<sup>13</sup> Generally, a standard range sentence may not be appealed. RCW 9.94A.585 (1). But that statute does not place an absolute bar on the right to appeal; it only precludes review of challenges to the amount of time imposed when the crime is within the standard range. *State v. McGill*, 112 Wn.App. 95, 99, 47 P.3d 173 (2002). A defendant may challenge the procedure by which a sentence within the standard range is imposed. *State v. Mail*, 121 Wn.2d 707, 712-13, 854 P.2d 1042 (1993)

The lower court's inability to consider Jarrell's youthfulness also left it unable to meet the SRA's requirement that sentences be proportionate. RCW 9.94A.010.<sup>14</sup> The *Miller* line of cases tells us that, because of the fundamental distinction between children and adults, the imposition of the same punishment for both classes ultimately results in harsher punishment for the child. *Miller*, 132 S.Ct. at 2468. *Miller* makes clear that the failure to consider youthfulness *causes* disproportionality and, therefore, violates the constitution. *Miller*, 132 S.Ct. at 2466.

*O'Dell* "significantly revised" *Ha'mim*, acknowledging that youth may be a mitigating factor even for young adults. In *O'Dell*, the defendant was 18 years old, and therefore technically an adult. But for Jarrell's case, he was 16 at the time of his offense and not a young adult, but rather a child. Therefore, under the analysis of *Miller*, youth not only *could* be considered as a mitigating factor, but it *must* be considered. Because "children are constitutionally different from adults for purposes of sentencing" the sentencing court is substantively "required" to "take into account how children are different. *Miller*, 132 S.Ct. at 2469; *see Montgomery*, 136 S.Ct. at 733.

Here, the sentencing court did not consider youth as a factor. Jarrell was left with an adult sentence of 189 months for a murder in the

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<sup>14</sup> The statute provides that one of the SRA's purposes is to make sure that sentences are

second degree conviction and two robberies for which he was only a lookout accomplice; the record showed that his elder co-defendants, Harris and Walrond actually held or assaulted the victims. App. J; Marshall Interview at 1-2. In discovery provided by the State in Jarrell's case, the Statement of Carl Schmidt, one of the victim's of the robberies at the Waterfront, stated Jarrell was the look out to make sure nobody was coming while the other two boys robbed the victims of their belongings. App. K at 5-6, 8-11; Statement of Carl Schmidt at 5-6, 8-11. Police Officer Agnes Rogers in her interview of Cyril Walrond also heard that Jarrell was simply the look out during the robbery, while Walrond and Harris injured Mr. Schmidt and took all the property. App. L; Officer Agnes Rogers Police Supplemental Report at 6.

Later when Walrond and Harris chased after Mr. Huynh, stopped him and hit him in the head with a hammer, Jarrell was also just a look out at that incident as well. *Id.* at 7. During the interview of Jarrell, Jarrell told Officer Kathy Porter that he was surprised by the initial injury to Mr. Schmidt and had never seen Cyril injure any one before. App. M at 4; Police Supplemental Report of Officer Kathy Porter at 4. A short time later, Jarrell also watched Harris and Walrond chase down and hit Mr.

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"commensurate with the penalties imposed on others committing similar offenses."

Huynh with a hammer. *Id.* at 5; see also App. J at 1-2 (Marshall Interview).

Despite the fact that Jarrell was the youngest of the three boys (16 years old), and despite the fact that he only served as a lookout, the sentencing framework found in the SRA and made applicable to Jarrell's case after he was auto-declared barred the court from any meaningful consideration of his youth and attendant circumstances, in violation of the Eighth Amendment. *Miller*, 132 S.Ct. at 2465, 2468; *Graham*, 130 S.Ct. at 2027. Prior case law limiting a court's ability to apply *Montgomery*, *Miller*, or *Graham* may be deemed incorrect and harmful under evolving standards of decency. *City of Federal Way v. Koenig*, 167 Wn.2d 341, 343, 217 P.3d 1172 (2009).

Since *Miller*, Courts have listed factors a judge should consider when sentencing a child: 1) the defendant's "chronological age and its hallmark features – including immaturity, impetuosity, and failure to appreciate risks and consequences, 2) family and home environment, including abuse and neglect, lack of adequate parenting or education, and susceptibility to psychological damage or emotional disturbance, 3) the circumstances of the homicide offense, including the extent of participation in the conduct and the way familial and peer pressure may have affected the child; and 4) evidence bearing on "the possibility of

rehabilitation,” which includes the extent or lack of criminal history.

*Miller*, 132 S.Ct. at 2468-69; *Bear Cloud v. State*, 294 P.3d 36. 47

(Wyoming 2013); *People v. Gutierrez*, 324 P.3d 245, 268-69 (Ca. 2014).

In the present case, the superior court failed to consider any of the factors listed above that *Miller* cases have held must be considered when the judge sentences a child. First, the superior court did not consider that Jarrell was only 16 and the youngest of the three children charged in the offenses. The Court did not consider or listen to information about Jarrell’s immaturity or his failure to appreciate risks and consequences; Jarrell’s family and home environment, including not only his lack of a positive father figure but also a lack of adequate parenting and the trauma he endured when his stepbrother left him and his aunt was murdered by the D.C. Sniper. Similarly, the superior court did not consider the circumstances of the robberies or homicide offenses, including the fact that Jarrell was not the person who injured or chased down the victims at all, but was there mainly as a lookout. The superior court never considered all the familial and peer pressure that did affect Jarrell. Finally the superior court never considered any evidence bearing on “the possibility of rehabilitation,” which includes the extent or lack of criminal

history. *Miller*, 132 S.Ct. at 2468-69; *Bear Cloud*, 294 P.3d at 47; *People v. Gutierrez*, 324 P.3d 245, 268-69 (Ca. 2014).

5. THE EIGHTH AND FOURTEENTH AMENDMENTS WERE VIOLATED BY AN AUTO-DECLINE STATUTE WHICH, AS IT WAS APPLIED IN THIS CASE, DENIED THE COURT ANY OPPORTUNITY TO CONSIDER THE ATTRIBUTES OF YOUTH

At the time of the crimes, Jarrell was 16 years old. App. N; Amended Information. Under RCW 13.04.030(1)(e)(v)(A), the “automatic decline” law, Jarrell was charged, tried, convicted, and sentenced as an adult, without any consideration about his youth or specific facts concerning Jarrell as an individual. Jarrell asks this Court to reverse his conviction because the procedures used to charge, convict and sentence him as an adult are in violation of the Eighth Amendment and due process of law.

In 1977, the legislature gave juvenile courts “exclusive original jurisdiction” over all cases involving youthful offenders. *State v. Posey*, 174 Wn.2d 131, 137, 272 P.3d 840 (2012). But the auto-decline statute provides an exception. When the prosecutor charges a 16 or 17-year-old child with offenses enumerated in RCW 13.40.110 (2)(a) through (c), the “adult criminal court shall have exclusive original jurisdiction.” RCW 13.04.030 (1)(e)(v)(E)(1). The enumerated offenses include Jarrell’s

crimes of conviction of Second Degree Murder and First Degree Robbery under RCW 13.04.030(1)(e)(v)(A) and (C). App. N .

Although the auto-decline statute makes a prosecutor's charging decision critically important, that decision is made early in the process. Under the present statutory scheme, there is no opportunity for the defense to provide information about how the defendant's youth may have affected his culpability. Importantly, the court is not allowed to make any individualized determination on whether a particular juvenile who alleged to have committed a particular crime in a particular way belongs in adult court.

After Jarrell was charged, the legislature amended RCW 13.04.030 (e)(V)(E)(III) to provide a way, at least theoretically, for the court to have an opportunity to consider the attributes of youth.<sup>15</sup> But here, the court never had any way to consider youthfulness in connection with jurisdiction.

In nearly any case, the consequences of a decline are severe. *State v. Holland*, 30 Wn.App. 366, 373, 635 P.2d 142 (1981), *aff'd*, 98 Wn.2d

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<sup>15</sup> As amended, RCW 13.04.030 (e)(V)(E)(III) provided:

The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (E) of this subsection and remove the proceeding back to juvenile court with the court's approval.

507, 656 P.2d 1056 (1983) (“The consequences of a decline of jurisdiction may be severe...the [juvenile] procedures are not as punitive as adult criminal proceedings.”) As this case exemplifies, Washington’s current sentence scheme not only forces judges to *try* certain juveniles as adults, it also forces judges to *sentence* these juveniles as adults.<sup>16</sup>

With a plea of guilty to murder in the second degree and two robbery in the first degree charges, had Jarrell been adjudicated in juvenile court rather than adult court, he would have received a 180 *week* sentence (41.4 months) for the murder 2 offense, and 103 to 129 *weeks* (23.7 to 29.7 months) for the two first degree robbery adjudications. RCW 13.40.0357.<sup>17</sup> Instead, when Jarrell was sentenced in adult court for

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Albeit, the prosecutor still has veto power because state approval is required. Without state approval, no process allows a juvenile’s youthfulness to be presented to the court for consideration in connection with jurisdiction.

<sup>16</sup> RCW 9.94A.505 sets out legislatively-proscribed rules for calculating sentences. RCW 9.94A.505(1) says that felonies should be punished in accordance with this chapter. RCW 9.94A.505(2)(a)(1) creates a presumption that judges will issue a sentence within the standard range. If the court wants to depart from the standard sentencing range, it must do so in compliance with RCW 9.94A.535. The court must find, “considering the purposes of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.” It also requires that the sentencing court set forth reasons for its decision in written findings of fact and conclusions of law. Moreover, the court can only go lower than the standard range “if it finds that mitigating circumstances are established by a preponderance of the evidence.” RCW 9.94A.535(1). In short, judges are bound by the SRA’s sentencing guidelines.

<sup>17</sup> According to the Juvenile Disposition Manual applicable here, Murder in the Second Degree is a Level A+ offense. Juveniles who are 15-17 years old face a 180 week standard range sentence for Level A+ offenses or until they reach the age of 21, when they must be released. Robbery in the First Degree is a Level A offense.

these offenses, he received a standard range sentence of 165 to 265 *months* for murder in the second degree and 51 to 68 *months* for the robbery in the first degree counts.<sup>18</sup> App A at 2; Judgment & Sentence at 2 .

The prejudicial effects of adult court extend beyond the incarceration imposed. For example, termed “adjudications: rather than “convictions” because of the important advantages that flow from juvenile court, juvenile prosecutions can be diverted. RCW 13.40.080. Juveniles receive smaller legal financial obligations. RCW 7.68.035 (1)(a) and (b). Juvenile adjudications can be more readily sealed or vacated. *Compare* RCW 13.50.050 (11) and (12) with RCW 9.96.060; RCW 9.94A.040 and GR 15. Juvenile adjudications do not constitute strike offenses. RCW 9.94A.570. Juvenile adjudications are not scored as high as adult offenses if the juvenile reoffends as an adult. RCW 9.94A.525. Finally, in an adult prison, juvenile offenders are about five times more likely to be raped or

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Juveniles face a 103 to 129 week standard range for Level A offenses. Those sentences are served consecutively, but RCW 13.40.180 limits the overall sentence to 300% of the standard range. *See* RCW 13.40.0357; RCW 9A.44.073; RCW 13.40.180.

<sup>18</sup> *Posey II* provides another example of the difference between juvenile and adult sentencing consequences. Posey was found guilty of two counts of second degree rape. The adult criminal court sentenced him to indeterminate life sentences with a minimum term of 119 months. 174 Wn.2d at 134. On remand, a standard range juvenile disposition of 60 to 80 weeks was imposed. *Id.* at 135. Even if Posey would have been released after the minimum term of his (overturned) adult sentence, he would have served more than six times as long in confinement than his maximum sentence under the Juvenile Justice Act, and that longer confinement would have been in the adult prison system.

sexually abused and significantly more likely to commit suicide, which says nothing of the violence they may witness while confined therein.<sup>19</sup>

Historically, courts have rejected constitutional challenges to the auto-decline statute.<sup>20</sup> But the evolving understanding about juvenile brain development undermines the reasoning relied upon by the legislature when it created auto-decline. The law fails to fully recognize the unique qualities of youth as described in *Miller* and *Graham*, holding that the constitution is violated if criminal procedures do not permit *the courts* (as opposed to the legislature or the prosecutor) discretion to draw distinctions between children and adults. While the *Miller*, *Roper*, and *Graham* line of cases are principally about mandatory punishments (such as a mandatory sentence of death or life without parole), the auto-decline statute, as it was applied here, conflicts with the reasoning behind these decisions. They strongly suggest that a transfer process that lacks effective judicial oversight and opportunity to consider the extent to which a particular defendant's youthfulness affects his or her creditability is constitutionally

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<sup>19</sup> U.S. Dep't of Justice, Report of the Attorney General's National Task Force on Children Exposed to Violence 190 (Dec. 12, 2012), available at <http://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

<sup>20</sup> See *Posey*, 174 Wn.2d at 131 (adults courts can exercise discretion over juvenile criminal defendants in a manner that is consistent with Washington State Const. art. IV, § 6); *In Re Boot*, 130 Wn.2d 553, 572-74, 925 P.2d 964 (1996) (rejecting equal protection, and substantive and procedural due process challenges to auto-decline.)

infirm and must be reconsidered. As the Juvenile Justice Delinquency and Prevention Act Fact Book explains:

Following the logic of the high court's ruling [in *Roper v. Simmons*] and its roots in a clearer understanding of the adolescent mind, it becomes important for juvenile court professionals and practitioners engaged in delinquency prevention and rehabilitation to re-examine each point of contact or interaction with adolescents – to ensure that developmentally appropriate responses are in place.<sup>21</sup>

As *Miller*, *Roper*, and *Graham* make clear, because the Eighth Amendment is ever evolving, courts must look to “evolving standards of decency.” *Graham*, 560 U.S. at 58; *Roper*, 543 U.S. at 560. It is therefore relevant that reconsideration of the auto-decline statute is supported by research which, over several decades, has generally failed to establish that juvenile transfer laws deter crime:

A separate body of research, comparing postprocessing outcomes for criminally prosecuted youth with those of youth handled in the juvenile system, has uncovered what appear to be counter-deterrent effects of transfer laws. Six large-scale studies summarized by Redding – employing a range of different methodologies and measures of offending, and focusing on a variety of jurisdictions, populations, and types of transfer laws – have all found greater overall recidivism rates among juveniles who were prosecuted as adults than among matched youth who were retained in the juvenile system. Criminally prosecuted youth were found to have recidivated sooner and more frequently. Poor outcomes like these could be attributable to a variety of causes, including the direct and

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<sup>21</sup> The JJDP A is part of the U.S. Department of Justice's Office of Justice Programs. A copy of the JJDP A document, which contains source citations and links to additional key resources on the science of adolescent brain development, is attached as App. O. The quoted language can be found on page 3.

indirect effects of criminal conviction on the life chances of transferred youth, the lack of access to rehabilitative resources in the adult corrections system, and the hazards of association with older criminal “mentors.”<sup>22</sup>

Reconsideration of such an arcane law is also supported by public sentiment. Recently, the MacArthur Foundation, the Center for Children’s Law and Policy and Models For Change published the results of new polling data “on Americans’ attitudes about youth, race and crime.” A copy of the Executive Summary, titled “Potential for Change: Public Attitudes and Policy Preferences for Juvenile Justice Systems Reform”, is attached as Appendix P. The data “revealed strong support for juvenile justice reforms that focus on rehabilitating youthful offenders rather than locking them up in adult prisons.” App. P at 1. “More than seven out of 10 [people] agreed that ‘incarcerating youth offenders without rehabilitation is the same as giving up on them.’” App. P at 3. The provision of treatment, services and community supervision was, overwhelmingly, seen as a more effective way of rehabilitating youth than incarceration. *Id.* at 5. Of all the options provided for rehabilitating youth, the least number of people chose “incarcerating [them] in adult jails and prisons.” *Id.* at 6.

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<sup>22</sup> U.S. Dep’t of Justice, *Juvenile Offenders and Victims: National Report Series, Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting*, (September 2011), at 26.

*Miller* and its progeny do not dictate a particular outcome at any decline hearing. But they do require that the decline process, because it is a criminal process, allow a court to consider a juvenile's individual circumstances. Because the auto-decline statute applied to Jarrell did not permit that consideration, it is irreconcilable with advancements in the understanding of juvenile brain development and the corresponding dictates of the Eighth Amendment's ban on cruel and unusual punishment.

*Boot*, decided in 1996, applied the Eighth Amendment and due process of law analysis at the time and did not recognize any difference between an adult and a juvenile. *Boot*, 130 Wn.2d at 569. Interestingly, until 1994, children under the age of 18 were automatically tried in and sentenced in juvenile court, unless and until the juvenile court "declined" jurisdiction. *Boot*, 130 Wn.2d at 562-63. The decline of juvenile jurisdiction could only occur after a hearing wherein the juvenile court would consider factors relating to the nature of the crime as well as the specific offender before the court, such as the sophistication and maturity of the juvenile, his living situation, history, emotional development and other circumstances. See *State v. Williams*, 75 Wn.2d 604, 453 P.2d 418 (1969); *Kent v. United States*, 383 U.S. 541, 86 S.Ct. 1045, 16 L.Ed.2d 84 (1966).

Tragically, in the mid- to late-1990s, there was an irrational national fear of juvenile “superpredators”, which led to the Legislature enacting the “automatic decline” statute. Under RCW 13.04.030(1)(e)(v), all children who are 16 or 17 when they commit certain crimes are categorically deemed to be adults and tried and sentenced as adults. *Posey*, 161 Wn.2d at 643.

*Miller*, *Graham*, and cases that have been rendered recently in light of United States Supreme Court precedent, fully undermine the analysis used in *Boot*. In *Graham*, the United States Supreme Court held that “criminal procedure laws that fail to take defendant’s youthfulness into account at all would be flawed.” *Graham*, 560 U.S. at 72-73. *Graham* is directly on point for the auto-decline statute, which dictates adult court and adult sentencing for any 16 year old who commits certain crimes, without any consideration whatsoever of the individual, youth, or his unique circumstances.

The Washington Supreme Court has granted review in *State v. Zyion Houston-Sconiers and Treson Roberts*, No. 92605-1. Argument is currently scheduled for October 18, 2016. In *Houston-Sconiers* in Division 2 of the Court of Appeals, two members of this Court found that the automatic decline statute was not unconstitutional, while Bjorgen, J., dissented. Jarrell requests this Court reverse its ruling in *Houston-*

*Sconiers* and hold the automatic decline procedures used to force Jarrell into adult court facing an adult sentence without consideration of his youth is contrary to precedent.

6. THE COURT SHOULD ORDER ONE OF TWO ALTERNATIVE REMEDIES

The question of whether the current auto-decline statute violates the Eighth Amendment need not be resolved in this case, as the version applied to Jarrell was more restrictive. Neither is this Court required to strike down the SRA as a whole, just because its application, in this case, violated the Eighth Amendment. Instead, this Court has the first option of reversing Jarrell's conviction and remanding his case to the juvenile court. Alternatively, this Court can remand this case to adult court with specific instructions to guide the court's exercise of discretion in a manner consistent with *Miller* and its progeny.

a. Remand to Juvenile Court. The Washington Supreme Court has previously remanded a case to juvenile court despite the fact that, during the pending of the appellate proceedings, the defendant reached the age of majority. In *State v. Posey*, a 16-year-old was charged with a serious violent offense, which required the juvenile court to automatically decline jurisdiction of the child as well as other crimes. 161 Wn.2d 638, 641, 167

P.3d 560 (2007) (*Posey I*). The adult court lost jurisdiction over Posey when he was later acquitted of the automatic decline charge. *Id.* at 641, 644-47. Nonetheless, Posey was not remanded to juvenile court by the trial court but was sentenced as an adult. *Id.* at 641. This Court affirmed the conviction but remanded to juvenile court for resentencing. *Id.* at 649.

The Court remanded to juvenile court even though Posey turned 18 during the pendency of the appeal. *Compare Id.* at 641 (He was 16 at the time of the crime) with *State v. Posey*, 130 Wn.App. 262, 122 P.3d 914 (2005), *aff'd in part*, 161 Wn.2d 638, 641, 167 P.3d 560 (2007) (over two years lapsed between the decisions). In fact, prior to issuance of the mandate in *Posey I*, Posey turned 21. *State v. Posey*, 174 Wn.2d 131, 133, 272 P.3d 840 (2012) (*Posey II*). Although RCW 13.40.300 does not provide for juvenile court jurisdiction beyond age 21, except with regard to restitution, this Court affirmed the superior court's imposition of a juvenile sentence on remand. *Id.* at 133, 142.

Other federal and state cases also show that the remedy for constitutional violations should be tailored to the injury suffered. In *Lafler v. Cooper*, the Court held remedy for ineffective assistance of counsel “must ‘neutralize the taint’ of a constitutional violation.” \_\_\_ U.S. \_\_\_, 132 S.Ct. 1376, 182 L.Ed.2d 398 (2012); quoting *United States v. Morrison*, 449 U.S. 361, 365, 101 S.Ct. 665, 66 L.Ed.2d 564 (1981). In

that case, Lafler rejected a plea offer after receiving ineffective legal advice, then had lost at trial, and received a sentence that was much worse than that offered in the plea. 132 S.Ct. at 1383. The Court found that the proper remedy is for a court to consider whether the defendant has shown reasonable probability that but for counsel's errors he would have accepted the plea and, if so, exercise discretion to determine whether the defendant should receive the term of imprisonment offered by the government in the plea, the sentence received at trial, or something in between. *Id.* at 1389. The Court further explained that, where resentencing alone does not fully redress the constitutional injury, "the proper exercise of discretion to remedy the constitutional injury may be to require the prosecution to reoffer the plea proposal." *Id.* at 1389. The Supreme Court also left "open to the trial court how best to exercise [its discretion in determining how to proceed if respondent accepts the reoffered plea bargain] in all the circumstances of the case." *Id.* at 1391.

Similarly, in *State v. A.N.J.*, the Washington Supreme Court tailored the remedy, allowing a juvenile to withdraw his plea where ineffective assistance led to him being misinformed of the consequences thereof. 168 Wn.2d 91, 225 P.3d 956 (2010).

These three cases, *Posey II*, *Lafler*, and *A.N.J.* demonstrate that, regardless of the age of the juvenile when the error is remedied on

appellate review, the proper remedy is to treat the juvenile consistently with the Juvenile Justice Act. If the juvenile turned 21 years old during the pendency of appeal, as in *Posey II*, the JJA can be applied in superior court.

Remanding to juvenile court is consistent with legislative intent that, except in extraordinary circumstances not present here, juvenile offenders receive treatment and rehabilitation through the juvenile justice system. The primary distinction between Washington's juvenile justice and adult criminal systems hinges on the need of the offenders subject to each system. The Juvenile Justice Act responds to the needs of juvenile offenders by focusing on rehabilitation, not punishment. RCW 13.40.010 (2); *Posey I*, 161 Wn.2d at 645 (citing *Monroe v. Soliz*, 132 Wn.2d 414, 419-20, 939 P.2d 205 (1997) A juvenile disposition focuses on treatment and rehabilitation. *Posey I*, 161 Wn.2d at 645. The statute "reflects the intent to keep juveniles in the juvenile system to allow creative intervention at the juvenile justice level." *Id.*

The U.S. Department of Justice ("DOJ") similarly instructs,

**Whenever possible, prosecute young offenders in the juvenile justice system instead of transferring their cases to adult courts.** No juvenile offender should be viewed or treated as an adult. Laws and regulations prosecuting them as adults in adult courts, incarcerating them as adults, and sentencing them to harsh punishments that ignore and diminish their capacity to grow must be replaced or abandoned.

U.S. Dep't of Justice, *supra* at 23 (emphasis in original). The DOJ further explains that our communities are *less safe* when we deny juvenile offenders tailored treatment that enables them “to grow, mature, and become productive citizens.” *Id.* at 189-90 (also noting “Children prosecuted as adults are 34 percent more likely to commit new crimes than are youth who remain in the juvenile justice system.”)<sup>23</sup>

b. Remand to adult court. This Court could also remand to adult court for resentencing. But this remedy would only cure the constitutional problems at issue here if the trial court is required to do certain things.

First, the court should be required to consider how Jarrell's youth and attendant circumstances and impacted his culpability.

Second, this Court should make it clear that, as argued here and in the pending case (*State v. O'Dell*), *Law* and *Ha'mim* do not prohibit the use of youth and attendant circumstances as a mitigator. Court discretion to depart from an otherwise-mandatory standard range when a juvenile is involved, brings the SRA in line with *Miller* and its progeny.

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<sup>23</sup> See also U.S. Dep't of Justice, *Trying Juveniles as Adults: An Analysis of State Transfer Laws and Reporting 26* (Sept. 2011) (results of extensive studies showing juveniles prosecuted as adults had greater recidivism rates and recidivated more quickly and more often than those prosecuted as juveniles “could be attributable to a variety of causes, including the direct and indirect effects of criminal conviction on the life chances of transferred youth, the lack of access to rehabilitative resources in the adult corrections system, and the hazards of association with older criminal ‘mentors’”), available at <http://www.ncjrs.gov/pdffiles1/oijdp/232424.pdf>.

Jarrell is not suggesting that this Court remand for resentencing, and then instruct the trial court that it is to impose a specific sentence. Rather, this Court should only direct the trial court to consider Jarrell's youth and attendant circumstances and how they may have impacted his culpability.

At his resentencing, Jarrell should also have an opportunity to ask the court to reconsider his LFO's. Initially, the Superior Court imposed legal financial obligations ("LFOs") on Jarrell that consisted of a \$400 "Court Appointed Attorney Fees and Defense Costs",<sup>24</sup> a \$200 "Criminal Filing Fee",<sup>25</sup> a \$500 Crime Victim Assessment<sup>26</sup> and \$100 DNA Database Fee.<sup>27</sup> App. A at 3; J&S at 3. The superior court also imposed a

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<sup>24</sup> Costs such as "Attorney Fees" or "Defense Costs" may be imposed, at the Court's discretion, under RCW 10.01.160.

<sup>25</sup> Criminal Filing Fees are imposed pursuant to RCW 36.18.020. The fee is charged by the clerk of the court. The statute does not appear to require the Court to impose the fee.

<sup>26</sup> RCW 7.68.035 requires a Crime Victim Assessment be imposed on adult and juvenile cases resulting in conviction or guilty adjudication, although juveniles adjudicated guilty pay a fraction (\$100) of what convicted adults are required to pay (\$500).

<sup>27</sup> Every sentence imposed for a crime specified in RCW 43.43.754 must include a fee of one hundred dollars. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law. For a sentence imposed under chapter 9.94A RCW, the fee is payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. For all other sentences, the fee is payable by the offender in the same manner as other assessments imposed. The clerk of the court shall transmit eighty percent of the fee collected to the state treasurer for deposit in the state DNA database account created under RCW 43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754.

restitution fee of \$3,055.67.<sup>28</sup> App. Q at 1-2; Order Setting Restitution at 1-2. All of the LFOs were imposed without consideration of Jarrell's current or future ability to pay. *Id.* In total, the sentencing court ordered an indigent juvenile, who was an unemployed, 16-year-old child at the time he was charged, who had been auto-declined into the adult system, who was then sentenced to serve 189 months in prison, and who did not even have his GED, to pay \$4,255.67 in LFOs.

Jarrell later asked for modification or termination of the LFOs, but that was a year before *Blazina* was decided by the Supreme Court. The Washington Supreme Court considered two cases, consolidated under the name *State v. Blazina*, 182 Wn.2d 827, 344 P.3d 680 (2015), in which the defendants (Nicholas Blazina and Mauricio Paige-Coulter) challenged the imposition of LFOs without consideration of current or future ability to pay. The LFOs challenged were the same as those at issue in Jarrell's case. *Blazina* involved the consolidated appeals of Nicholas Blazina and Mauricio Paige-Colter. *Id.* at 830. Both had been the \$500 Victim

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<sup>28</sup> "RCW 10.73.160 provides for recoupment of appellate costs from a convicted defendant." *State v. Blank*, 131 Wn.2d 230, 234, 930 P.2d 1213 (1997). RCW 10.73.160(3) states that: "An award of costs shall become part of the trial court judgment and sentence." Division I of the Court of Appeals has held that "the superior court has no discretion to decide whether to add the costs award to its judgment." *State v. Wright*, 97 Wn.App. 382, 383-84, 985 P.2d 411 (1999).

Penalty Assessment, the \$200 Filing Fee, a \$100 DNA sample fee, and recoupment for appointed counsel.<sup>29</sup>

The *Blazina* Court held that RCW 10.01.160(3) requires the record to reflect that the sentencing judge made an individualized inquiry into the defendant's current and future ability to pay before the court imposes LFOs. This inquiry also requires the court to consider important factors, such as incarceration and a defendant's other debts, including restitution, when determining a defendant's ability to pay.” *Id.* at 839.

The *Blazina* court held that a defendant need not wait until the State seeks to collect the costs before challenging the imposition of the LFOs. *Blazina*, at 832 n.1.<sup>30</sup> This holding was a departure from prior cases.<sup>31</sup>

The departure was undertaken in order to remedy substantial problems caused by the imposition of LFOs, and particularly, the imposition of debilitating LFOs in the absence of consideration of the

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<sup>29</sup> Mr. Blazina was ordered to pay \$400 in recoupment for assigned counsel. *Blazina*, 182 Wn.2d at 831. Mr. Paige-Colter had been ordered to pay \$1,500. *Id.* at 832.

<sup>30</sup> “The State argues that the issue is not ripe for review because the proper time to challenge the imposition of an LFO arises when the State seeks to collect. Suppl. Br. of Resp’t (*Blazina*) at 5-6. We disagree.” *Blazina*, 182 Wn.2d at 832 n.1.

<sup>31</sup> *State v. Blank*, 131 Wn.2d 230, 242, 252-53, 930 P.2d 1213 (1997); *State v. Crook*, 146 Wn.App. 24, 27, 189 P.3d 811 (2008); *State v. Mahone*, 98 Wn.App. 342, 348, 989 P.2d 583 (1999); *State v. Curry*, 62 Wn.App. 676, 681, 841 P.2d 1252 (1991), *aff’d*, 118 Wn.2d 911, 829 P.2d 166 (1992).

defendant's ability to pay. *Id.* at 835-838. The Court ruled that prior to imposing costs and entering them onto the Judgment and Sentence:

The record must reflect that the trial court made an individualized inquiry into the defendant's current and future ability to pay. Within this inquiry, the court must also consider important factors, as amici suggest, such as incarceration and a defendant's other debts, including restitution, when determining a defendant's ability to pay.

*Id.* at 838. The Court further clarified that this "means that the court must do more than sign a judgment and sentence with boilerplate language stating that it engaged in the required inquiry." *Id.*

The *Blazina* court also unanimously found that the injustices caused by the LFO procedure rejected therein justified appellate review despite a lack of preservation in the court below. *Id.* at 839 and 841 (Fairhurst, J., concurring in result only). That the judges were unanimous in reviewing this issue, but only disagreed about which of two rules, RAP 1.2 (a) and 2.5 (a), provided the better justification for appellate review<sup>32</sup> also highlights the importance of correcting the

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<sup>32</sup> The *Blazina* majority utilized its discretionary power under RAP 2.5 (a) to review the same LFO problem raised here. *Blazina*, 182 Wn.2d at 835, citing *State v. Russell*, 171 Wn.2d 118, 122, 249 P.3d 604 (2011). The majority did so due to because of "[n]ational and local cries for reform of broken LFO systems" that present "increased difficulty in reentering society, doubtful recoupment of money to the government, and inequities in administration", the "importance" of the LFO "conversation" to Washington "state and to our court system." *Blazina*, 182 Wn.2d at 836.

Justice Fairhurst, joined by Justice Stephens, concurred in the result, but discussed a different justification for review of an unpreserved LFO issue:

problems presented. Without distinguishing between discretionary and mandatory LFOs, the *Blazina* Court remanded for a new sentencing, and instructed the court to consider current and future ability to pay.

The *Blazina* decision came out on March 12, 2015. Jarrell's original restitution was entered in 2008 and even Jarrell's attempt to terminate his restitution occurred in 2014, a year before the court had the guidance of *Blazina*. This Court should exercise its powers under RAP 1.2 (a) and 2.5 (a) to review Jarrell's LFOs, and include in the remand for resentencing an order that the court should also consider restitution and his ability to pay under *Blazina* and RCW 10.01.160 (3). At no time did the sentencing court consider his ability to pay. But

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this error can be reached by applying RAP 1.2 (a), which states that the "rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits." RAP 1.2(a) is rarely used, but this is an appropriate case for the court to exercise its discretion to reach the unreserved error because of widespread problems, as stated in the majority, associated with LFOs imposed against indigent defendants. Majority at 6.

The consequences of the State's LFO system are concerning, and addressing where courts are falling short of the statute will promote justice. In *State v. Aho*, 137 Wn.2d 736, 740-41, 975 P.2d 512 (1999), we held that the supreme court "has the authority to determine whether a matter is properly before the court, to preform those acts which are proper to secure fair and orderly review, and to waive the rules of appellate procedure when necessary 'to serve the ends of justice.'" (quoting RAP 1.2 (c)). I agree with the majority that RCW 10.01.160(3) requires sentencing judges to take a defendant's individual financial circumstances into account and make an individual determination into the defendant's current and future ability to pay. In order to ensure that indigent defendants are treated as the statute requires, we should reach the unreserved error.

*Id.* at 841 (Fairhurst, J., concurring in result only).

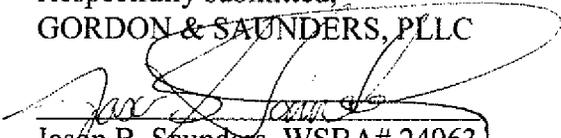
*Blazina* is directly applicable to most of Jarrell's LFOs; the same LFOs were at issue in that case.

G. CONCLUSION

For the reasons set forth above, Petitioner Jarrell Marshall respectfully requests this Court reverse his conviction, remand to juvenile court or remand to adult court for resentencing with consideration of his youth as a mitigating factor.

DATED this 12<sup>th</sup> day of August, 2016.

Respectfully submitted,  
GORDON & SAUNDERS, PLLC

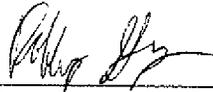


Jason B. Saunders, WSBA# 24963  
Kimberly N. Gordon, WSBA# 25401  
Attorneys for Petitioner Jarrell Marshall

**DECLARATION OF DOCUMENT FILING AND SERVICE**

I, Robert J. Gross, state that on this 12<sup>th</sup> day of August, 2016, I caused the **Personal Restraint Petition** to be filed in the **Court of Appeals – Division II**.

Signed in Seattle, Washington on this 12<sup>th</sup> day of August, 2016.

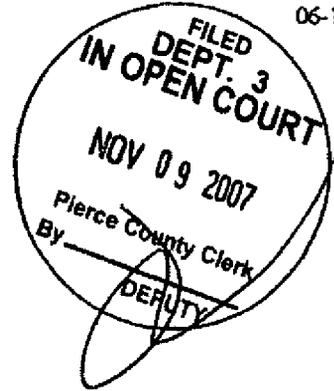
X 

Robert J. Gross  
Paralegal

CERTIFICATE OF SERVICE -- 1

# APPENDIX A

06-1-02134-9



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

NOV - 9 2007

STATE OF WASHINGTON,

Plaintiff, CAUSE NO. 06-1-02134-9

vs.

JARRELL MAURICE MARSHALL

Defendant.

SID: UNKNOWN  
DOB: 12/16/1989

JUDGMENT AND SENTENCE (FJS)  
 Prison  RCW 9.94A.712 Prison Confinement  
 Jail One Year or Less  
 First-Time Offender  
 SSOSA  
 DOSA  
 Breaking The Cycle (BTC)  
 Clerk's Action Required, para 4.5 (DOSAs),  
4.15.2, 5.3, 5.6 and 5.8

I. HEARING

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

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 08/15/2007 by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	MURDER 2 <sup>o</sup> (D5)	9A.32.050(1)(b)	NONE	04/20/2006	06-110-0186 06-110-0063
III	ROBBERY 1 <sup>o</sup> (AAA1)	9A.56.190 9A.56.200(1)(a)(i)	NONE	04/20/2006	06-110-0186 06-110-0063
IV	ROBBERY 1 <sup>o</sup> (AAA1)	9A.56.190 9A.56.200(1)(a)(i)	NONE	04/20/2006	06-110-0186 06-110-0063

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual Motivation, See RCW 9.94A.533(8).

as charged in the Amended Information

07-9-14067-

06-1-02134-9

Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):

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

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

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancement)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancement)	MAXIMUM TERM
I	4	XIV	165-265 MONTHS	NONE	165-265 MONTHS	LIFE/ \$50,000
III	4	IX	51-68 MONTHS	NONE	51-68 MONTHS	LIFE/ \$50,000
IV	4	IX	51-68 MONTHS	NONE	51-68 MONTHS	LIFE/ \$50,000

2.4  EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence  above  below the standard range for Count(s) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 LEGAL FINANCIAL OBLIGATIONS. The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW, Chapter 379, Section 22, Laws of 2003.

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

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

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2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are  attached  as follows: : UPON SATISFACTION OF CONTRACT CONDITIONS: 165 MONTHS IN DOC ON COUNT I; 51 MONTHS IN DOC ON COUNT III; 51 MONTHS IN DOC ON COUNT IV; TO RUN CONCURRENTLY TO EACH OTHER; 24-48 MONTHS COMMUNITY CUSTODY; CREDIT FOR TIME SERVED AS CALCULATED HEREIN; NO DIRECT OR INDIRECT CONTACT WITH VICTIMS OR VICTIM'S FAMILY; DNA TESTING; \$500 CVPA; \$200 FILING FEE; \$400 DAC RECOUPMENT AND \$100 DNA TEST FEE.

### III. JUDGMENT

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

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

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IV. SENTENCE AND ORDER

IT IS ORDERED:

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

JASS CODE

RTN/RIN \$ Restitution to:
\$ Restitution to:
(Name and Address--address may be withheld and provided confidentially to Clerk's Office).

PCV \$ 500.00 Crime Victim assessment

DNA \$ 100.00 DNA Database Fee

PUB \$ 400.00 Court-Appointed Attorney Fees and Defense Costs

FRC \$ 200.00 Criminal Filing Fee

FCM \$ Fine

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ Other Costs for:

\$ Other Costs for:

\$ 1200 TOTAL

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

4.2 RESTITUTION

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

[ ] shall be set by the prosecutor.

[X] is scheduled for 12/7/07

[ ] defendant waives any right to be present at any restitution hearing (defendant's initials):

[ ] RESTITUTION. Order Attached

4.3 COSTS OF INCARCERATION

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

4.4 COLLECTION COSTS

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

4.5 INTEREST

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

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4.6 COSTS ON APPEAL

An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.

4.7 [ ] HIV TESTING

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

4.8 [X] DNA TESTING

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

4.9 NO CONTACT

The defendant shall not have contact with CARL SCHMIDT, AMBER LIMONER, THEIR FAMILIES & FAMILY OF DIEN HUYNH (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence).

[ ] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.10 OTHER:

Empty rectangular box for additional notes or conditions.

4.11 BOND IS HEREBY EXONERATED

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

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

189 months on Count I 51 months on Count III  
51 months on Count IV

Actual number of months of total confinement ordered is: 189

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

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

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

The sentence herein shall run consecutively to all felony sentences in other cause numbers prior to the commission of the crime(s) being sentenced. \_\_\_\_\_

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

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the fall unless the credit for time served prior to sentencing is specifically set forth by the court: 549 Days

4.13  COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

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

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

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

COMMUNITY CUSTODY is ordered as follows:

Count I for a range from: 24 to 48 Months;

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

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

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.]

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

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

The defendant shall not consume any alcohol.

Defendant shall have no contact with CARL SCHMIDT, AMBER L. MANIK (FAMILY) AND DIANE JOHNSON

Defendant shall remain  within  outside of a specified geographical boundary, to wit:

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

The defendant shall undergo an evaluation for treatment for  domestic violence  substance abuse

mental health  anger management and fully comply with all recommended treatment.

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

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

- 4.14  **WORK ETHIC CAMP.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.13.
- 4.15 **OFF LIMITS ORDER** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

#### V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.
- 5.4 **CRIMINAL ENFORCEMENT AND CIVIL COLLECTION.** Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. Per section 2.5 of this document, legal financial obligations are collectible by civil means. RCW 9.94A.634.
- 5.5 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.6 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. N/A

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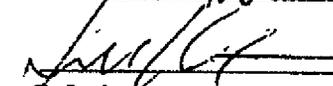
5.7 **RESTITUTION AMENDMENTS.** The portion of the sentence regarding restitution may be modified as to amount, terms, and conditions during any period of time the offender remains under the court's jurisdiction, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime.

5.8 **OTHER:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DONE in Open Court and in the presence of the defendant this date: \_\_\_\_\_

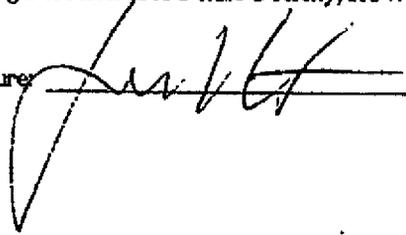
  
Deputy Prosecuting Attorney  
Print name: TERMY LANE  
WSB #: 16706

JUDGE JH PL  
Print name \_\_\_\_\_  
Attorney for Defendant for Ronald Heston  
Print name: JESSIE TALKS  
WSB #: 3058

  
Defendant  
Print name: JARRELL MARSHALL

FILED  
NOV 09 2007  
DEPT. 3  
OPEN COURT  
Pierce County Clerk  
By \_\_\_\_\_

**VOTING RIGHTS STATEMENT:** RCW 10.64.140. I acknowledge that my right to vote has been lost due to felony convictions. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: 

06-1-02134-9

**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 06-1-02134-9

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

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

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

**IDENTIFICATION OF COURT REPORTER**

Amy Roetto  
Court Reporter

06-1-02134-9

APPENDIX "F"

The defendant having been sentenced to the Department of Corrections for a:

- sex offense
- serious violent offense
- assault in the second degree
- any crime where the defendant or an accomplice was armed with a deadly weapon
- any felony under 69.50 and 69.52

The offender shall report to and be available for contact with the assigned community corrections officer as directed;

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC;

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

\_\_\_\_ (I) The offender shall remain within, or outside of, a specified geographical boundary: \_\_\_\_\_

(II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: their families

\_\_\_\_ (III) The offender shall participate in crime-related treatment or counseling services;

\_\_\_\_ (IV) The offender shall not consume alcohol; \_\_\_\_\_

\_\_\_\_ (V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

\_\_\_\_ (VI) The offender shall comply with any crime-related prohibitions.

\_\_\_\_ (VII) Other: \_\_\_\_\_

06-1-02134-9

IDENTIFICATION OF DEFENDANT

SID No. UNKNOWN Date of Birth 12/16/1989  
(If no SID take fingerprint card for State Patrol)

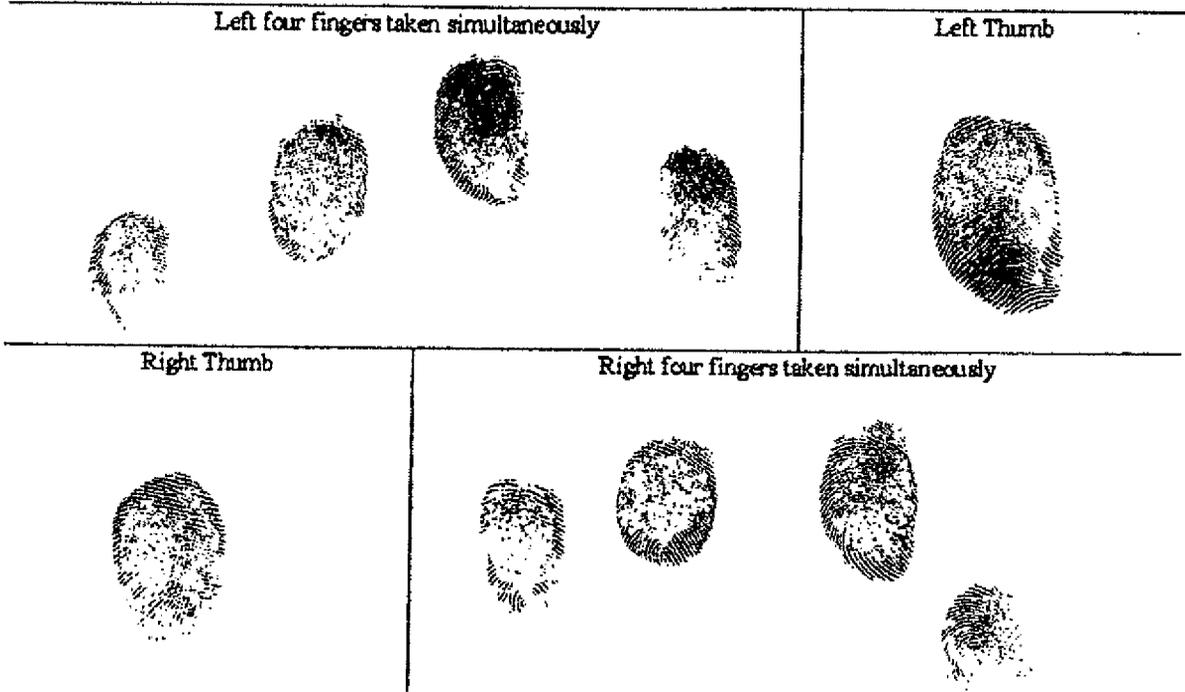
FBI No. UNKNOWN Local ID No. NONE

PCN No. 538757641 Other

Alias name, SSN, DOB: \_\_\_\_\_

Race:					Ethnicity:		Sex:		
<input type="checkbox"/>	Asian/Pacific Islander	<input checked="" type="checkbox"/>	Black/African- American	<input type="checkbox"/>	Caucasian	<input type="checkbox"/>	Hispanic	<input checked="" type="checkbox"/>	Male
<input type="checkbox"/>	Native American	<input type="checkbox"/>	Other: :	<input checked="" type="checkbox"/>	Non- Hispanic	<input type="checkbox"/>		<input type="checkbox"/>	Female

FINGERPRINTS



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, \_\_\_\_\_ Dated: \_\_\_\_\_

DEFENDANT'S SIGNATURE *[Signature]* \_\_\_\_\_

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

# APPENDIX B



08-1-02134-9 25445957 INFO 05-11-06

FILED  
IN COUNTY CLERK'S OFFICE

A.M. MAY 10 2006 P.M.

PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY          DEPUTY

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 06-1-02134-9

vs.

JARRELL MAURICE MARSHALL,

INFORMATION

Defendant.

158-36794

DOB: 12/16/1989  
PCN#: 538757641

SEX : MALE  
SID#: UNKNOWN

RACE: BLACK  
DOL#: UNKNOWN

CO-DEF: DANIEL DEMETRIUS HARRIS 06-1-02135-7  
CO-DEF: CYRIL DELANTO WALROND 06-1-02136-5

COUNT I

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

That JARRELL MAURICE MARSHALL, acting as an accomplice, in the State of Washington, on or about the 20th day of April, 2006, did unlawfully and feloniously, while committing or attempting to commit the crime of robbery in the first degree, and in the course of or in furtherance of said crime or in immediate flight therefrom, strike Dien Huynh with a hammer or similar object, and thereby causing the death of Dien Huynh, a human being, not a participant in such crime, on or about the 22nd day of April, 2006, contrary to RCW 9A.32.030(1)(c), and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other than a firearm to-wit: a hammer or similar object, that being a deadly weapon as defined in RCW 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and dignity of the State of Washington.

INFORMATION- 1

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

COUNT II

1  
2 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the  
3 authority of the State of Washington, do accuse JARRELL MAURICE MARSHALL of the crime of  
4 ASSAULT IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on  
5 the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan,  
6 and/or so closely connected in respect to time, place and occasion that it would be difficult to separate  
7 proof of one charge from proof of the others, committed as follows:

8 That JARRELL MAURICE MARSHALL, acting as an accomplice, in the State of Washington,  
9 on or about the 20th day of April, 2006, did unlawfully and feloniously, with intent to inflict great bodily  
10 harm, intentionally assault Carl Schmidt with a firearm or deadly weapon or by any force or means likely  
11 to produce great bodily harm or death, contrary to RCW 9A.36.011(1)(a), and in the commission thereof  
12 the defendant, or an accomplice, was armed with a deadly weapon, other than a firearm to-wit: a hammer  
13 or similar object, that being a deadly weapon as defined in RCW 9.94A.125/9.94A.602, and invoking the  
14 provisions of RCW 9.94A.310/9.94A.510 and adding additional time to the presumptive sentence as  
15 provided in RCW 9.94A.370/9.94A.530, and against the peace and dignity of the State of Washington.

COUNT III

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

18 That JARRELL MAURICE MARSHALL, acting as an accomplice, in the State of Washington,  
19 on or about the 20th day of April, 2006, did unlawfully and feloniously take personal property belonging  
20 to another with intent to steal from the person or in the presence of Dien Huynh, the owner thereof or a  
21 person having dominion and control over said property, against such person's will by use or threatened  
22 use of immediate force, violence, or fear of injury to Dien Huynh, said force or fear being used to obtain  
23 or retain possession of the property or to prevent or overcome resistance to the taking, and in the  
24 commission thereof, or in immediate flight therefrom, Defendant or an accomplice was armed with a  
deadly weapon, to-wit: a hammer or similar object, contrary to RCW 9A.56.190 and 9A.56.200(1)(a)(i),  
and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other  
than a firearm to-wit: a hammer or similar object, that being a deadly weapon as defined in RCW  
9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional  
time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and  
dignity of the State of Washington.

INFORMATION- 2



1 and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other  
2 than a firearm to-wit: a hammer or similar object, that being a deadly weapon as defined in RCW  
3 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional  
4 time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and  
5 dignity of the State of Washington.

6 DATED this 10th day of May, 2006.

7 TACOMA POLICE DEPARTMENT  
8 WA02703

9 GERALD A. HORNE  
10 Pierce County Prosecuting Attorney

11 gtc

12 By: 

13 GERALD T. COSTELLO  
14 Deputy Prosecuting Attorney  
15 WSB#: 15738

# APPENDIX C

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NO. 06-1-02134-9  
DECLARATION FOR DETERMINATION OF PROBABLE CAUSE

GERALD T. COSTELLO, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the Tacoma Police Department, incidents 061100065, and 061100186:

That Detectives Devault and Miller and the police report and/or investigation provided me the following information.

That in Pierce County, Washington, on or about the 20th day of April, 2006, each of the defendants, JARRELL MAURICE MARSHALL, DANIEL DEMETRIUS HARRIS and CYRIL DELANTO WALROND, participated in two criminal episodes involving physical attacks upon victims with a hammer, followed by robbery. One of the victims, Dien Huynh, died from his injuries.

Victims Carl Schmidt and Amber Limanek, boyfriend and girlfriend, were at Tacoma's waterfront, on Ruston Way, at Les Davis Pier around 12:30 a.m., April 20<sup>th</sup>. They were strolling on the pier and returned to Ms. Limanek's car when they encountered the defendants who were laying in wait for them. The defendants had planned to rob them. One of the defendants asked the victims if they had a lighter. The victims said they did not and tried to get into their car. Defendant Walrond then attacked victim Schmidt from behind, striking him hard on his head with a "sheet-rock hammer." The victim suffered serious injury, and pitched forward on to the car. The victim's head was bleeding profusely.

Defendant Walrond began ordering the victims around. He made them lie on the ground. Victim Schmidt's wallet was taken from his pocket. Victim Limanek was cooperative and told defendants they could take what they wanted -- but to not hurt them any more. Defendant Marshall acted as a lookout while Defendant Harris went through the car, searching for valuable items. Defendant Walrond stood over victim Schmidt, holding the hammer. At one point Defendant Marshall signaled that a car was coming and Walrond ordered the victims to stand up, to make it appear that nothing was wrong -- later ordering them back to the ground.

Defendants took compact discs, a cell phone, a distinctive camouflage hat and victim Limanek's wallet. The defendants drove away in a distinctive looking car, with Walrond driving.

Less than an hour later victim Dien Huynh arrived at his home after work. He went inside, dropped off his lunch box, and went back outside to put out rodent poison by his automobile because he was having trouble with rodents chewing wiring. While he was outside defendants spotted him, parked their car across the street from his home, got out and went to Mr. Huynh, who was 55 years old, and much smaller physically than the defendants.

Defendant Walrond again carried the hammer and his co-defendants knew this. They loosely surrounded the victim. Mr. Huynh attempted to engage them in conversation to distract the defendants. The victim figured out that he was about to be attacked and tried to run. Defendant Harris grabbed him and tried to put him in a headlock. The victim got loose and started to run away. Defendant Walrond ran him down and repeatedly struck him with the hammer on his head 4-5 times at least. The victim's skull was severely cracked, eventually causing his death on April 22<sup>nd</sup>.

Defendants took from the victim's pockets his wallet with his license, credit cards and a small amount of cash. They also took car keys and the remote entry device for his car. The victim managed to crawl on to his front porch where he was later found by a family member. The victim's pants pockets had been turned inside-out.

After investigation and contact by police each Defendant has confessed his involvement in the criminal episodes described above.

DECLARATION FOR DETERMINATION  
OF PROBABLE CAUSE - 1

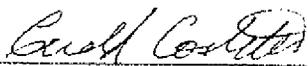
Office of the Prosecuting Attorney  
930 Tacoma Avenue South, Room 946  
Tacoma, WA 98402-2171  
Main Office (253) 798-7400

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Defendants said they committed the crimes because they wanted money. In Defendant Walrond's bedroom police found local newspaper articles about the crimes and an article describing the beating and murder and robbery of 69 year old Darrel Johnson occurring on Tacoma's Eastside in January, 2005. Defendant Harris had victim Schmidt's baseball hat hanging on a wall in his home like a souvenir.

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

DATED: May 10, 2006  
PLACE: TACOMA, WA

  
GERALD T. COSTELLO, WSB# 15738

DECLARATION FOR DETERMINATION  
OF PROBABLE CAUSE -2

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

# APPENDIX D

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

In Re: The Personal Restraint of )  
Jarrell Maurice Marshall, )  
Petitioner. )  
\_\_\_\_\_ )

NO. \_\_\_\_\_

DECLARATION OF JASON SAUNDERS

DECLARATION OF JASON SAUNDERS

I, Jason B. Saunders, declare as follows:

1. I am a licensed attorney in Washington State. I am the attorney of record in this matter, and am familiar with the records herein.
2. My office has exhausted all foreseeable methods of obtaining a transcript of Mr. Marshall's November 9, 2007, sentencing hearing. The hearing was conducted by the Honorable Tom Larkin. Judge Larkin is now retired from the bench.
3. On June 29, 2016, we contacted the Pierce County Superior Court Clerk's Office. We were advised that the Clerk's office only has access to recordings of hearings before court commissioners. This would not include Mr. Marshall's sentencing hearing, as the hearing was heard by a Superior Court Judge.
4. On that same day, we also spoke to Pierce County Superior Court Administration. The administrator informed us that the court reporter at Mr. Marshall's sentencing hearing was Amy Roetto. We were further informed that Ms. Roetto is retired.

gordon & saunders

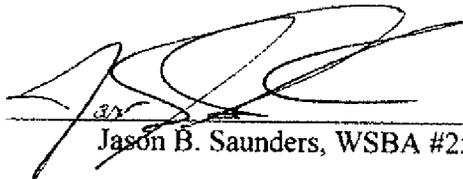
1111 Third Avenue, Suite 2220  
Seattle, Washington 98101  
Tel 206.332.1280 / 206.340.6034  
Fax 206.682.3746

5. We spoke to the Court Reporter's office, who agreed to put us in touch with Ms. Roetto. On July 1, 2016, Ms. Roetto contacted our office. She indicated that she has moved, lives out of state, and may no longer have the records. She agreed to conduct a search for any notes from Mr. Marshall's sentencing hearing.
6. After approximately two weeks, Ms. Roetto informed us that she had completed her search and was unable to locate any notes that would enable her to produce a transcript of Mr. Marshall's sentencing hearing.
7. On July 22, 2016, our office reached out to Mr. Marshall's trial counsel, Ron Helsop. Mr. Helsop informed Gordon & Saunders that he had no recollection of the case and that all his files from 2006 and 2007 were destroyed.
8. On or about July 26, 2016, Gordon & Saunders office reached out to Mr. Marshall's other attorney, Jessica Giles. Ms. Giles said that she remembered the case, but she was not present for that part of the hearing.
9. On August 10, 2016, our office spoke to Hugh Birgenheier of the Pierce County Prosecutor's Office, about whether his office, or Terry Lane (the prosecutor at sentencing) had preserved any notes from Mr. Marshall's sentencing hearing. Mr. Birgenheier indicated that, at this time, they are not aware of any notes, other than pleadings, that would help re-create a transcript of what was said and considered at the sentencing hearing. Mr. Birgenheier further indicated that, if they were to find any such documents in the future, his office would not object to Mr. Marshall using them to supplement the facts in support of his Personal Restraint Petition.
10. Mr. Marshall prepared a Declaration detailing his memory about what was said and considered at during his sentencing hearing. That Declaration is dated July 27, 2016, and is filed with Mr. Marshall's Personal Restraint Petition.

11. Alison Haack was present at Mr. Marshall's sentencing hearing. Ms. Haack also prepared a Declaration describing her memory about what was said and considered during the hearing. This Declaration is also filed with Mr. Marshall's Personal Restraint Petition.

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

SIGNED in Seattle, Washington, this 11<sup>th</sup> day of August, 2016.

  
\_\_\_\_\_  
Jason B. Saunders, WSBA #25401

# APPENDIX E



06-1-02134-9 41987759 MTTLFO 02-05-14

FILED  
IN COUNTY CLERK'S OFFICE

A.M. FEB 05 2014 P.M.

PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY *[Signature]* DEPUTY

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SUPERIOR COURT OF THE STATE OF WASHINGTON, FOR PIERCE COUNTY

STATE OF WASHINGTON,  
  
Plaintiff,  
  
vs.  
  
JARRELL MAURICE MARSHALL,  
  
Defendant.

Cause No. 06-1-02134-9

MOTION TO MODIFY OR  
TERMINATE LEGAL FINANCIAL  
OBLIGATIONS

I. IDENTITY OF MOVING PARTY

COMES NOW Jarrell Maurice Marshall, pro se, seeking the relief designated in Part II.

II. STATEMENT OF RELIEF SOUGHT

Defendant requests that this Court set aside and terminate the legal financial obligations (LFO's) imposed by this Court, or to modify the LFO's, with forbearance of the interest that is being generated and compounded on the fees, costs, and restitution so imposed by this Court, and to allow the prior payments made, and future payments collected, to be applied solely to the principal amount of the \$4255.67 set by this Court in this matter; and furthermore, that a hearing be held

MOTION TO MODIFY OR TERMINATE  
LEGAL FINANCIAL OBLIGATIONS

JARRELL MAURICE MARSHALL, pro se  
#309755 / D128 / MOC-MSRU  
PO Box 777 / Monroe, WA 98272-0777

1 to determine the defendant's present and future ability to  
2 pay any financial obligation, given the current state of the  
3 defendant's poor finances, and the persistent scarcity, over  
4 time, of any noteworthy income, and the financial hardship  
5 caused to me and/or my family by these financial obligations.

6 III. FACTS RELEVANT TO MOTION

- 7 1. The sentence imposed by this Court (see Appendix "A" -  
8 Judgment and Sentence) included fees and costs amounting  
9 to \$1200.00 .
- 10 2. In a separate restitution hearing (see Appendix "B" -  
11 Restitution Hearing), this Court imposed \$3055.67, per  
12 Crime Victim Compensation Claim #VK88926.
- 13 3. The total of the LFO's imposed under this Cause and matter  
14 is therefore \$4255.67 .
- 15 4. The first collection occurred on August 12, 2008 (see  
16 Appendix "C" - Accounting Summary) for this Cause.
- 17 5. There has been at least 27 collections and payments made  
18 to date, over a six-year inclusive period; 2008 - 2013.  
19 (see Appendix "C" - Accounting Summary)
- 20 6. A total, from the meager amounts of money that I have  
21 received, has caused \$383.24 to be collected toward the  
22 financial obligation I have been sentenced to pay.
- 23 7. In the same time period, \$2870.20 has been added to the  
24 principal in interest, despite my having never shirked,

1 or refused to pay what this Court has ordered. The new  
2 total, which I now owe due to the added interest, is  
3 \$6742.63; which is more than a 58% increase over what  
4 was initially ordered by this Court, despite what I have  
5 paid. During this next 12-month period, a further \$809.12  
6 (which is 12%) will be added to the amount owed, and I  
7 will have only been able to pay, at most, \$334.84 (this  
8 is projected based on my best quarter earnings). This  
9 means another increase of \$474.28 (as  $\$809.12 - \$334.84$ )  
10 bringing what I will owe to \$7216.91 . This constantly  
11 escalating 'balance owed,' and the ever-increasing interest  
12 as a result, means I can never repay what is owed, and  
13 I will be consigned to be perpetually in debt, and unable  
14 to free myself from an impoverished state. (for the numbers  
15 used above, see Appendix "D" - DOC-WSRU Trust Account  
Statement, particularly pgs. 14-17 for best quarter)

16 8. The hardship caused to me and/or my family is attested to  
17 in the attached supporting affidavit. (see Appendix "E" -  
18 Affidavit of Jarrell Maurice Marshall)

19 9. A deduction is also being made, above and beyond what  
20 this Court, or any court has ordered, from all income  
21 I receive, which is paid to the Crime Victim's Compensation  
22 Fund; the same place I am also paying to for Crime Victim  
23 Compensation Claim #VK88926. This deduction is not my  
24 sentence, and violates what this Court has ordered.

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IV.  GROUNDS AND ARGUMENT FOR RELIEF

I entered a plea of Guilty on August 15, 2007, and was subsequently sentenced on November 9, 2007, on this Cause, in the County of Pierce, in this State of Washington.

The Grounds and argument herein are set forth under two Issues: the First pertains to "costs and fees" imposed by this Court; the Second pertains to "restitution" imposed by this Court.

FIRST ISSUE: Costs and Fees Imposed at Sentencing

1. As stated in my 'Judgment and Sentence' (see Appendix "A")

I was ordered to pay:

Crime Victim Assessment (CVA)	\$500.00
DNA Database Fee	\$100.00
Public Attorney Fees/Costs	\$400.00
Criminal Filing Fee	<u>\$200.00</u>
TOTALING	\$1200.00

2. RCW 10.01.160(4) states:

A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the court for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

3. I have never refused this Court's order, and therefore am not now, and never have been, in contumacious default.

1 4. As stated in Utter v. DSHS, 140 Wn.App. 293, 165 P.3d 399  
2 (2007), at 303 ¶23:

3 RCW 10.01.160 is based on former Oregon Revised Statute (ORS)  
4 § 161.665 (1971), an Oregon statute that the United States Supreme  
5 Court upheld in Fuller v. Oregon, 417 U.S. 40, 94 S.Ct. 2116,  
6 40 L.Ed.2d 642 (1974); 1976 Op.Att'y Gen. No.14, at 2-3. In State v.  
7 Barklind, 87 Wn.2d 814, 557 P.2d 314 (1976), our Supreme Court applied  
8 Fuller and delineated the salient features of a constitutionally  
9 permissible costs and fees structure. State v. Curry, 118 Wn.2d 911,  
10 915, 829 P.2d 166 (1992). The requirements for a recoupment statute,  
11 e.g., RCW 10.01.160, are as follows:

- 12 1. Repayment must not be mandatory;
- 13 2. Repayment may be imposed only on convicted defendants;
- 14 3. Repayment may only be ordered if the defendant is or will be  
15 able to pay;
- 16 4. The financial resources of the defendant must be taken into  
17 account;
- 18 5. A repayment obligation may not be imposed if it appears there  
19 is no likelihood the defendant's indigency will end;
- 20 6. The convicted person must be permitted to petition the court  
21 for remission of the payment of costs or any unpaid portion;
- 22 7. The convicted person cannot be held in contempt for failure  
23 to repay if the default was not attributable to an intentional  
24 refusal to obey the court order or a failure to make a good  
25 faith effort to make repayment.

26 State v. Eiserman, 62 Wn.App. 640, 644 n.10, 810 P.2d 55, 817 P.2d  
867 (1991)(citing Barklind, 87 Wn.2d at 817-18).

[footnotes not included herein]

20 5. By and through this Motion, I am petitioning this Court  
21 for remission or modification of the LFO's imposed by  
22 this Court in this matter, as stated above in Part II.

23 6. No determination has been made by this Court regarding  
24 my present or future ability to pay any LFO's ordered.

1 7. Under RCW 9.94A.760(1), the statute says that:  
2 "... Upon receipt of an offender's monthly payment, restitution shall  
3 be paid prior to any payments of other monetary obligations. After  
4 restitution is satisfied, the county clerk shall distribute the payment  
5 proportionally among all other fines, costs, and assessments imposed,  
6 unless otherwise ordered by the court."

7 As shown in Appendix "C", page 1, \$383.24 has been paid  
8 to date, and none has been applied to the "restitution."  
9 The money I've paid has not reduced the principal amount of  
10 the "restitution" ordered and, until it is paid, no money  
11 I pay can go towards the "costs and fees," or anywhere  
12 else. Meanwhile, on the debt of "costs and fees," which  
13 I'm not allowed to pay until the "restitution" has been  
14 paid, compound interest is being generated and added to  
15 the amount of the "costs and fees" this Court has ordered.  
16 It is a violation of RCW 9.94A.760 to fail to apply the  
17 money I have paid, or will pay, directly to the restitution  
18 principal, instead of to an "interest" assessment.

19 8. While statutes might allow interest on LFO's, generating  
20 compound interest is the creation of interest on interest,  
21 instead of interest on the actual costs, fees, or specific  
22 restitution ordered by the court; and generating "interest  
23 on interest" is actually interest on money not involved  
24 in what was ordered by the court.

25 It is a shameful, usurious practice perpetrated on many  
26 impoverished defendants, of which I am one. And it creates

1 a manifest hardship, insofar as the indebted state cannot  
2 be 'cleared;' it is a constant and relentless drain on  
3 the relative 'pennies' earned, while the dollars mount at  
4 a rate 10 times faster in the debt of the LFO's.

5 9. My employment is limited to either a job earning up to  
6 \$55.00/month (Class III/IV), or up to \$185.00/month (after  
7 years in a Class II job; there are no Class I jobs). For  
8 the majority of my sentence, except for the last 11 months,  
9 I have been in the \$55/month category, which means about  
10 \$1.50/day after deductions. For the last 11 months, I have  
11 earned \$1294.70, of which I have had \$647.35 after all  
12 deductions, or about \$1.97/day. That's what I have to live  
13 on, and take care of the minor purchases I need to make  
14 in order to meet my health and welfare needs. While I am  
15 fortunate enough to have this job, it is by no means a  
16 certainty I can keep it; there is heavy competition for  
17 all jobs, as there are only enough for 1/2 to 2/3 of the  
18 population (minor fluctuations occur), and there are a lot  
19 of ways to lose it. It is a fact, though, that I live at  
20 a sub-poverty scale, by any measure.

21 Also, I own no personal assets, property, or financial  
22 accounts (other than the mandated institutional savings  
23 account containing \$222.68), and no financial instruments,  
24 or items of value; to this I so swear.

25 My financial world is an open, if small, book.

1 10. Under the "requirement for a recoupment statute, e.g.  
 2 RCW 10.01.160" as summarized in Utter, 140 Wn.App., at  
 3 303 (citing Fuller), and applying it to my "costs and  
 4 fees," which were imposed by this Court, it is clear that:

- 5 - repayment should not be mandatory in my case, and;
- 6 - repayment should not have been ordered without any  
 analysis to determine if I was or would be able to  
 pay, and;
- 7 - my financial resources should have been taken into  
 account, both then and now, and;
- 8 - a repayment obligation, both then and now, should  
 9 not be imposed as there is no likelihood my indigency  
 will end in any foreseeable future, and;
- 10 - I must be allowed to petition the court for remission  
 of the payment of costs or any unpaid portion, and;
- 11 - it should be noted I have never refused or failed  
 12 to pay what I could, even though it was ineffective  
 to the purpose, and;
- 13 - it should be accepted and understood that the LFO's  
 imposed by this Court create a constant and continuous  
 14 hardship to me and/or my family, and that the hardship  
 is both, financially painful, and causes mental anguish  
 15 over the indebted state and inability to free myself  
 from it's grip.

16 As these 'requirements,' as acknowledged and stated by  
 17 the Supreme Court of Washington State, and the Supreme  
 18 Court of the United States, are in fact necessary to be  
 19 applied in upholding RCW 10.01.160, then I would hope  
 20 that this Court would justly, and with consideration,  
 21 apply the law, in spirit, and in lawful support of the  
 22 decisions of the highest courts, which have already set  
 23 the precedent in this matter.

1 SECOND ISSUE: Restitution Imposed at Hearing

2 1. This Court ordered, in a hearing to set restitution after  
3 sentencing, a restitution amount of \$3055.67, per Crime  
4 Victim Compensation Claim #VK88926.

5 2. Not one penny I have paid, through deductions made by  
6 the Department of Corrections (DOC), in performance of  
7 the DOC's duty, under this Cause and as ordered by this  
8 Court, has been paid towards the restitution amount I  
9 have been ordered to pay. Not one penny.

10 3.. The failure to apply the money I have paid, through DOC's  
11 collection, to the Restitution and only to the restitution,  
12 is a violation of RCW 9.94A.760, which states 'restitution  
13 must be paid prior to any other monetary obligation.'

14 4. This violation of RCW 9.94A.760 causes me to be unable  
15 to pay the "costs and fees" ordered by this Court, and  
16 thus, through this prevention, causes RCW 10.01.160 to  
17 remain unenforced; I simply can't get to the "costs and  
18 fees" until the restitution is satisfied.

19 5. Therefore, not one penny I have paid, through deductions  
20 made by DOC, in performance of their duty, under this  
21 Cause and as ordered by this Court, has been paid towards  
22 the "costs and fees" amount I have been ordered to pay.  
23 Not one penny.

1 6. While I agree in principle about the idea of restitution,  
2 and it's purpose in this matter, I am unable to pay the  
3 restitution so ordered. And under the 'restitution' statute  
4 RCW 9.94A.753(1):

5 "... The court shall take into consideration the total amount of the  
6 restitution owed, the offender's present, past, and future ability  
7 to pay, as well as any assets that the offender may have."

8 This is the same intentional language as that used in the  
9 'LFO' statute RCW 9.94A.760(1).

10 No such consideration was ever made in my case, for either  
11 the "costs and fees" or the "restitution," and at no time  
12 was my 'present, past, and future ability to pay' ever  
13 put up against some measurable standard, and a decision  
14 derived therefrom. There is no record to show otherwise  
15 for this mandated ("shall") consideration.

16 7. My inability to pay stems, in part, from the methods that  
17 are used to collect through deductions to my income, by  
18 the DOC. Interest is all that has been paid, and at a rate  
19 that is 1/10th it's growth; a number that is actually  
20 increasing towards infinity. As a graph, the amount owed  
21 will approach, as an asymptote, an infinite sum beyond  
22 my lifetime. No finding can ever dispute this point, and  
23 therefore my present or future ability to pay can only be  
24 determined to be 'negligible.'

25 8. While this Court has ordered restitution to pay a specific  
26

1 Crime Victim Compensation Claim, #VK88926, I am also paying  
2 a deduction, legislatively mandated, into the same Crime  
3 Victim Compensation Fund, an amount from every dollar of  
4 income I've earned or received. This legislative mandate  
5 usurps this Court's sentencing power, and imposes a  
6 duplicative financial demand that has the effect of a new  
7 sentence absent due process.

8 9. The specific CVC Claim is legally ordered by this Court,  
9 while the legislatively-imposed sentence is illegal; as  
10 the legislature is non-judicial and cannot blanket sentence  
11 a class of citizen's, regardless of those citizen's status  
12 as 'those who have been convicted in a court of law.' The  
13 legislative and judicial powers and duties are purposefully  
14 separated under the U.S. Constitution, and the Constitution  
15 of the State of Washington. The legislative branch cannot  
16 adjudicate; the judicial cannot legislate.

17 10. Costs, fees, and restitution are combined when deductions  
18 are made by the DOC (see Appendix "D"); they are listed  
19 as line-items tagged "LFO." There is a separate deduction  
20 for the CVC fund that is legislatively imposed; tagged  
21 "CVC" on the Trust Statement. The CVC Claim that is court-  
22 ordered and "restitution" is rolled into the deduction  
23 tagged "LFO." This lack of separate specification of each  
24 court-ordered fee, cost, or restitution contributes to the  
25 problem of showing where each deduction is going or what

1 financial obligation is being met. Appendix "C", page 1,  
 2 shows that none of what has been deducted by the DOC has  
 3 gone to pay anything of what this Court has ordered in  
 4 this Cause. The methodology of the DOC in their process  
 5 of collecting "LFO's" is faulty, and illegal. The law  
 6 clearly states that no other monetary obligation can be  
 7 paid until the court-ordered restitution is satisfied.  
 8 The DOC's failure to follow the law places their ability  
 9 to act, as the true servant of the court in this matter,  
 10 in serious doubt. The DOC should be prevented from the  
 11 collection or deduction of "LFO's" until they prove that  
 12 they can do so while following the law.

- 13 11. In my Judgment and Sentence, see Appendix "A," page 7,  
 14 Section 5.7 RESTITUTION AMENDMENTS:

15 "The portion of the sentence regarding restitution may be modified  
 16 as to amount, terms, and conditions during any period of time the  
 17 offender remains under the court's jurisdiction, regardless of the  
 18 expiration of the offender's term of community supervision and  
 19 regardless of the statutory maximum sentence for the crime."

20 This cites the authority of this Court to modify the order  
 21 of restitution.

- 22 12. For the above reasons as cited in this SECOND ISSUE, I  
 23 petition this Court under RCW 9.94A.753, for remission  
 24 or modification of the Restitution, as ordered. As the  
 25 payment method is within this Court's authority, I ask  
 26 that every dollar collected under the "LFO" heading, that

1 the DOC has collected under this Cause number, be applied  
 2 solely to the "restitution" amount owed, as specified under  
 3 RCW 9.94A.760(1).

4 V. CONCLUSION

5 This Motion serves to petition this Court according to  
 6 RCW 10.01.160, RCW 9.94A.760, and RCW 9.94A.753, for remission  
 7 or modification of the "LFO's," which include the "costs and  
 8 fees" and the "restitution" amounts, as ordered by this Court.

9 I ask for the Relief designated in Part II, and further,  
 10 that if this Court is in doubt as to my present or future ability  
 11 to pay the "LFO's" ordered, that a hearing be held wherein I  
 12 could submit whatever proof this Court requires.

13 RESPECTFULLY SUBMITTED this 2 day of February, 2014.

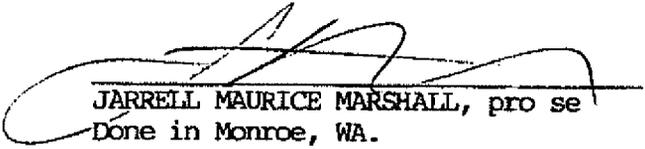
14  
 15   
 JARRELL MAURICE MARSHALL, pro se

16 #309755 / D128 / MCC-WSRU  
 17 PO Box 777  
 18 Monroe, WA 98272-0777

CERTIFICATE OF MAILING

Today I deposited in the institutional mailing system of Monroe Correctional Complex - WSRU, by First Class Postage, a true and correct copy of my MOTION TO MODIFY OR TERMINATE LEGAL FINANCIAL OBLIGATIONS, addressed to PIERCE COUNTY PROSECUTING ATTORNEY, 930 Tacoma Avenue S. Room 946, Tacoma, WA, 98402-2171, in the matter of STATE V. JARRELL MAURICE MARSHALL, Cause No. 06-1-02134-9, in the Superior Court of Pierce County in the State of Washington.

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.

  
JARRELL MAURICE MARSHALL, pro se  
Done in Monroe, WA.

2/2/2014  
DATE

---

A P P E N D I C E S

---

A P P E N D I X " A "

"Judgment and Sentence"

( 9 pages )

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 06-1-02134-9

vs

JUDGMENT AND SENTENCE (JS)

JARRELL MAURICE MARSHALL

Defendant.

- Prison  RCW 9.94A.712 Prison Confinement
- Jail One Year or Less
- First-Time Offender
- SSOSA
- DOSA
- Breaking The Cycle (BTC)
- Clerk's Action Required, para 4.5 (DOSA), 4.15.2, 5.3, 5.6 and 5.8

SID: UNKNOWN  
DOB: 12/16/1989

I. HEARING

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

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 08/15/2007 by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	MURDER 2 <sup>nd</sup> (D5)	9A.32.050(1)(b)	NONE	04/20/2006	06-110-0186 06-110-0065
III	ROBBERY 1 <sup>st</sup> (AAA1)	9A.56.190 9A.56.200(1)(a)(i)	NONE	04/20/2006	06-110-0186 06-110-0065
IV	ROBBERY 1 <sup>st</sup> (AAA1)	9A.56.190 9A.56.200(1)(a)(i)	NONE	04/20/2006	06-110-0186 06-110-0065

\* (F) Firearm, (D) Other deadly weapons, (V) VUCOSA in a protected zone, (VI) Veh. Horn, See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual Motivation, See RCW 9.94A.530(8)

as charged in the Amended Information

06-1-02134-9

- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number).

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

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	4	XIV	165-265 MONTHS	NONE	165-265 MONTHS	LIFE/ \$50,000
III	4	IX	51-68 MONTHS	NONE	51-68 MONTHS	LIFE/ \$50,000
IV	4	IX	51-68 MONTHS	NONE	51-68 MONTHS	LIFE/ \$50,000

2.4  EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence  above  below the standard range for Count(s) \_\_\_\_\_. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney  did  did not recommend a similar sentence.

2.5 LEGAL FINANCIAL OBLIGATIONS. The judgment shall upon entry be collectable by civil means, subject to applicable exemptions set forth in Title 6, RCW, Chapter 379, Section 22, Laws of 2003

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

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

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are  attached  as follows: UPON SATISFACTION OF CONTRACT CONDITIONS: 165 MONTHS IN DOC ON COUNT I; 51 MONTHS IN DOC ON COUNT III; 51 MONTHS IN DOC ON COUNT IV; TO RUN CONCURRENTLY TO EACH OTHER; 24-48 MONTHS COMMUNITY CUSTODY; CREDIT FOR TIME SERVED AS CALCULATED HEREIN; NO DIRECT OR INDIRECT CONTACT WITH VICTIMS OR VICTIM'S FAMILY; DNA TESTING; \$500 CVPA; \$200 FILING FEE; \$400 DAC RECOUPMENT AND \$100 DNA TEST FEE

### III. JUDGMENT

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

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

IV. SENTENCE AND ORDER

IT IS ORDERED:

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

JASS CODE

*KIN/RJN* \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
 \$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
 (Name and Address--address may be withheld and provided confidentially to Clerk's Office).

*PCV* \$ 500.00 Crime Victim assessment

*DNA* \$ 100.00 DNA Database Fee

*PUB* \$ 400.00 Court-Appointed Attorney Fees and Defense Costs

*FRC* \$ 200.00 Criminal Filing Fee

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

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_  
 \$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_  
 \$ 1200 TOTAL

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

4.2 RESTITUTION

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

[ ] shall be set by the prosecutor.  
 [X] is scheduled for 12/7/07  
 [ ] defendant waives any right to be present at any restitution hearing (defendant's initials): \_\_\_\_\_

[ ] RESTITUTION. Order Attached

4.3 COSTS OF INCARCERATION

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

4.4 COLLECTION COSTS

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

4.5 INTEREST

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090

06-1-02134-9

4.6 COSTS ON APPEAL

An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW. 10.73.

4.7 [ ] HIV TESTING

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

4.8 [X] DNA TESTING

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

4.9 NO CONTACT

The defendant shall not have contact with CARL SCHMIDT; AMBER LIMANER, THEIR FAMILIES & FAMILY of DIEN HUYNH (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence).

[ ] Domestic Violence Protection Order or Antiharassment Order is filed with this Judgment and Sentence.

4.10 OTHER:


4.11 BOND IS HEREBY EXONERATED

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

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

189 months on Count I 51 months on Count III  
51 months on Count IV

Actual number of months of total confinement ordered is: 189

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

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

CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

The sentence herein shall run consecutively to all felony sentences in other case numbers prior to the commission of the crime(s) being sentenced.

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

(b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number: RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 549 DAYS

4.13  COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

Count \_\_\_\_\_ for \_\_\_\_\_ months,

Count \_\_\_\_\_ for \_\_\_\_\_ months,

Count \_\_\_\_\_ for \_\_\_\_\_ months,

COMMUNITY CUSTODY is ordered as follows:

Count I for a range from: 24 to 48 Months,

Count III for a range from: 18 to 36 Months,

Count IV for a range from: 18 to 36 Months,

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. (See RCW 9.94A for community placement offenses -- serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense -- RCW 9.94A. Use paragraph 4.7 to impose community custody following work ethic camp.)

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

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

The defendant shall not consume any alcohol.

Defendant shall have no contact with CARL SCHMIDT, AMBER LIMANEK, THEIR FAMILIES & LYNN LYNNH.

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

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

The defendant shall undergo an evaluation for treatment for  domestic violence  substance abuse

mental health  anger management and fully comply with all recommended treatment.

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

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

4.14 [ ] WORK ETHIC CAMP. RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.13.

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

V. NOTICES AND SIGNATURES

5.1 COLLATERAL ATTACK ON JUDGMENT. Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 LENGTH OF SUPERVISION. For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505.

5.3 NOTICE OF INCOME-WITHHOLDING ACTION. If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7602.

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

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

5.6 SEX AND KIDNAPING OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. N/A

06-1-02134-9

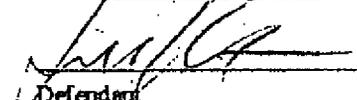
3.7 RESTITUTION AMENDMENTS. The portion of the sentence regarding restitution may be modified as to amount, terms, and conditions during any period of time the offender remains under the court's jurisdiction, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum sentence for the crime.

5.8 OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

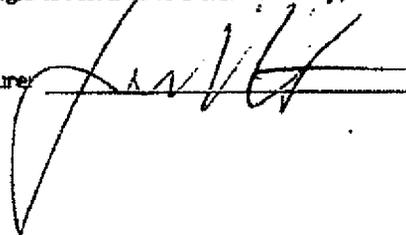
DONE in Open Court and in the presence of the defendant this date: \_\_\_\_\_

  
Deputy Prosecuting Attorney  
Print name: Tommy Lane  
WSB # 16706

JUDGE Th Pl  
Print name \_\_\_\_\_  
Attorney for Defendant Oliver for Ronald Hester  
Print name: Jessica Gillies  
WSB # 310588

  
Defendant  
Print name: JARRELLE MARSHALL

VOTING RIGHTS STATEMENT: RCW 10.64.140. I acknowledge that my right to vote has been lost due to felony convictions. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: 

06-1-02134-9

**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 06-1-02134-9

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

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

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

**IDENTIFICATION OF COURT REPORTER**

Amy Roetto  
Court Reporter

KUB  
RAD

06-1-02134-9

IDENTIFICATION OF DEFENDANT

SID No UNKNOWN Date of Birth 12/16/1989  
(If no SID take fingerprint card for State Patrol)

FBI No UNKNOWN Local ID No NONE

PCN No 538757641 Other

Alias name, SSN, DOB:

<b>Race:</b>	<input type="checkbox"/> Asian/Pacific Islander	<input checked="" type="checkbox"/> Black/African-American	<input type="checkbox"/> Caucasian	<b>Ethnicity:</b>	<input type="checkbox"/> Hispanic	<b>Sex:</b>	<input checked="" type="checkbox"/> Male
	<input type="checkbox"/> Native American	<input type="checkbox"/> Other:		<input checked="" type="checkbox"/> Non-Hispanic	<input type="checkbox"/>	<input type="checkbox"/>	Female

FINGERPRINTS

Left four fingers taken simultaneously

Left Thumb

Right Thumb

Right four fingers taken simultaneously

I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court/Deputy Clerk. Dated:

DEFENDANT'S SIGNATURE

DEFENDANT'S ADDRESS:

UVU  
RBR

A P P E N D I X " B "

"Restitution Hearing"

( 3 pages )

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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 06-1-02134-9

vs.

MARSHALL MAURICE MARSHALL,

Defendant.

RESTITUTION INFORMATION (RSI)

RESTITUTION INFORMATION

Defense: RONALD D. HESLORD & TERRY LANE Status: SENT 1/19/07

CRIME VICTIMS COMP \$3,055.67

LOSS CLAIM #VK 88926

\$3,055.67

TOTAL RESTITUTION

By: WAYNE SMITH  
Victim Advocate  
March 21, 2008

RESTITUTION INFORMATION

orchid.don

Office of the Prosecuting Attorney  
930 Tacoma Avenue South, Room 940  
Tacoma, Washington 98402-2171  
Main Office: (253) 798-7400

PCPAIPRR 45/13-0640 MARSHALLO00013

FOR QUALITY ORIGINAL  
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SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON

Plaintiff

CAUSE NO. DC-1-02134-0

JARRELL MAURICE MARSHALL

Defendant

ORDER SETTING RESTITUTION AND  
DISBURSEMENT

THIS MATTER having come on before the undersigned judge of the above entitled court  
and restitution having been ordered pursuant to a criminal conviction and RCW 9A.73A.030  
which provides in part that restitution be ordered for enemy ascertainable damage for injury or  
loss of property and actual expenses incurred for treatment for injury to persons and lost wages  
resulting from injury, but that the amount of restitution shall not exceed double the amount of the  
offender's gain or the victim's loss from the commission of the crime, and the files of the  
Prosecuting Attorney having reflected that the following persons or entities should receive  
restitution. Now, Therefore, IT IS HEREBY

ORDERED that restitution in the above entitled matter be and the same is hereby set at the  
sum of \$3,055.67 Joint and Several and the Clerk of the above entitled Court is hereby directed  
to disburse said funds as they are received in the manner following:

ORDER SETTING RESTITUTION AND DISBURSEMENT

Office of Prosecuting Attorney  
930 Thomas Avenue S. Room 946  
Tacoma, Washington 98402-2171  
Telephone: (253) 798-7400

Crime Victims Compensation \$3,053.67  
Claim #VK88926

POOR QUALITY ORIGINAL  
IMAGE IS BEST POSSIBLE

Joint and Several with co-defendant Cyril Delantó Warend case #06-1-02136

DONE IN OPEN COURT this 7th day of August 2008

JUDGE

Presented by

TEERY LANE  
Deputy Prosecuting Attorney  
WSB #16708

JARREL MAURICE MARSHALL Case No. 06-1-02134-0 being fully advised I have a right to be brought before the Court for a full Resumption Hearing and to have an attorney present to represent me and that the Court will appoint an attorney if I cannot afford one, hereby waive these rights and agree to entry of this order.

Date

Signature of Defendant

Signature Witness or Attorney for Defendant

Office of Prosecuting Attorney  
930 Illinois Avenue SE Room 946  
Tacoma Washington 98402-2171  
Telephone (253) 798-7400

ORDER SETTING RESTRICTION AND DISBURSEMENT

A P P E N D I X " C "

"Accounting Summary"

( 4 pages )

12/02/13 15:28:42

DG1310MI Case Financial History (CFHS) PIERCE CO SUPERIOR S27  
 Case: 061021349 Sl Csh: Pty: DEF 1 StID: \_\_\_\_\_  
 Name: MARSHALL, JARRELL MAURICE NmCd: \_\_\_\_\_  
 ----- A C C O U N T I N G S U M M A R Y -----

TOTAL TRUST		TOTAL AR	
Current Bail:		AR ORDERED: Fine/Fee:	1,200.00
Bail Payable:		Restitution:	3,055.67
Undisbursed Fnds:		TOTAL AR ORDERED:	4,255.67
Other Trust:		ADJUSTMENTS: Fine/Fee:	
Trust Balance:		Restitution:	
Other Rev Rec:		AR ADJUSTMENTS:	
Current Bond:		INTEREST: Int Accrued:	2,870.20
Bond Payable:		Int Received:	
Disbur to Payees:	383.24	INTEREST BALANCE:	2,870.20
Bail Forfeit Rec:		RECEIVED: Fine/Fee:	
Disp Code:		Restitution:	383.24
Last Receipt Date: 11/22/2013		TOTAL AR RECEIVED:	383.24
Cln Sts: Time Pay: N		BAIL/OTHER APPLIED:	
Joint and Several Case: N		BALANCE: Fine/Fee:	2,073.00
Case Fund Investments: N		Restitution:	4,669.63
Obligor AR Rec:	383.24	TOTAL AR BALANCE:	6,742.63

PF Keys: AR=2 Adj=3 Rec T=4 Rec Dt=5 Disb=6 BndBail T=9 Bnd Dt=10 Bail Dt=11

12/02/13 15:29:05

DG1316MI Case Financial History (CFHR) PIERCE CO SUPERIOR S27 1 of 3

Case: 061021349 Sl Csh: Pty: DEF 1 StID:

Name: MARSHALL, JARRELL MAURICE NmCd:

RECEIPTING DETAIL

RCPT DATE	RECEIPT NUMBER	PYMT TYPE	PYMT MODE	PAYER NAME	RCPT AMOUNT	DISTRIB AMOUNT	A/R TYPE
08/12/2008	08011657601	AR	CK	MARSHALL, JARRE	1.77	1.77	RTN
08/18/2008	08011715901	AR	CK	MARSHALL, JARRE	4.00	4.00	RTN
11/12/2008	08023083201	AR	CK	MARSHALL, JARRE	5.00	5.00	RTN
08/14/2009	09011635601	AR	CK	MARSHALL, JARRE	2.00	2.00	RTN
08/27/2009	09011726201	AR	CK	MARSHALL, JARRE	38.00	38.00	RTN
09/09/2009	09011831801	AR	CK	MARSHALL, JARRE	20.00	20.00	RTN
06/11/2010	10011308901	AR	CK	MARSHALL, JARRE	7.91	7.91	RTN
12/01/2010	10013448201	AR	CK	STATE, DOC	4.00	4.00	RTN
04/09/2010	10021097701	AR	CK	MARSHALL, JARRE	20.00	20.00	RTN
07/16/2010	10022148601	AR	CK	MARSHALL, JARRE	17.50	17.50	RTN
01/31/2011	11010315001	AR	CK	STATE, DOC	4.00	4.00	RTN
06/16/2011	11011883501	AR	CK	STATE, DOC	5.00	5.00	RTN
07/14/2011	11012265401	AR	CK	STATE, DOC	20.00	20.00	RTN

PF Keys: Sum=12 AR=2 Adj=3 Rec T=4 Disb=6 BndBail T=9 Bnd Dt=10 Bail Dt=11

12/02/13 15:29:22

DG1316MI Case Financial History (CFHR) PIERCE CO SUPERIOR S27 2 of 3

Case: 061021349 S1 Csh: Pty: DEF 1 StID: \_\_\_\_\_

Name: MARSHALL, JARRELL MAURICE NmCd: \_\_\_\_\_

RECEIPTING DETAIL

RCPT DATE	RECEIPT NUMBER	PYMT TYPE	PYMT MODE	PAYER NAME	RCPT AMOUNT	DISTRIB AMOUNT	A/R TYPE
02/23/2012	12010646501	AR	CK	STATE, DOC	11.00	11.00	RTN
08/24/2012	12012853001	AR	CK	STATE, DOC	3.00	3.00	RTN
09/24/2012	12013411801	AR	CK	STATE, DOC	4.00	4.00	RTN
02/04/2013	13010430101	AR	CK	STATE, DOC	5.00	5.00	RTN
03/06/2013	13010830801	AR	CK	STATE, DOC	9.68	9.68	RTN
04/03/2013	13011236001	AR	CK	STATE, DOC	20.80	20.80	RTN
05/01/2013	13011650101	AR	CK	STATE, DOC	21.83	21.83	RTN
06/06/2013	13012065701	AR	CK	STATE, DOC	25.30	25.30	RTN
06/27/2013	13012385501	AR	CK	STATE, DOC	23.78	23.78	RTN
08/14/2013	13012903801	AR	CK	STATE, DOC	22.08	22.08	RTN
08/21/2013	13013046101	AR	CK	STATE, DOC	5.00	5.00	RTN
09/11/2013	13013279201	AR	CK	STATE, DOC	21.99	21.99	RTN
11/07/2013	13013897601	AR	CK	STATE, DOC	29.76	29.76	RTN

PF Keys: Sum=12 AR=2 Adj=3 Rec T=4 Disb=6 BndBail T=9 Bnd Dt=10 Bail Dt=11

DG1316MI Case Financial History (CFHR) PIERCE CO SUPERIOR 12/02/13 15:29:28  
 Case: 061021349 S1 Csh: Pty: DEF 1 StID: S27 3 of 3  
 Name: MARSHALL, JARRELL MAURICE NmCd:

RECEIPTING DETAIL

RCPT DATE	RECEIPT NUMBER	PYMT TYPE	PYMT MODE	PAYER NAME	RCPT AMOUNT	DISTRIB AMOUNT	A/R TYPE
11/22/2013	13014094601	AR	CK	STATE, DOC	30.84	30.84	RTN

PF Keys: Sum=12 AR=2 Adj=3 Rec T=4 Disb=6 BndBail T=9 Bnd Dt=10 Bail Dt=11

A P P E N D I X " D "

"DOC-WSRU Trust Account Statement"

( 17 pages )

01/08/2013 14:07

Department of Corrections

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TLLUTZ

WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
 LOCATION: D01-048-D128L

BKG# 364424

Account Balance Today ( 01/08/2013 ) Current : 127.45  
 Hold : 18.41  
 Total : 145.86

Account Balance as of 12/31/2012 87.11

10/01/2012 12/31/2012

SUB ACCOUNT	START BALANCE	END BALANCE
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	0.00
SPENDABLE BAL	26.37	3.41
POSTAGE ACCOUNT	3.15	0.00
SAVINGS BALANCE	83.70	83.70
COMM SERV REV FUND ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVC	CRIME VICTIM COMPENSATION	11152007	UNLIMITED	140.59	0.00
HYGA	INMATE STORE DEBT	06172008	0.00	19.44	0.00
FVD	TV CABLE FEE DEBT	09132008	0.00	3.15	0.00
MEDD	MEDICAL COPAY DEBT	09122008	0.00	3.00	0.00
DEND	DENTAL COPAY DEBT	10012008	0.00	3.00	0.00
MEDD	MEDICAL COPAY DEBT	07082008	0.00	3.00	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20071211	UNLIMITED	174.18	0.00
COI	COST OF INCARCERATION	11152007	UNLIMITED	19.06	0.00
EL	ESCORTED LEAVE	09-2011	UNLIMITED	0.00	0.00
COIS	COST OF INCARCERATION /07112000	11152007	UNLIMITED	144.91	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	11152007	UNLIMITED	36.75	0.00
HYGA	INMATE STORE DEBT	09082008	0.00	17.01	0.00
POSD	POSTAGE DEBT	09242008	0.00	3.40	0.00

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT SAVINGS

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

EDUCATION ACCOUNT SUB-ACCOUNT

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

SPENDABLE BAL SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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01/08/2013 14:07

Department of Corrections

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TLUTZ

WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
 LOCATION: D01-048-D128L

BKG# 364424

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
10/04/2012	CRS SAL ORD #6996151WEST		( 0.86)	25.51
10/04/2012	CRS SAL ORD #6996157WEST		( 8.83)	16.68
10/10/2012	CHECK - PIERCE COUNTY PUBLIC RECORDS REQ		( 2.70)	13.98
10/11/2012	CLASS 3 GRATUITY WSRU VR 9/12		55.00	68.98
10/11/2012	Deductions-CVC-11152007 D D		( 2.75)	66.23
10/12/2012	CHAPEL FUND WSRU 2955 ISLAMIC ACCT		( 2.50)	63.73
10/13/2012	I05 - TV CABLE FEE		( 0.50)	63.23
10/29/2012	CRS SAL ORD #7027494WEST		( 17.02)	46.21
11/02/2012	POSTAGE JT		( 1.10)	45.11
11/08/2012	CLASS 3 GRATUITY WSRU VR PRTRS 10/12		55.00	100.11
11/08/2012	Deductions-CVC-11152007 D D		( 2.75)	97.36
11/10/2012	I05 - TV CABLE FEE		( 0.50)	96.86
11/14/2012	CRS SAL ORD #7044466WEST		( 24.93)	71.93
11/16/2012	Sub-Account Transfer		0.15	72.08
11/16/2012	POSTAGE		( 0.45)	71.63
11/19/2012	CHECK   DICK BLICK ART MATERIALS		( 40.00)	31.63
11/26/2012	POSTAGE JT		( 0.45)	31.18
11/26/2012	POSTAGE JT		( 0.45)	30.73
11/27/2012	JPAY MEDIA ACCT WITHDRAWAL		( 10.00)	20.73
11/27/2012	CRS SAL ORD #7059890WEST		( 18.53)	2.20
12/04/2012	POSTAGE		( 1.50)	0.70
12/07/2012	POSTAGE JT		( 0.45)	0.25
12/08/2012	TV CABLE FEE DEBT		0.25	0.50
12/08/2012	I05 - TV CABLE FEE		( 0.50)	0.00
12/11/2012	VENDOR REFUNDS DICK BLICK 132483		3.93	3.93
12/12/2012	POSTAGE		( 0.45)	3.48
12/12/2012	POSTAGE		( 1.30)	2.18
12/13/2012	CLASS 3 GRATUITY WSRU VR PRTRS 11/12		55.00	57.18
12/13/2012	Deductions-CVC-11152007 D D		( 2.75)	54.43
12/13/2012	Deductions-TVD-09132008 D D		( 0.25)	54.18
12/18/2012	EXTENDED FAMILY VISIT FEE 01/21		( 10.00)	44.18
12/20/2012	POSTAGE		( 0.45)	43.73
12/20/2012	POSTAGE		( 0.45)	43.28
12/20/2012	POSTAGE		( 0.45)	42.83
12/20/2012	POSTAGE		( 0.45)	42.38
12/20/2012	POSTAGE		( 0.45)	41.93
12/20/2012	POSTAGE		( 0.45)	41.48
12/21/2012	REC FEE - WEIGHTS 1ST QTR 2013 WSRU		( 7.00)	34.48
12/24/2012	CRS SAL ORD #7090467WEST		( 19.38)	15.10
12/27/2012	POSTAGE		( 0.45)	14.65

1/8/13

01/08/2013 14:07

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WASHINGTON STATE REFORMATORY

OTRTASTB

T R U S T A C C O U N T S T A T E M E N T

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
LOCATION: D01-048-D128L

BKG# 364424

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
12/31/2012	HOLD FED-EX 12-31-12 DN		( 11.24)	3.41

TRANSACTION DESCRIPTIONS -- POSTAGE ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
10/05/2012	POSTAGE SUBACCOUNT WITHDRAWAL JT		( 0.45)	2.70
10/15/2012	POSTAGE SUBACCOUNT WITHDRAWAL JT		( 0.20)	2.50
10/18/2012	POSTAGE SUBACCOUNT WITHDRAWAL JT		( 0.20)	2.30
10/19/2012	POSTAGE SUBACCOUNT WITHDRAWAL JT		( 0.45)	1.85
10/22/2012	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.70)	0.15
11/16/2012	Sub-Account Transfer		( 0.15)	0.00

TRANSACTION DESCRIPTIONS -- SAVINGS BALANCE SUB-ACCOUNT

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

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

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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04/05/2013 12:08

Department of Corrections

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CAMCCOLLOUGH

WASHINGTON STATE REFORMATORY

OTRTASTB

T R U S T   A C C O U N T   S T A T E M E N T

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
 LOCATION: D01-048-D128L

BKG# 364424

Account Balance Today ( 04/05/2013 ) Current : 104.68  
 Hold : 30.00  
 Total : 134.68

Account Balance as of 03/31/2013 104.68

01/01/2013 03/31/2013

SUB ACCOUNT	START BALANCE	END BALANCE
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	0.00
SPENDABLE BAL	3.41	0.30
POSTAGE ACCOUNT	0.00	2.94
SAVINGS BALANCE	83.70	101.44
COMM SERV REV FUND ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVC	CRIME VICTIM COMPENSATION	11152007	UNLIMITED	153.71	0.00
HYGA	INMATE STORE DEBT	06172008	0.00	19.44	0.00
TVD	TV CABLE FEE DEBT	09132008	0.00	3.15	0.00
MEDD	MEDICAL COPAY DEBT	09122008	0.00	3.00	0.00
DEND	DENTAL COPAY DEBT	10012008	0.00	3.00	0.00
MEDD	MEDICAL COPAY DEBT	07082008	0.00	3.00	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20071211	UNLIMITED	204.66	0.00
COI	COST OF INCARCERATION	11152007	UNLIMITED	41.92	0.00
EL	ESCORTED LEAVE	09-2011	UNLIMITED	0.00	0.00
COIS	COST OF INCARCERATION /07112006	11152007	UNLIMITED	144.91	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	11152007	UNLIMITED	36.75	0.00
HYGA	INMATE STORE DEBT	09082008	0.00	17.01	0.00
POSD	POSTAGE DEBT	09242008	0.00	3.40	0.00

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT SAVINGS

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

EDUCATION ACCOUNT SUB-ACCOUNT

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

SPENDABLE BAL SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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04/05/2013 12:08

Department of Corrections

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WASHINGTON STATE REFORMATORY

OTRTASTE

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M

BKG# 364424

LOCATION: D01-048-D128L

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
01/03/2013	HOLD FED-EX 1-3-13 DN		( 3.41)	0.00
01/04/2013	Remove Hold		11.24	11.24
01/04/2013	POSTAGE		( 11.24)	0.00
01/08/2013	OTHER DEPOSITS MARSHALL 133804		25.00	25.00
01/08/2013	Deductions-LFO-20071211 D D		( 5.00)	20.00
01/08/2013	Deductions-CVCS-11152007 D D		( 1.25)	18.75
01/08/2013	Deductions-SAV-08182008 D D		( 2.50)	16.25
01/08/2013	Deductions-COIS-11152007 D D		( 5.00)	11.25
01/10/2013	CLASS 3 GRATUITY WSR VISITING PRTR 12/12		55.00	66.25
01/10/2013	Deductions-CVC-11152007 D D		( 2.75)	63.50
01/12/2013	I05 - TV CABLE FEE		( 0.50)	63.00
01/14/2013	CHECK PIERCE COUNTY		( 0.60)	62.40
01/17/2013	CHECK GURU AMRIT RAMOS		( 50.00)	12.40
01/17/2013	Remove Hold		3.41	15.81
01/23/2013	CRS SAL ORD #7123951WEST		( 11.74)	4.07
02/09/2013	I05 - TV CABLE FEE		( 0.50)	3.57
02/14/2013	CLASS 3 GRATUITY WSR VR 1/13		55.00	58.57
02/14/2013	Deductions-CVC-11152007 D D		( 2.75)	55.82
02/14/2013	CRS SAL ORD #7152405WEST		( 8.28)	47.54
02/15/2013	CLASS 2 GRATUITY CI 1/13		48.41	95.95
02/15/2013	Deductions-LFO-20071211 D D		( 9.68)	86.27
02/15/2013	Deductions-CVC-11152007 D D		( 2.42)	83.85
02/15/2013	Deductions-SAV-08182008 D D		( 4.84)	79.01
02/15/2013	Deductions-COI-11152007 D D		( 7.26)	71.75
02/28/2013	CRS SAL ORD #7169536WEST		( 15.48)	56.27
03/05/2013	JPAY MEDIA ACCT WITHDRAWAL		( 10.00)	46.27
03/09/2013	I05 - TV CABLE FEE		( 0.50)	45.77
03/13/2013	CRS SAL ORD #7184305WEST		( 26.92)	18.85
03/13/2013	EXTENDED FAMILY VISIT FEE		( 5.00)	13.85 <i>BAL</i>
03/15/2013	CLASS 2 GRATUITY CI 2/13		103.98 <i>pay</i>	117.83
03/15/2013	Deductions-LFO-20071211 D D		( 20.80)	97.03
03/15/2013	Deductions-CVC-11152007 D D		( 5.20)	91.83
03/15/2013	Deductions-SAV-08182008 D D		( 10.40)	81.43
03/15/2013	Deductions-COI-11152007 D D		( 15.60)	65.83
03/20/2013	POSTAGE		( 0.20)	65.63 - 13.85
03/21/2013	CHECK GURU AMRIT RAMOS		( 50.00)	15.63
03/26/2013	CRS SAL ORD #7201486WEST		( 15.33)	0.30

TRANSACTION DESCRIPTIONS --

POSTAGE ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
01/08/2013	RECEIPT FOR POSTAGE RAMOS 133805		30.00	30.00
01/15/2013	HOLD FED-EX 1-15-13 DN		( 14.57)	15.43
01/17/2013	Remove Hold		14.57	30.00
01/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 17.98)	12.02

04/05/2013 12:08

Department of Corrections

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CAMCCOLLOUGH

WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M

BKG# 364424

LOCATION: D01-048-D128L

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
01/23/2013	SAPOS SAL ORD #7123950WEST		( 7.65)	4.37
01/24/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.40)	3.97
01/25/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.45)	3.52
01/28/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	3.32
01/28/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.45)	2.87
01/28/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.45)	2.42
02/04/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	2.22
02/06/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.40)	1.82
02/06/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	1.62
02/06/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.45)	1.17
02/12/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	0.71
02/12/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	0.25
02/12/2013	RECEIPT FOR POSTAGE RASNIOS 135561		25.00	25.25
02/13/2013	RECEIPT ACCESS SECUREPAK- JANUARY 2013		15.00	40.25
02/13/2013	HOLD TYPEWRITER SHIP 2/13/13 RS		( 15.00)	25.25
02/19/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	25.05
02/22/2013	HOLD FED-EX 2-22-13 DN		( 8.15)	16.90
02/26/2013	Remove Hold		8.15	25.05
02/26/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 8.15)	16.90
02/28/2013	SAPOS SAL ORD #7169535WEST		( 3.57)	13.33
03/08/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	13.13
03/08/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	12.67
03/12/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	12.47
03/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 2.92)	9.55
03/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 2.92)	6.63
03/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.40)	6.23
03/25/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 3.09)	3.14
03/25/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	2.94

TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
01/08/2013	Deductions-SAV-08182008 D D		2.50	86.20
02/15/2013	Deductions-SAV-08182008 D D		4.84	91.04
03/15/2013	Deductions-SAV-08182008 D D		10.40	101.44

TRANSACTION DESCRIPTIONS --

COMM SERV REV SUB-ACCOUNT  
FUND ACCOUNT

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

MEDICAL ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
 LOCATION: D01-048-D128L

BKG# 364424

Account Balance Today ( 07/02/2013 ) Current : 177.43  
 Hold : 30.00  
 Total : 207.43

Account Balance as of 06/30/2013 177.43  
 04/01/2013 06/30/2013

SUB ACCOUNT	START BALANCE	END BALANCE
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	10.00
SPENDABLE BAL	0.30	30.53
POSTAGE ACCOUNT	2.94	0.00
SAVINGS BALANCE	101.44	136.90
COMM SERV REV FUND ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVC	CRIME VICTIM COMPENSATION	11152007	UNLIMITED	171.45	0.00
HYGA	INMATE STORE DEBT	06172008	0.00	19.44	0.00
TVD	TV CABLE FEE DEBT	09132008	0.00	4.53	0.00
MEDD	MEDICAL COPAY DEBT	09122008	0.00	3.00	0.00
DEND	DENTAL COPAY DEBT	10012008	0.00	3.00	0.00
MEDD	MEDICAL COPAY DEBT	07082008	0.00	3.00	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20071211	UNLIMITED	275.57	0.00
COI	COST OF INCARCERATION	11152007	UNLIMITED	95.11	0.00
EL	ESCORTED LEAVE	09-2011	UNLIMITED	0.00	0.00
COIS	COST OF INCARCERATION /07112000	11152007	UNLIMITED	144.91	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	11152007	UNLIMITED	36.75	0.00
HYGA	INMATE STORE DEBT	09082008	0.00	17.01	0.00
POSD	POSTAGE DEBT	09242008	0.00	12.69	0.00

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT SAVINGS

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

EDUCATION ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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04/18/2013 EDUCATION ACCOUNT DEPOSITS- RAMOS 139002

10.00 10.00

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WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
LOCATION: D01-048-D128L

BKG# 364424

TRANSACTION DESCRIPTIONS --

SPENDABLE BAL SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
04/08/2013	CRS SAL ORD #7216270WEST		( 0.23)	0.07
04/13/2013	TV CABLE FEE DEBT		0.43	0.50
04/13/2013	I05 - TV CABLE FEE		( 0.50)	0.00
04/15/2013	CLASS 2 GRATUITY-C.I. 03/13		109.15	109.15
04/15/2013	Deductions-LFO-20071211 D D		( 21.83)	87.32
04/15/2013	Deductions-CVC-11152007 D D		( 5.46)	81.86
04/15/2013	Deductions-SAV-08182008 D D		( 10.92)	70.94
04/15/2013	Deductions-COI-11152007 D D		( 16.37)	54.57
04/15/2013	Deductions-TVD-09132008 D D		( 0.43)	54.14
04/17/2013	I05 - MEDICAL COPAY		( 4.00)	50.14
04/18/2013	CHECK DISBURSEMENT-WINE COUNTRY GIFTS		( 39.95)	10.19
04/19/2013	CRS SAL ORD #7231731		( 7.04)	3.15
05/02/2013	CRS SAL ORD #7248772		( 3.10)	0.05
05/11/2013	TV CABLE FEE DEBT		0.45	0.50
05/11/2013	I05 - TV CABLE FEE		( 0.50)	0.00
05/14/2013	POSTAGE DEBT		8.10	8.10
05/14/2013	POSTAGE		( 8.10)	0.00
05/15/2013	CLASS 2 GRATUITY CI 4/13		126.51	126.51
05/15/2013	Deductions-LFO-20071211 D D		( 25.30)	101.21
05/15/2013	Deductions-CVC-11152007 D D		( 6.33)	94.88
05/15/2013	Deductions-SAV-08182008 D D		( 12.65)	82.23
05/15/2013	Deductions-COI-11152007 D D		( 18.98)	63.25
05/15/2013	Deductions-TVD-09132008 D D		( 0.45)	62.80
05/15/2013	Deductions-POSD-09242008 D R		( 8.10)	54.70
05/15/2013	CRS SAL ORD #7265693		( 26.16)	28.54
05/21/2013	POSTAGE		( 8.10)	20.44
05/23/2013	POSTAGE		( 3.02)	17.42
05/24/2013	ID TAG		( 3.00)	14.42
05/28/2013	JPAY MEDIA ACCT WITHDRAWAL		( 10.00)	4.42
05/29/2013	CRS SAL ORD #7283547		( 3.81)	0.61
05/30/2013	Sub-Account Transfer		1.24	1.85
05/30/2013	POSTAGE		( 1.52)	0.33
06/05/2013	POSTAGE DEBT		0.79	1.12
06/05/2013	POSTAGE		( 1.12)	0.00
06/07/2013	POSTAGE DEBT		0.20	0.20
06/07/2013	POSTAGE		( 0.20)	0.00
06/07/2013	POSTAGE DEBT		0.20	0.20
06/07/2013	POSTAGE		( 0.20)	0.00
06/08/2013	TV CABLE FEE DEBT		0.50	0.50
06/08/2013	I05 - TV CABLE FEE		( 0.50)	0.00
06/14/2013	CLASS 2 GRATUITY CI PRINT SHOP 5/13		118.92	118.92
06/14/2013	Deductions-LFO-20071211 D D		( 23.78)	95.14
06/14/2013	Deductions-CVC-11152007 D D		( 5.95)	89.19

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WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
 LOCATION: D01-048-D128L

BKG# 364424

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
06/14/2013	Deductions-SAV-08182008 D D		( 11.89)	77.30
06/14/2013	Deductions-COI-11152007 D D		( 17.84)	59.46
06/14/2013	Deductions-TVD-09132008 D D		( 0.50)	58.96
06/14/2013	Deductions-POSD-09242008 D R		( 1.19)	57.77
06/14/2013	CHECK PIERCE COUNTY PDU		( 3.17)	54.60
06/24/2013	CRS SAL ORD #7319045		( 23.15)	31.45
06/25/2013	POSTAGE		( 0.46)	30.99
06/25/2013	POSTAGE		( 0.46)	30.53

TRANSACTION DESCRIPTIONS -- POSTAGE ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
04/08/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.12)	1.82
04/15/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	1.36
04/18/2013	RECEIPT FOR POSTAGE-RAMOS 139001		15.00	16.36
04/25/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	16.16
04/25/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	15.96
04/26/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 10.16)	5.80
05/01/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.72)	4.08
05/01/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	3.88
05/01/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	3.42
05/07/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.72)	1.70
05/15/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	1.24
05/30/2013	Sub-Account Transfer		( 1.24)	0.00

TRANSACTION DESCRIPTIONS -- SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
04/15/2013	Deductions-SAV-08182008 D D		10.92	112.36
05/15/2013	Deductions-SAV-08182008 D D		12.65	125.01
06/14/2013	Deductions-SAV-08182008 D D		11.89	136.90

TRANSACTION DESCRIPTIONS -- COMM SERV REV SUB-ACCOUNT  
FUND ACCOUNT

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

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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OTRSTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
LOCATION: D01-048-D128L

BKG# 364424

Account Balance Today ( 10/04/2013 ) Current : 264.16  
Hold : 30.00  
Total : 294.16

Account Balance as of 09/30/2013 264.16

07/01/2013 09/30/2013

SUB ACCOUNT	START BALANCE	END BALANCE
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	10.00	10.00
SPENDABLE BAL	30.53	29.63
POSTAGE ACCOUNT	0.00	48.21
SAVINGS BALANCE	136.90	176.32
COMM SERV REV FUND ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVC	CRIME VICTIM COMPENSATION	11152007	UNLIMITED	189.91	0.00
HYGA	INMATE STORE DEBT	06172008	0.00	19.44	0.00
TVD	TV CABLE FEE DEBT	09132008	0.00	5.53	0.00
MEDD	MEDICAL COPAY DEBT	09122008	0.00	3.00	0.00
DEND	DENTAL COPAY DEBT	10012008	0.00	3.00	0.00
IDTD	ID TAG DEBT	08292013	0.00	2.59	0.00
MEDD	MEDICAL COPAY DEBT	07082008	0.00	3.00	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20071211	UNLIMITED	354.40	0.00
COI	COST OF INCARCERATION	11152007	UNLIMITED	150.49	0.00
EL	ESCORTED LEAVE	09-2011	UNLIMITED	0.00	0.00
COIS	COST OF INCARCERATION /07112000	11152007	UNLIMITED	149.91	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	11152007	UNLIMITED	38.00	0.00
HYGA	INMATE STORE DEBT	09082008	0.00	17.01	0.00
POSD	POSTAGE DEBT	09242008	0.00	13.66	0.00

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT SAVINGS

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

EDUCATION ACCOUNT SUB-ACCOUNT

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

SPENDABLE BAL SUB-ACCOUNT

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OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
 LOCATION: D01-048-D128L

BKG# 364424

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
07/08/2013	CRS SAL ORD #7336093		( 18.92)	11.61
07/10/2013	EXTENDED FAMILY VISIT FEE		( 10.00)	1.61
07/10/2013	POSTAGE		( 0.40)	1.21
07/10/2013	POSTAGE DEBT		0.31	1.52
07/10/2013	POSTAGE		( 1.52)	0.00
07/10/2013	POSTAGE DEBT		0.46	0.46
07/10/2013	POSTAGE		( 0.46)	0.00
07/12/2013	POSTAGE DEBT		0.20	0.20
07/12/2013	POSTAGE		( 0.20)	0.00
07/13/2013	TV CABLE FEE DEBT		0.50	0.50
07/13/2013	I05 - TV CABLE FEE		( 0.50)	0.00
07/15/2013	CLASS 2 GRATUITY-CI 6/13		110.41	110.41
07/15/2013	Deductions-LFO-20071211 D D		( 22.08)	88.33
07/15/2013	Deductions-CVC-11152007 D D		( 5.52)	82.81
07/15/2013	Deductions-SAV-08182008 D D		( 11.04)	71.77
07/15/2013	Deductions-COI-11152007 D D		( 16.56)	55.21
07/15/2013	Deductions-TVD-09132008 D D		( 0.50)	54.71
07/15/2013	Deductions-POSD-09242008 D R		( 0.97)	53.74
07/16/2013	POSTAGE		( 0.20)	53.54
07/18/2013	PIZZA FUND RAISER WSRU		( 15.50)	38.04
07/19/2013	CRS SAL ORD #7354595		( 24.88)	13.16
07/25/2013	POSTAGE		( 1.92)	11.24
07/26/2013	OTHER DEPOSITS MARSHALL 143399		25.00	36.24
07/26/2013	Deductions-LFO-20071211 D D		( 5.00)	31.24
07/26/2013	Deductions-CVCS-11152007 D D		( 1.25)	29.99
07/26/2013	Deductions-SAV-08182008 D D		( 2.50)	27.49
07/26/2013	Deductions-COIS-11152007 D D		( 5.00)	22.49
08/01/2013	CRS SAL ORD #7371953		( 12.31)	10.18
08/02/2013	POSTAGE		( 1.72)	8.46
08/02/2013	I05 - MEDICAL COPAY		( 4.00)	4.46
08/10/2013	I05 - TV CABLE FEE		( 0.50)	3.96
08/14/2013	CRS SAL ORD #7388240		( 3.81)	0.15
08/15/2013	CLASS 2 GRATUITY-CI PAY 7/13		109.97	110.12
08/15/2013	Deductions-LFO-20071211 D D		( 21.99)	88.13
08/15/2013	Deductions-CVC-11152007 D D		( 5.50)	82.63
08/15/2013	Deductions-SAV-08182008 D D		( 11.00)	71.63
08/15/2013	Deductions-COI-11152007 D D		( 16.50)	55.13
08/19/2013	COPIES-"A" WSR		( 4.80)	50.33
08/22/2013	CHECK GURU AMRIT MARSHALL		( 45.00)	5.33
08/27/2013	CRS SAL ORD #7406647		( 4.92)	0.41
08/29/2013	ID TAG DEBT		2.59	3.00
08/29/2013	ID TAG REPLACEMENT		( 3.00)	0.00
09/14/2013	TV CABLE FEE DEBT		0.50	0.50
09/14/2013	I05 - TV CABLE FEE		( 0.50)	0.00
09/16/2013	CLASS 2 GRATUITY-C.I. 8/13		148.80	148.80

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Department of Corrections

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WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
LOCATION: D01-048-D128L

BKG# 364424

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
09/16/2013	Deductions-LFC-20071211 D D		( 29.76)	119.04
09/16/2013	Deductions-CVC-11152007 D D		( 7.44)	111.60
09/16/2013	Deductions-SAV-08182008 D D		( 14.88)	96.72
09/16/2013	Deductions-COI-11152007 D D		( 22.32)	74.40
09/16/2013	Deductions-TVD-09132008 D D		( 0.50)	73.90
09/16/2013	Deductions-IDTD-08292013 D R		( 2.59)	71.31
09/19/2013	CHECK PODER HISPANIC MAGAZINE		( 6.00)	65.31
09/24/2013	CRS SAL ORD #7441921		( 35.68)	29.63

TRANSACTION DESCRIPTIONS --

POSTAGE ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
08/01/2013	RECEIPT FOR POSTAGE MARSHALL 143607		80.00	80.00
08/05/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	79.54
08/13/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	79.08
08/13/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.40)	78.68
08/13/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	78.22
08/13/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	78.02
08/14/2013	SAPOS SAL ORD #7388836		( 10.40)	67.62
08/16/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 3.09)	64.53
08/19/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	64.33
08/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	64.13
08/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	63.93
08/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	63.47
08/21/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	63.27
08/22/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	63.07
08/23/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	62.87
08/27/2013	SAPOS SAL ORD #7406645		( 2.60)	60.27
08/28/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.72)	58.55
09/16/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	58.09
09/16/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	57.63
09/16/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.12)	56.51
09/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	56.31
09/19/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.66)	55.65
09/20/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.66)	54.99
09/23/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.12)	53.87
09/23/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	53.41
09/24/2013	SAPOS SAL ORD #7441887		( 5.20)	48.21

TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
07/15/2013	Deductions-SAV-08182008 D D		11.04	147.94
07/26/2013	Deductions-SAV-08182008 D D		2.50	150.44
08/15/2013	Deductions-SAV-08182008 D D		11.00	161.44
09/16/2013	Deductions-SAV-08182008 D D		14.88	176.32

TRANSACTION DESCRIPTIONS --

COMM SERV REV SUB-ACCOUNT

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WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
LOCATION: D01-048-D128L

BKG# 364424

FUND ACCOUNT

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

01/06/2014 07:05

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TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M  
LOCATION: D01-048-D128L

BKG# 364424

Account Balance Today ( 01/06/2014 ) Current : 325.04  
Hold : 30.00  
Total : 355.04

Account Balance as of 12/31/2014 325.04

10/01/2013 12/31/2014

SUB ACCOUNT	START BALANCE	END BALANCE
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	10.00	10.00
SPENDABLE BAL	29.63	48.76
POSTAGE ACCOUNT	48.21	43.60
SAVINGS BALANCE	176.32	222.68
COMM SERV REV FUND ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVC	CRIME VICTIM COMPENSATION	11152007	UNLIMITED	210.84	0.00
HYGA	INMATE STORE DEBT	06172008	0.00	19.44	0.00
TVD	TV CABLE FEE DEBT	09132008	0.00	5.53	0.00
MEDD	MEDICAL COPAY DEBT	09122008	0.00	3.00	0.00
DEND	DENTAL COPAY DEBT	10012008	0.00	3.00	0.00
IDTD	ID TAG DEBT	08292013	0.00	2.59	0.00
MEDD	MEDICAL COPAY DEBT	07082008	0.00	3.00	0.00
→ LFO	LEGAL FINANCIAL OBLIGATIONS	20071211	UNLIMITED	447.11	0.00
COI	COST OF INCARCERATION	11152007	UNLIMITED	213.28	0.00
EL	ESCORTED LEAVE	09-2011	UNLIMITED	0.00	0.00
COIS	COST OF INCARCERATION /07112000	11152007	UNLIMITED	158.91	0.00
-> CVCS	CRIME VICTIM COMPENSATION/07112000	11152007	UNLIMITED	40.25	0.00
HYGA	INMATE STORE DEBT	09082008	0.00	17.01	0.00
POSD	POSTAGE DEBT	09242008	0.00	13.66	0.00

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT SAVINGS

DATE TRANSACTION DESCRIPTION RECEIPT# TRANSACTION AMT BALANCE

TRANSACTION DESCRIPTIONS --

EDUCATION ACCOUNT SUB-ACCOUNT

DATE TRANSACTION DESCRIPTION RECEIPT# TRANSACTION AMT BALANCE

TRANSACTION DESCRIPTIONS --

SPENDABLE BAL SUB-ACCOUNT

1/6/14

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WASHINGTON STATE REFORMATORY

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TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M

BKG# 364424

LOCATION: D01-048-D128L

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
12/17/2013	Deductions-CVCS-11152007 D D		( 1.25)	116.41
12/17/2013	Deductions-SAV-08182008 D D		( 2.50)	113.91
12/17/2013	Deductions-COIS-11152007 D D		( 5.00)	108.91
12/26/2013	CRS SAL ORD #7567259		( 53.15)	55.76
12/30/2013	REC FEE - MUSIC 1ST QTR 2014		( 7.00)	48.76

TRANSACTION DESCRIPTIONS --

POSTAGE ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
10/07/2013	SAPOS SAL ORD #7458916		( 7.80)	40.41
10/10/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	39.95
10/15/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	39.75
10/17/2013	Sub-Account Transfer		( 39.75)	0.00
10/18/2013	Transfer funds for Commissary SAPOS Sales S/o - 7476485		7.80	7.80
10/18/2013	SAPOS SAL ORD #7476485		( 7.80)	0.00
11/19/2013	RECEIPT FOR POSTAGE MARSHALL 147953		60.00	60.00
11/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	59.80
11/27/2013	SAPOS SAL ORD #7530317		( 10.40)	49.40
12/04/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	48.94
12/09/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	48.74
12/09/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	48.54
12/09/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.20)	48.34
12/10/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 1.32)	47.02
12/16/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	46.56
12/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.66)	45.90
12/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	45.44
12/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	44.98
12/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	44.52
12/18/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	44.06
12/31/2013	POSTAGE SUBACCOUNT WITHDRAWAL		( 0.46)	43.60

TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
10/09/2013	Deductions-SAV-08182008 D D		2.00	178.32
10/15/2013	Deductions-SAV-08182008 D D		13.42	191.74
11/15/2013	Deductions-SAV-08182008 D D		17.11	208.85
12/13/2013	Deductions-SAV-08182008 D D		11.33	220.18
12/17/2013	Deductions-SAV-08182008 D D		2.50	222.68

TRANSACTION DESCRIPTIONS --

COMM SERV REV SUB-ACCOUNT  
FUND ACCOUNT

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

MEDICAL ACCOUNT SUB-ACCOUNT

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
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Department of Corrections

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WASHINGTON STATE REFORMATORY

OTRTASTB

TRUST ACCOUNT STATEMENT

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M

BKG# 364424

LOCATION: D01-048-D128L

DATE	TRANSACTION DESCRIPTION	RECEIPT#	TRANSACTION AMT	BALANCE
10/07/2013	CRS SAL ORD #7458922		( 2.84)	26.79
10/09/2013	JPAY SPENDABLE 10/09/13 MARSHALL		20.00	46.79
10/09/2013	Deductions-LFO-20071211 D D		( 4.00)	42.79
10/09/2013	Deductions-CVCS-11152007 D D		( 1.00)	41.79
10/09/2013	Deductions-SAV-08182008 D D		( 2.00)	39.79
10/09/2013	Deductions-COIS-11152007 D D		( 4.00)	35.79
10/12/2013	I05 - TV CABLE FEE		( 0.50)	35.29
* 10/15/2013	CLASS 2 GRATUITY-CI 9/13		134.18	169.47
10/15/2013	Deductions-LFO-20071211 D D		( 26.84)	142.63
10/15/2013	Deductions-CVC-11152007 D D		( 6.71)	135.92
10/15/2013	Deductions-SAV-08182008 D D		( 13.42)	122.50
10/15/2013	Deductions-COI-11152007 D D		( 20.13)	102.37
10/17/2013	Sub-Account Transfer		39.75	142.12
10/17/2013	POSTAGE		( 47.01)	95.11
10/18/2013	Transfer funds for Commissary SAPOS Sales S/o - 7476485		( .780)	87.31
10/18/2013	CRS SAL ORD #7476489		( 27.05)	60.26
10/18/2013	POSTAGE		( 0.20)	60.06
10/21/2013	CHECK DISBURSEMENT-PIERCE COUNTY		( 3.00)	57.06
10/24/2013	POSTAGE		( 0.52)	56.54
10/25/2013	POSTAGE		( 2.12)	54.42
10/25/2013	POSTAGE		( 0.20)	54.22
10/25/2013	POSTAGE		( 9.88)	44.34
10/25/2013	REC FEE - MUSIC 4th QTR		( 7.00)	37.34
10/31/2013	CRS SAL ORD #7493942		( 23.66)	13.68
10/31/2013	POSTAGE		( 1.52)	12.16
11/07/2013	POSTAGE		( 1.32)	10.84
11/09/2013	I05 - TV CABLE FEE		( 0.50)	10.34
11/14/2013	CRS SAL ORD #7511202		( 9.30)	1.04
* 11/15/2013	CLASS 2 GRATUITY C/I 10/13		171.11	172.15
11/15/2013	Deductions-LFO-20071211 D D		( 34.22)	137.93
11/15/2013	Deductions-CVC-11152007 D D		( 8.56)	129.37
11/15/2013	Deductions-SAV-08182008 D D		( 17.11)	112.26
11/15/2013	Deductions-COI-11152007 D D		( 25.67)	86.59
11/27/2013	CRS SAL ORD #7530321		( 18.26)	68.33
12/12/2013	CRS SAL ORD #7548380		( 26.80)	41.53
* 12/13/2013	CLASS 2 GRATUITY C/I 11/13		113.26	154.79
12/13/2013	Deductions-LFO-20071211 D D		( 22.65)	132.14
12/13/2013	Deductions-CVC-11152007 D D		( 5.66)	126.48
12/13/2013	Deductions-SAV-08182008 D D		( 11.33)	115.15
12/13/2013	Deductions-COI-11152007 D D		( 16.99)	98.16
12/14/2013	I05 - TV CABLE FEE		( 0.50)	97.66
12/17/2013	OTHER DEPOSITS MARASHALL 149143		25.00	122.66
12/17/2013	Deductions-LFO-20071211 D D		( 5.00)	117.66

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WASHINGTON STATE REFORMATORY

OTRTASTB

T R U S T   A C C O U N T   S T A T E M E N T

6.03.1.0.1.9

DOC# 0000309755 Name: MARSHALL, JARRELL M

BKG# 364424

LOCATION: D01-048-D128L

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A P P E N D I X " E "

"Affidavit of  
Jarrell Maurice Marshall"

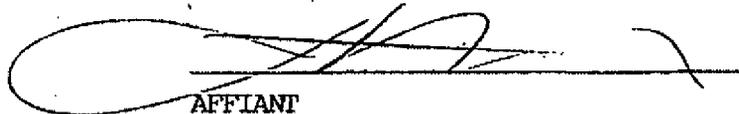
( 2 pages )



7. For the most part, I have had to forego monetary support from my family, as the LFO deductions from the money they send, to try to help, diminishes their attempt to aid me; and as the money they have, or would, send has often been hard-earned, and already taxed, then to have it cut in half again creates a hardship not they, nor I, can endure without anguish.
8. As I have attempted to reduce, through deductions, the court-ordered LFO's in this matter, I have been prevented from paying-down or meeting the court-ordered obligations, due to the ever-increasing amounts of those LFO's, driven by compound interest.
9. As I prepare for my future release, and reintegration into society as a citizen of this State, I am concerned that being released with a hefty debt will further hinder my successful transition. As I would already be a convicted felon, with no job history outside of prison, and no real credit, I am deeply worried; this causes much distress and mental anguish as I see a rather bleak financial future with an insurmountable amount of debt, due to LFO's.
10. I will have to depend heavily on my family, thus becoming a burden, for financial, housing, food, and transportation assistance upon release, due to LFO's, which will cause, I fear, an unfair strain upon them.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 2 day of February, 2014.



AFFIANT

Jarrell Maurice Marshall  
#309755 / D128 / MCC-WSRU  
PO Box 777 / Monroe, WA 98272-0777

# APPENDIX F

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

STATE OF WASHINGTON, )  
 ) Cause No. 06-1-02134-9  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 JARRELL MAURICE MARSHALL, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

VERBATIM REPORT OF  
DIGITALLY-RECORDED PROCEEDINGS

August 8, 2014

HEARD BEFORE THE HONORABLE PHIL SORENSEN

FOR THE PLAINTIFF: CHRISTINE M. CHIN  
Pierce County Prosecuting  
Attorney's Office  
930 Tacoma Avenue South, Room 109  
Tacoma, Washington 98402-2171

FOR THE DEFENDANT: PRO SE

T A B L E O F C O N T E N T S

PAGE NO.

August 8, 2014:

DEFENSE MOTION TO AMEND LFO ..... 3  
ARGUMENT ..... 4  
COURT'S RULINGS ..... 6  
ORDER SIGNED ..... 10

1 August 8, 2014, 10:03 a.m.

2 MS. CHIN: Your Honor, would you hear the Marshall matter  
3 next?

4 THE COURT: Yes.

5 MS. CHIN: Mr. Marshall is on the phone from Department-  
6 he's being held at the Department of Corrections.

7 [Off-the-record discussion.]

8 MS. CHIN: Your Honor, this is the State of Washington  
9 versus Jarrell Maurice Marshall, Cause No. 06-1-02134-9.  
10 Christine Chin for the State. Defendant is currently being  
11 held at Department of Corrections for the 189 months that  
12 was sentenced on this case. It's a conviction for Murder in  
13 the Second Degree and two convictions for Robbery in the  
14 First Degree. Conviction-excuse me, sentencing date was  
15 November 9th of 2007.

16 This is-comes before the Court on the Defendant's motion  
17 to amend the LFOs, legal financial obligations, imposed in  
18 this case. I'll give him the floor at this time. He is  
19 appearing telephonically.

20 THE COURT: Mr. Marshall.

21 MR. MARSHALL: Yes.

22 THE COURT: I'm Judge Phil Sorensen. What would you like  
23 to tell me?

24 MR. MARSHALL: Uh, well, first I'd like to thank you for  
25 hearing my motion today. But, I would like to, uhm-excuse

1 me. Can you hear me?

2 THE COURT: Yes.

3 MR. MARSHALL: Excuse me. I would like to request that  
4 this Court set aside and terminate the legal financial  
5 obligations imposed by this Court and/or modify the LFOs  
6 with forbearance of the interest that is being generated  
7 and compounded on the fees, costs, and restitution so  
8 imposed by this Court and to allow the prior payments made  
9 and future payments collected to be applied solely to the  
10 principal amount of the \$4,255.67 set aside by this Court  
11 in this matter. And furthermore, that a hearing be held to  
12 determine that Defendant's present incapability to pay any  
13 financial obligations given the current state of the  
14 Defendant's poor finances [inaudible] over the time of any  
15 noteworthy income and financial hardship caused to me  
16 and/or my family by these financial obligations.

17 THE COURT: Okay. What's the State's position?

18 MS. CHIN: Your Honor, the State's position, I-I'm going  
19 to start with--there are several things he's asking for.  
20 He's asking to remove any type of--first, he's asking that  
21 all of the fines be completely eradicated at this point. In  
22 his motion he purports to the Court that any fines are  
23 subject to--to amendment based on the Defendant's ability to  
24 pay. That's not true. Under *State v. Lunde* the mandatory  
25 fines, the Court is not to consider whether or not the

1 Defendant can pay or-

2 THE COURT: Okay.

3 MS. CHIN: -is likely able to pay.

4 THE COURT: Let me-let me stop you there. I'm going to  
5 deny that motion. So, we can talk about interest.

6 MS. CHIN: Okay. So, the interest in this case-interest  
7 on restitution cannot be waived regardless of whether the  
8 Defendant is in custody, in total confinement, or out of  
9 total confinement. The basis for that, Your Honor, the  
10 policy behind that is that the legislature wants to promote  
11 the Defendant-

12 THE COURT: I'm not going to allow any forbearance of  
13 interest on restitution.

14 MS. CHIN: But, Your Honor, I would say on the rest of  
15 the legal financial obligations, there is-under  
16 RCW 10.82.090(2)(a), it indicates that the Court shall  
17 waive all interests on the portions of the legal financial  
18 obligations that are not restitution that accrued during  
19 the term of total confinement for the conviction giving  
20 rise to the financial obligations provided the offender  
21 show that the interest creates a hardship for the offender  
22 or his or her immediate family.

23 At this point there's been no actual showing; there's  
24 just been a conclusory statement, although I understand how  
25 confinement in this case may affect the Defendant's ability

1 to pay or might create a hardship. So, I'm going to give  
2 him the floor at this time. But, that would be the only  
3 thing that the State would not object to at this time given  
4 the statute. And I'm handing that statute forward to the  
5 Court now. Like I said, it's RCW 10.82.090.

6 THE COURT: Okay. Mr. Marshall, what would you like to  
7 tell me about the interest on your legal financial  
8 obligations that are not restitution?

9 MR. MARSHALL: Uhm, so, if I may, the-okay. So, can you  
10 please repeat that, sir?

11 THE COURT: I've denied your motion regarding eliminating  
12 your legal financial obligations altogether.

13 MR. MARSHALL: Yes.

14 THE COURT: I've denied your motion allowing for removal  
15 of interest on restitution.

16 MR. MARSHALL: Uh-huh.

17 THE COURT: The remaining motion, as I understand it, is  
18 whether or not interest should accrue on your legal  
19 financial obligations that are not restitution.

20 MR. MARSHALL: Okay.

21 THE COURT: Okay?

22 MR. MARSHALL: So, if I may, as I understand it, the-the  
23 interest-uh, one of the interest, uhm, that is paid on the  
24 legal financial obligations is, uh, [inaudible] and  
25 [inaudible]. And, so what I'm thinking is that I'm

1 essentially paying twice of the same crime to the same  
2 place. And as I understand it, there's a double jeopardy  
3 and a due process violation of my rights.

4 THE COURT: Okay.

5 MR. MARSHALL: To date not one penny of what has been  
6 collected from me has gone to pay the restitution that this  
7 Court has ordered. And as I understand it, this is a clear  
8 violation of RCW 9.94A.76(b)(i).

9 THE COURT: Okay. Mr. Marshall, hang on—hang on just a  
10 second. I'm going to grant your motion as to interest on  
11 the non-restitution LFOs. You will not have to pay interest  
12 on that.

13 MR. MARSHALL: Okay.

14 THE COURT: All right? I believe that is all of the  
15 issues that were before the Court.

16 MS. CHIN: Yes, Your Honor, I think that's it. So, Your  
17 Honor—just so we can recap, Your Honor ruled that the LF—  
18 the legal financial obligations and the restitution shall  
19 remain as previously ordered. Your Honor ruled that  
20 restitution—interest on the restitution amount shall  
21 continue to accrue during the term of total confinement  
22 pursuant to the statute that I have provided the Court.

23 MR. MARSHALL: Yes.

24 MS. CHIN: And—and the interest accruing on any other  
25 legal financial obligations shall be waived during the term

1 of total confinement.

2 THE COURT: Correct.

3 MS. CHIN: Thank you, Your Honor.

4 MR. MARSHALL: Hello. It sounds like you cut out for a  
5 minute. Hello?

6 THE COURT: No. Mr. Marshall?

7 MR. MARSHALL: Yes, sir.

8 THE COURT: You're—you still owe the legal financial  
9 obligations. You still—you still owe restitution. Interest  
10 is still going to accrue on the restitution. It is not  
11 going to accrue on the other legal financial obligations.

12 MR. MARSHALL: Okay.

13 THE COURT: All right?

14 MR. MARSHALL: Okay. Well, uhm—well, in conclusion—well,  
15 first I'd like to say thank you. But, in conclusion, uhm, I  
16 would ask that any opinion made by this Court, uh, be made  
17 as a written opinion and be stated on the record.

18 THE COURT: There will be an order that's generated, and  
19 you'll have access to that.

20 MS. CHIN: I'm—

21 MR. MARSHALL: Okay. Thank you.

22 MS. CHIN: I'm currently generating that now.

23 THE COURT: Do we need Mr. Marshall any further?

24 MR. MARSHALL: Uhm, at this time I have no further  
25 statement.

1 MS. CHIN: Well, do you want me to finish writing this up  
2 and have you sign it on the record, Your Honor?

3 THE COURT: Yes.

4 MS. CHIN: Okay.

5 THE COURT: Mr. Marshall, hang on just a few more—few  
6 more seconds, okay?

7 MR. MARSHALL: Okay. Excuse me, Your Honor?

8 THE COURT: Yes.

9 MR. MARSHALL: Could you please repeat your name for me  
10 one more time, sir?

11 THE COURT: Sure. Last name is Sorensen, S-O-R-E-N-S-E-N.

12 MR. MARSHALL: Thank you.

13 THE COURT: First name Phil.

14 MR. MARSHALL: Thank you.

15 MS. CHIN: Your Honor, which—in terms of your decision  
16 regarding the imposition of the legal financial  
17 obligations, would you like me to cite the case that I was  
18 previously citing to, or just delete it?

19 THE COURT: No, you don't need to cite to that case.

20 MS. CHIN: Thank you.

21 [Off-the-record discussion.]

22 MS. CHIN: Your Honor, I'm sorry that the pleading  
23 paperwork didn't—the pleading—

24 THE COURT: That's fine.

25 MS. CHIN: —paper didn't come out quite right [inaudible]

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the macro.

[Off-the-record discussion.]

THE COURT: Okay.

[Off-the-record discussion.]

THE COURT: Okay. Mr. Marshall, I've signed your order on the record indicating that you were appearing through the Department of Corrections via the telephone.

MR. MARSHALL: Okay.

THE COURT: All right? So, you will have access to a copy of that by the Link System.

MR. MARSHALL: Thank you.

THE COURT: All right. And Ms. Chin, you need to sign that order.

MS. CHIN: Oh, thank you, Your Honor. Of course.

[Off-the-record discussion.]

THE COURT: So, we can hang up, Mr. Marshall. Goodbye.

MR. MARSHALL: Okay. Thanks for your time.

MS. CHIN: Okay.

[Off-the-record discussion.]

[Session ends at 10:18 a.m.]

### LEGEND OF SYMBOLS USED

— Indicates an incomplete sentence or broken thought.

... Indicates there appears to be something missing from original sound track or a break in the testimony when switching either from Side A to Side B or switching between tapes.

[inaudible]      1. Something was said but could not be heard.  
                  2. Speaker may have dropped their voice or walked away from microphone.  
                  3. Coughing in background, shuffling of papers, et cetera, which may have drowned out speaker's voice.

[sic]             1. The correct spelling of that word could not be found, but is spelled phonetically, or —  
                  2. This is what it sounded like was said.

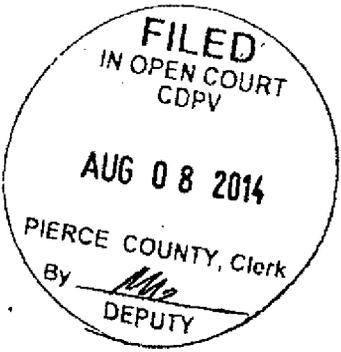
[No response.]      There is a pause in proceedings, but no response was heard.

[No audible response.]      Possible that something was said, but word or words could not be heard.

[Off-the-record discussion.]  
                  1. Discussion not pertaining to case.  
                  2. Discussion between counsel and/or the Court, not meant to be on the record.



# APPENDIX G



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IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,  
Plaintiff/Petitioner,

Cause No. 06-1-02134-9

vs.

JARRELL MAURICE MARSHALL,  
Defendant/Respondent.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENSE MOTION RE LEGAL FINANCIAL OBLIGATIONS**

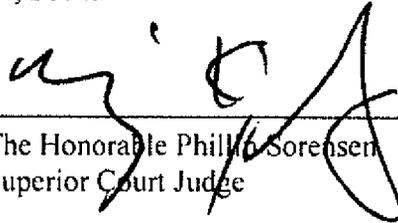
\* Clerk's action required

THIS MATTER comes before the court on defendant's motion to remove outstanding legal financial obligations from collections. The court having considered the case records and files, and pleadings submitted in the matter.

THEREFORE, it is ordered that:

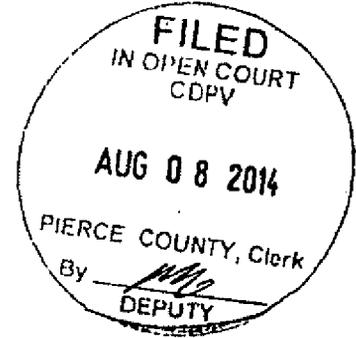
- All legal financial obligations previously imposed remain.
- Interest on any restitution amounts shall continued to accrue until it is paid in full regardless of whether or not the defendant is serving a term of total confinement pursuant to RCW 10.82.090 (2)(b)
- Interest on any other legal financial obligation shall be waived during the term of total confinement pursuant to RCW 10.82.090 (2)(a).

DONE IN OPEN COURT this 8th day of August, 2014.

  
The Honorable Phillip Sorensen  
Superior Court Judge

Presented by:

 45334  
Christine Chin, WSBA #45334  
Deputy Prosecuting Attorney



\_\_\_\_\_  
Attorney for Defendant  
WSBA #

*Defendant in custody of DOC and  
Defendant appeared by telephone*

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0/11/2014

# APPENDIX H

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

In re Personal Restraint of:  
JARRELL MAURICE MARSHALL  
  
JARRELLMAURICE MARSHALL,  
Petitioner,  
  
v.  
  
State of Washington,  
Respondent.

COA No. \_\_\_\_\_  
Pierce Cnty. Sup. No. 06-01-02134-9  
  
DECLARATION OF JANELL WAGNER

I, Janell Wagner, declare as follows:

1. I am over the age of 18 years and competent to testify. I make this declaration based on my own personal knowledge.

2. I am a licensed private investigator and Practicing Mitigation Specialist (Washington State Private Investigator License No. 3495) and am the holder of the agency license of The Hawkins Group (WA License No. 1361). I have been licensed as a Private Investigator in both the states of Georgia and Washington. Before becoming a private investigator, I worked in federal law enforcement as a Special Agent/Criminal Investigator for the Dept. of Veterans Affairs Office of Inspector General. I was direct hired by the Federal Government through their Outstanding Scholars in America Program. I also served as the National Fraud Information Specialist for The Centers for Medicare and Medicaid Services (CMS) under a Government Contract.

I received my Formal Investigative Training at the Federal Law Enforcement Training Center in Glynco, GA. I hold 2 Bachelor Degrees from Central Washington State University, both with

Summa Cum Laude honors. The first degree is in Law and Justice and the second in Sociology with a minor in Psychology.

In addition to numerous continuing education courses on subjects relating to Mitigation Investigations I have attended the following Mitigation Specialist Training:

Capital Case Defense Seminar; California Public Defenders Association of California Attorneys for Criminal Justice; Monterey, CA

National Seminar on the Development and Integration of Mitigation Evidence; Administrative Offices of the US Courts Atlanta Georgia

Sentencing Advocacy, Interviewing for Mitigation Workshops; Administrative Office of the U.S. Courts Office of Defender Services Training Branch

Document Retrieval and Analysis for Mitigation; National Association of Sentencing and Mitigation Specialists

3. In July 2016, I was hired by Defense Attorney Jason Saunders of the Law Firm Gordon & Saunders Law, Seattle Washington to conduct a Mitigation Investigation regarding their client Jarrell Marshall. My report regarding this investigative activity, dated August 7, 2016, is attached hereto as Exhibit A. The report is a true and accurate statement and is incorporated herein by reference.

4. I reviewed documents including but not limited to the following: working notes and documents provided to me by Defense Counsel; Police Reports from the Original Incident; Newspaper Articles in the Tacoma News Tribune and Seattle Times from Time period 2006-2007; Case Documents for original case #06-1-02136-5 recorded and filed in Pierce County Superior Court Clerk's Office.

5. I conducted interviews with or obtained information from the following individuals: Client Jarrell Marshall, interview conducted at the Washington State Department of Corrections Monroe Correctional Center where he is currently incarcerated; Client's Wife GuruAmrit Ramos; Client's Mother Yves Nichols; Client's Sister D'Andrea Parker; Client's Former Guidance Counselor at Sequoia Middle School, Lana Wainscott; Family Pastor Herbert Carey; Friends of Client and/or family: Shannon Thomas, Deborah Robinson, Alison Haack, Arpy Aslanyan.

I declare under penalty of perjury of the laws of the State of Washington that the foregoing testimony is true and correct.

EXECUTED at Snohomish County, Washington this 7<sup>th</sup> day of August, 2016.

A handwritten signature in black ink, appearing to read "Janell Wagner", is written over a rectangular area of the document that has been shaded with a fine grid pattern.

---

Janell Wagner

**EXHIBIT A**  
**Juvenile Mitigation Information for Jarrell Marshall**

Prepared by Janell Wagner  
Mitigation Specialist  
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Prepared this 7<sup>th</sup> Day of August, 2016

**Criminal Charges and Conviction**

Jarrell Marshall (*\*Note-Correct spelling is "Jarrelle" but will be referred to as "Jarrell" for the purposes of this report based on spelling of his name in the official court documents*) (age 16), and two other co-defendants (17 and 18) were charged with assault in the first degree with a deadly weapon and two robbery in the first degree charges for taking property from a couple that was heading back to their car on April 20, 2006. Jarrell and Cyril told police that Jarrell was only a lookout and did not participate in the assault/robberies.

Following that incident, Cyril spotted an Asian man near his car. The three got out, the man ran, he was stopped by Harris, and Cyril hit the man in the head. Jarrell's participation again was not as great as his co-defendants. The boys were charged with Murder in the First Degree (the Asian man died the next day) and robbery in the first degree.

The assault, murder and robberies occurred April 20, 2006. Following the offense, on May 9, 2006, police entered the school outside a graphic arts class, where Jarrell was called into the hallway, placed in handcuffs, and escorted to an unmarked police car. He plead guilty later to one count of Murder in the Second Degree and two First Degree Robberies, all as an accomplice to the other boys.

**Introduction**

What led to this 16-year-old boy, someone who was described by everyone who knew him as a nice, gentle, friendly all around good teen, to get involved in this situation? What led to the Sentence he ultimately received for his limited role?

At the time of the crime Jarrell was a young teenager. A difficult family life, several traumatic events and the developmental stages of a child this age all contributed to his getting involved with the crime he was eventually convicted of. At the time, Jarrell was a typical immature young teen, with all the accompanying mental, emotional and behavioral limitations.

The sentencing for this crime, 10 years ago, was done at a time prior to the Courts factoring in the issue of mental and emotional brain development in Juvenile Cases. Medical Research and Science have advanced evidence and supporting information on brain processes, growth and development that wasn't readily available even ten years ago. Unfortunately, because of that, or perhaps due to decisions made by his own counsel, it doesn't appear the most

important Mitigating factors were presented to the Prosecution or Judge to consider when deciding Jarrell's sentence.

In the recent landmark Supreme Court Decision in *Miller V. Alabama*, 567 U.S. (2012), the Courts have finally affirmed what we as individuals and a society have always known, that children and teens do not think, feel, process or behave the same as adults. They determined there is now enough scientific data allowing them to use these factors in the sentencing decisions of young persons. Justice Kagan in writing for the majority, states "sentencing should include consideration of a child's chronological age and its hallmark features, such as immaturity, impetuosity and failure to appreciate risks and consequences. It also should take into account the family and home environment-from which the youth cannot usually extricate himself, even if it is brutal or dysfunctional, as well as the youth's role in the crime and potential to become rehabilitated." *Miller V Alabama*, 567 U.S. 2 (2012)

There was a legal decision made and written on this issue by the courts in 2012. But just because it didn't come in front of the court until that date does not take away the undeniable fact that if it is true now, absent any great change in the human condition in the last ten years, it was also true in 2006-2007.

### **Family Background:**

Throughout his childhood, Jarrell was acutely aware of his position as an "outsider" within his immediate family household. His stepfather, Vincent Sr., first appeared when Jarrell was just 3 years old. Vincent brought 3 children into the family from a previous marriage, all older than Jarrell. Jarrell's mother also brought two of her own, Jarrell and his younger brother. Once they were a couple, Vincent Sr. and Jarrell's mother had two more children (later a third child in 2010). Growing up in the family of 7 children Jarrell was a middle child, who often felt forgotten, felt his mother was overwhelmed with caring for so many children and his stepfather didn't accept him. He felt alone and insecure.

Although Jarrell's biological father wasn't in the picture, his family was active in Jarrell's life and he spent a lot of time with them, especially his father's mother, growing up. Jarrell longed to connect with his father but never got the opportunity. He and Jarrell's mother got pregnant and had Jarrell at a very early age – his mother was 15 and father was 17.

When he was born, Jarrell's father (Maurice Marshall) was locked up in the Solano County Jail in Fairfield, CA for drug and pistol charges. Jarrell's mother moved the family up to Washington State from northern California while pregnant with Jarrell's younger brother. She said the reason was "I didn't want you guys growing up with that Bay Area mentality." She hoped to be able to give them a better life and avoid the problems their father had found himself involved in.

When Vincent Sr. came into their lives, and became the primary male figure in Jarrell's life, Jarrell felt conflicted because 1) Jarrell was not Vincent's son, and 2) Vincent Sr. was not his father. Vincent Sr. was a career Navy Seaman and former Tukwila Police officer. Jarrell thought his new stepfather was very authoritarian, and was too disciplinary and rigid in raising his children. Vincent Sr. not only had the last say but, often, the only say. Jarrell and Vincent Sr. were constantly at odds, which Jarrell felt made him reject Jarrell even more.

Vincent Jr. and Jarrell were the eldest boys and therefore given "responsibility" over the younger siblings. To Jarrell, this meant that when the siblings did something wrong, Jarrell and Vincent, Jr. were blamed, spanked and placed on indefinite restriction. Jarrell and Vincent, Jr. were spanked a lot by Vincent Sr., which never corrected their behavior; instead made the boys contemptuous and hateful towards him. Vincent Jr. took it particularly hard and used to fantasize about him and Jarrell running away to California and coming back someday to beat up his dad. For Jarrell, this again was his big brother whom Jarrell looked up to and connected with the most. Lacking a father figure he trusted and could depend on, he attached to Vincent Jr to fulfill those roles.

Later on in life, when Jarrell was 11, Vincent Jr.'s best friend got locked up for a robbery and was sent to prison at 16. For unknown reasons, Vincent Jr. ran away to California and Jarrell never heard from him or saw him again. All of a sudden, Jarrell's big brother, best friend, and confidant was gone and Jarrell was alone. He felt totally

abandoned, scared and anxious.

Not long after, in the spring of 2002, Jarrell's maternal aunt, Keenya Cook, was shot dead at the front door of her home on Tacoma's East side. The family later found out that she was killed by James Lee Malvo and John Muhammad- otherwise known as The D.C Snipers. In fact, his aunt was their first victim before they made the cross country trek to the D.C area. John Muhammad's spite for another family member was the apparent cause of his rampage. His original intent, he claimed, was to kill a member of my family every year in order to get back at another of my family members for helping his wife, Mildred Muhammad, get herself and her kids away from John Muhammad's abuse.

As an adolescent both of these things were extremely traumatic for Jarrell. It's difficult at best for adults to handle such difficult events, for a teen with an underdeveloped emotional response system, it can often be almost impossible. Jarrell developed a general, but real, fear for the lives of his family members. It was his first experience with death.

Jarrell's life changed dramatically at this time because he was also going through puberty and entering junior high school. Jarrell wanted freedom and independence, yet had expectations at home that he felt prevented him from being a kid. He also felt very alone. He was used to having an older brother to follow after and speak up for him. He did not know how to stand on his own two feet. At home, he was timid, insecure, and felt like he didn't have a voice. Jarrell remembers living in fear at home of his step father who was overbearing, with Vincent gone he felt totally lost and alone.

At school, Jarrell looked up to the kids who had freedom and had material things and followed after them. Even then, he still felt alone and like an outsider because he didn't have their freedom or the latest clothes, shoes, and gadgets. Common knowledge which is now being backed up by Medical Research, has shown that the developing teen brain is highly sensitive to fitting in with peers and they have a heightened level of self-consciousness and this often affects their thought process, emotion's and behavior's.

In his teens and throughout junior high, Jarrell found an outlet in sports- football and track & field- that allowed him to express myself and direct his youthful energy. He competed at the state, regional, and national levels for his age group. When he got to high school, Jarrell pursued sports. However, one morning Jarrell left for practice and forgot to do his chores. As a result of this, and what his stepfather termed a habitual "bad attitude," Vincent Sr. prevented him from playing football in the fall of his freshman year (2004).

Jarrell was devastated and stayed up that whole night crying. He thought that his only form of expression had been ripped away from him. Track season started in the spring, and Jarrell wanted to turn things around at home. He took care of his responsibilities, changed his attitude, and tried to connect with Vincent. But when track season came, Jarrell brought the subject up to his parents and presented them with his efforts to turn things around. In the end, his parents determined that nothing had changed in Jarrell's behavior and attitude and that he would not be allowed to run track.

In speaking with former faculty members at Jarrell's schools, his school friends, and adult family friends, his athletic prowess and involvement was one of the things that stood out in their minds when speaking about him. It was a primary part of his identity for both himself internally and also his identity and source of pride from others.

With this taken from him, he snapped, became very upset with his stepfather and verbally unleashed all his frustrations about his Stepfather that had been bottled up. He went to his room and threw his clothes in trash bags and called his uncle in Tacoma to come pick him up. Jarrell sat outside in the cold until his uncle showed up a couple of hours later. His stepfather had often made it clear that if he didn't want to abide by his rules then he was welcome to leave at any time. So Jarrell, at the age of 15, did just that.

In Tacoma, Jarrell eventually ended up settling in with his maternal grandmother and great-grandmother. Both were aware of what Jarrell's home situation was and were sympathetic. They gave Jarrell the freedom he had long desired. But, Jarrell, coming directly from a highly structured and rigid system, believes he may have not been ready for the freedom he was provided in this new situation.

Again, Jarrell looked to older boys for direction and companionship and found himself attaching to and following their behavior's and activities... The older kids had jobs or parental support that allowed them to have the latest in fashion and technology. Jarrell wasn't old enough for a job at 15. Jarrell felt like a burden on his grandmother, so he wasn't comfortable asking for money or expensive items. He stated he didn't even know how to ask for help when it came to basic things like deodorant or bread to make toast for breakfast before school in the mornings. Eventually, Jarrell resorted back to his old habit of stealing. To him, this was easier than "inconveniencing" anybody.

### **Personal Background**

Jarrell was a contradiction of sorts. He was quiet, gentle, liked school and sports, was well liked and respected by teachers and classmates. But his family life caused him difficulty and due to the emotional affects and influences of that, he occasionally found himself getting involved in activities that were problematic.

Jarrell idolized his elder stepbrother, Vincent Jr., who is 5 1/2 years older than him. Vincent Jr. introduced Jarrell to crime, first stealing from grocery stores when Jarrell was only age 6 or 7. The boys walked through the nearby Top Foods stuffing candy in their pockets. Jarrell thought it was fun and easy, and exhilarating.

Jarrell thought stealing would make him liked by his big brother. Jarrell thought that that made him cool. Jarrell thought that as long as he would go along with whatever his brother wanted to do, Jarrell could follow him around everywhere his brother went and hang out with him and his friends, who Jarrell though were the cool big boys. Unfortunately, these relationships led him to activities that would often get him into trouble.

The first time Jarrell was caught stealing, he and Vincent were outside the grocery store taking inventory of the stolen goods when a store manager came up behind them and grabbed them, brought them back into the store, rang up everything, calculated the price, and then told them not to come back without their parents. The store manager let them off easy – police weren't called and they were not prosecuted.

Within one year of getting caught stealing, two more events happened at school. In either 2<sup>nd</sup> or 3<sup>rd</sup> grade, Jarrell participated in a school fundraiser selling pizza cards. When it came time to take the money to school, Jarrell gave some of the money to a friend and some to a girl he thought was nice and had a crush on. He believed that there was just so much money that nobody would know. Jarrell was in trouble for the stolen case, the cash was recovered and his mother and stepfather were called to the school.

Around this time, Jarrell was suspended from school for the first time. Jarrell and two friends were bullying a classmate. The three bullied the kid who was small and called him a "shorty." Like typical playground chasing, Jarrell thought it was fun chasing him around the playground. The boy was laughing, so he assumed it was fun for him too. But then Jarrell and a friend pulled the boy off of a swing by his legs and accidentally pulled his pants down in the process.

In March 2015, at the age of 15, Jarrell left his family home in Kent and moved to Tacoma to live with his grandmother.

A few months after moving in with his Grandmother, Jarrell was suspended from school with a friend for stealing nearly \$1000 from the USB office at his school- Mt. Tahoma High School. Then again a year later, in March or April of 2006, Jarrell was suspended from school again for stealing a PS3 portable gaming device from another student's locker.

Within his first couple of months at Mr. Tacoma High School, Jarrell was suspended, along with a friend, for stealing roughly \$1000 in cash and checks from the schools ASB office. Jarrell and his friend- an upper classman- were in the office so he could purchase a school-themed beanie. Jarrell noticed a plastic bag on a desk with cash and checks inside, so he pointed it out to his friend, who indicated that he would distract the faculty member helping him out while Jarrell took the bag. Jarrell took the bag for no other reason than impulse and to look "cool" and "hip."

Mt. Tahoma has security cameras and school security talked to them. Jarrell lied about having taken the bag. But he had it in his backpack and knew that all they had to do was search it, so he admitted to it. The police were initially called while the two boys sat in the school office waiting for their parents to come pick us up. Both were suspended. After the fact, Jarrell heard from one of the faculty that the police officer who reported to the school got himself into some trouble for not arresting them since the amount stolen was over \$75 and therefore a felony.

Jarrell said that he defined himself by whoever he happened to be hanging out with at any given time. Jarrell felt he was good at blending in because he was a good follower. Acceptance by his peers was extremely important to him. To many, Jarrell believes he may have appeared confident, secure, and a leader. But Jarrell inside believed he was the complete opposite – just good at putting up a front.

In 2006, while a sophomore, Jarrell stole a PS3 portable gaming device from a school mate's locker. Jarrell called himself looking out for the guy because he left his locker open, but then just ended up keeping the device. The owner later saw Jarrell with it and reported him to staff. Jarrell kept the device because he was infatuated by the idea of having an expensive material possession of his own.

In spite of the difficulties he occasionally found himself in, his classmates and the faculty members I spoke with described Jarrell as a good student, responsible, caring, gentle, happy and friendly to everyone he encountered. I have attached one letter written by one of Jarrell's former teachers Lana Wainscott, as an example of the positive sentiments expressed by all I spoke with. (Attachment 1)

#### **Frailties and Hardships:**

Developmentally, Jarrell's thoughts and emotions were filtered through and processed in the immature fashion that is notable of a teenage brain. But like all teens, that process is also affected by personal experience. In Jarrell's case, the primary experiences affecting him at that time was the way he viewed his family life and how he was treated, along with the two major traumatic events he had recently experienced.

He describes himself at that time as a follower. He "just wanted to be like everyone else", and be accepted by his peers. Due to this, he was open to going along with things that he knew or thought were not "right", but he didn't feel he had the personal strength to object to the peer pressure inherent in teen relationships. He didn't know who to turn to for help when he realized the things they were doing were "wrong", he didn't quite feel a part of, or accepted by, his family. He felt like no one was there for him. He felt all alone, and didn't know how, or who to ask for help.

The immature nature of the young brain contributed to what Jarrell now describes at the time as him being very selfish and "only worried about his own desires", not having the empathetic ability yet to be concerned with others or the long term consequences of his actions. He describes himself at that time as being impulsive and "addicted" to the adrenaline rush that came along with doing dangerous, risky things with others. These are all typical factors seen in the developmental stages of the teen years.

#### **Association with Co-Defendants Walrond and Harris**

Both Walrond and Harris were 2 grades above Jarrell, both of whom he met through sports. These were individuals that he looked up to and wanted to emulate. Both of them were set to graduate a month after the arrest and had scholarships to college. Walrond had been awarded an Achievers Scholarship to attend the Univ. of WA, and Harris had been awarded a scholarship to a junior college in CA. Cyril and Jarrell had also been a part of BSE (Black Student Engineers) club. Initially, they connected in a positive, productive way. But boredom and the negative influences of other peers and their immature ways of thinking took hold of them. Walrond and Jarrell had a group of 10-15 other friends that they got into mischief with. They would drink, party, start fights, drive out to other towns and smash car windows and steal whatever was inside. It got to the point where they would sell the illicit wares from these excursions to other kids at school.

Jarrell, Walrond, and Harris did not have jobs. "Hitting licks" (stealing and breaking into cars) seemed like an easy way to make some, quick easy cash. Before they committed the crimes of conviction, Jarrell had only "hit licks" together with Walrond.

During the Crime of Conviction, he quickly realized, after Walrond hit Carl Schmidt (Man from the first incident at the Waterfront), that what they were doing had reached a whole new level of wrongness that Jarrell had never been a part of, and Jarrell felt like there was no way out after it began. Jarrell explains that at that time he felt obligated to go along with whatever because these were his friends and being with them was all that mattered in the moment. Now, as a mature adult he processes things differently and realizes that his emotions and thoughts back then were as he describes them "very unfortunate and not the way he would feel or act now that he has matured and can see things differently".

Jarrell did not know what Walrond's intents were when he approached the victims. At no point did Walrond say, "I'm gonna beat this guy over the head," or "I'm gonna hit him ". Jarrell thought Walrond had a hammer for intimidation purposes or busting a car window. At no point had Jarrell ever known him to physically harm anybody else. Jarrell had no idea what overcame Walrond in those moments. After all was said and done, Jarrell recalls Walrond asking, "what did I just do?!" Jarrell thinks Walrond even surprised himself.

### **Legal Representation and Sentencing**

Criminal Proceedings are confusing, intimidating and overwhelming for even the most mature, informed, educated adult. As a young teen with no experience in the system, Jarrell depended on his appointed counsel to do what was best for him. He was by nature and nurture, a quiet, non-assertive person and adding to this the fear a person his age would feel, he fully depended on his Attorney Ronald Heslop. Heslop was a private attorney assigned to him through the Public Defender's Office in May or June of 2006. From the handful of meetings they had, from him visiting Jarrell in the county jail from May/June 2006-August 2007, Jarrell was led to believe that he wouldn't serve much time. As Jarrell recalls it, Heslop told Jarrell the most he would serve was a couple of years for "rendering criminal assistance." Since Heslop was his attorney Jarrell wholeheartedly believed him. As a 16-year-old child new to the criminal justice system, Jarrell had no reason to not believe him.

Heslop also mentioned the filing of a Knapstad motion and a motion to suppress, neither of which does Jarrell believe he actually ever filed or argued.

In the week or so prior to the start of the August 2007 trial date, Heslop came to Jarrell with a plea bargain of 165 months for murder 2 from the prosecutor's office. Jarrell couldn't understand how he went from expecting to go home to being sent to prison for over a decade. It took nearly a week of convincing for Heslop to get Jarrell to agree to the plea bargain. When Jarrell expressed wanting to go to trial, Heslop told him that if he wanted to go to trial he was "cooked goose" and would lose. When asked if Harris or Walrond had signed plea bargains, he said that they already had. When asked if Heslop had talked about this plea bargain with Jarrell's mother, he said that she agreed with him that this deal was the best for me. Later that night, Jarrell called his mother expecting her to know all about the prosecution's plea offer, but she didn't know a thing. Jarrell felt Heslop had lied to him. Again he felt there was no one on his side he could trust to take care of him.

At the end of the day, Jarrell understood that he had an active role in a senseless crime that led to an innocent man's death. Jarrell realized that he had nobody to trust in fighting for him. Heslop informed him that he would be eligible to get out early with good behavior after serving half of his sentence. Jarrell believed him and trusted him.

At the sentencing hearing, Jarrell had many supporters asking for leniency on his behalf. These people included long time adult family friends, Teachers, school faculty members, his Pastor, as well as former classmates. Some of those present even after the passing of 10 years, recall the Victims family making statements regarding Jarrell's minor role in the crime, his young age and asking the Judge for a more lenient sentence than his co-defendants based on those factors.

Based on all the pleas for leniency each person interviewed expressed the surprise and disappointment they felt at the time his sentence was handed down because rather than showing any leniency for those factors, instead seemed to even be harsher than what was requested by the Prosecution. Attached is a statement from one witness, Alison Haack regarding her recollections on this issue. (Attachment 2)

Before the sentencing hearing was over, Heslop left and had his associate, Jessica Giles, step in. He did not say why he left, but Jarrell and his family then thought it had solidified Heslop's shady character and unwillingness to fight.

The following spring, when a restitution hearing was held, in Jarrell's absence, Heslop signed an order for \$3055.67 on Jarrell's behalf without consent.

### **Conclusion**

Jarrell committed a crime to which he pled Guilty. He deserved to be sentenced for his involvement in that crime. However, it is not clear that the mitigating factors in Jarrell's life were presented or gathered at his original sentencing in 2007 so the sentence could be fair, just and reasonable.

Jarrell had family dysfunction, problems and associated psychological issues; had a minor role in the crime; he suffered incidents of extreme trauma; he was in the immature developmental stage of a young teenager. He has an extreme high chance of rehabilitation. All known mitigating and sentencing considerations. From the information I have obtained it appears these factors weren't given much weight if any during the original sentencing process.

During his incarceration period of the last ten years, Jarrell has matured into a responsible adult. In addition to personal decisions and choices, the normal and natural process of brain development has aided in changing this man into someone different than the child that was before the court in 2006. He has voluntarily participated in numerous programs offered by the Correctional Center he is incarcerated in. (See Attachment 3) He has completed his high school education. He has learned a trade so he can find gainful employment as an Electrician when he is released. He has gotten married to a mature, responsible woman with good standing in the community. He has the positive support of friends and family.

## **ATTACHMENT 1**

### **Letter from Faculty Member Lana Wainscott**

To whom it may concern,

I am writing this letter on behalf of Jarrell Marshall. I have known him since he was in the 8th grade at Sequoia Middle School, and remain in contact with him today.

Jarrell was an exceptional student both academically and personally. I was his guidance counselor at Sequoia middle school. He was referred to me by his teachers as a strong candidate and leader for my teen group. He was intelligent, well behaved, and well-liked by the staff and his peers. Over the course of the next two years Jarrell would be a member of various small groups I ran. I recall him mentoring some of the other students in the group that lacked focus and direction. I was so impressed with his maturity and positive attitude, I included him in functions in our community that included overnight and out of town events. He was always a model student and one I never had to reprimand. After he moved on to the high school, I remained in contact with Jarrell and his family. I got to know his mother as she had two other children attend Sequoia. At one point, a family friend was looking for someone to paint his house and I passed Jarrell's name on to him. He hired him to do jobs around his house and thanked me for referring such a hard working young man.

I believe it was during Jarrell's sophomore year he stopped by Sequoia to visit some teachers and told me he had moved to Tacoma. Things had been strained in his household for a while due to the conflictual relationship with his stepfather. I was aware of the on-going issues with his step father as the two younger siblings were struggling to get along with him as well. Jarrell had to leave the kids he grew up with and change schools so he could live with his grandma in Tacoma. I was saddened to hear that he had left his mother, siblings, and classmates but knew the home situation must have become intolerable for him to leave.

Jarrell came to visit the staff a few months before his arrest. He told me had made friends at his new school and was participating on the track team. I was completely shocked to learn of his arrest. During the four years of knowing him inside as well as outside of school I had never witnessed anything but a respectful, intelligent, well behaved young man.

I have a bachelor's degree in criminology and completed an 18 month internship with the Whatcom County public defender's office as well as the Prosecuting Attorney's office. I have my master's degree in marriage and family therapy. I worked in youth shelters and various social youth programs for the University of Washington for 3 years before being employed as a guidance counselor for the Kent School District, which I have been at for 17 years. In all my education and years of working with youth, there has never been a student or situation that has left me feeling more disheartened than Jarrell Marshall's. I have stayed in contact with him via email and visited him in Monroe along with the former assistant principal of Sequoia, Arlondo Lara. His intelligence, maturity, and kind heart continues to amaze me. While watching his most recent Ted talk on YouTube, I was dismayed to think of such a great young man spending so much time in prison. My hope is that he can be released from prison and mentor other young men in our community. I believe he would have a tremendous impact by talking with struggling youth in an effort to help them make good choices with their lives.

If you have any additional questions or would like to speak with me in person I can be reached at 206-423-0319.

Sincerely,

Lana Wainscott

**ATTACHMENT 2**

**Statement from Alison Haack**

On November 9, 2007 I was present at the Pierce County Superior Court Sentencing hearing for Jarrell Marshall. The following information is a recollection of events to the best of my knowledge and ability.

I can remember during the hearing that the family of the victim asked for leniency when it came to sentencing Jarrell. Although I do not recall exact wording, I do recall the family telling the judge that they believed that after knowing the details of the case that they were ok with a lesser sentencing for Jarrell. I can say this with certainty because after the judge announced the final sentencing, (I had to take some time to do the math on how long it was in years because the judge told the courtroom the amount of months Jarrell would have to serve rather than saying it in years) I did the math and realized how long he would be incarcerated. I could not believe the amount of time he was looking at spending in prison. I can recall thinking to myself "that is the sentence even with leniency??" I thought that the number sounded quite extreme but I felt there was nothing we could do to change it. At that time I was around 18 years old and I had never experienced anything like this so I felt that we had to accept it and move forward as family and friends of Jarrell.

With that being said, I can say that on November 9th 2007, I witnessed the family of the victim ask the judge for leniency in the sentencing of Jarrell Marshall.

I am over the age of 18 and competent to testify. I declare under penalty of perjury under the laws of the State of Washington the foregoing is true and correct to the best of my knowledge.

Signed at (City) \_\_\_\_\_ Kent, (State) \_WA\_\_\_\_\_ on (Date) \_\_\_\_\_ August 4th 2016 \_\_\_\_\_

Signature of Declarant:

\_\_\_\_ Alison Haack \_\_\_\_\_

Print Name:

\_\_\_\_ Alison Haack \_\_\_\_\_

### ATTACHMENT 3

#### **Jarrell Marshall Achievements and Activities While Incarcerated**

##### **Provided by Client, Jarrell Marshall**

- 2008 High school diploma while at green hill school after missing 1.5 years of school due to fighting this case.
- 2008 to present: university beyond bars student
- 2009: received graphic arts vocational certification through Edmonds community college
- 2009: completed alternatives to violence project "AVP" basic workshop
- 2009-2012: WSR diversity committee member
- 2009-2012: choices and consequences youth program panelist.
- 2010: received sustainable gardening vocational certification through Edmonds community college
- 2010: completed anger management course
- 2010,2013: attended AVP advanced workshops
- 2013-2015: black prisoners caucus education summit speaker
- 2013: got married
- 2014: UBB scholarship recipient
- 2014-present: UBB prisoner advisory council member
- 2014: TEDx Monroe corrections speaker (on YouTube)
- 2014: completed job seeking skills class through Edmonds community college
- 2014: awarded degree in Personal Psychological Development through Prisoners Assistance Scholastic Service (??) "PASS program"
- 2014-2016: contributed to words beyond walls "WBW" program in partnership with University of Texas Austin
- 2015-present: AVP facilitator
- 2015-present: chronic disease self-management "CDSM" class facilitator
- 2015: concerned lifer's organization conference present (video on CLO Facebook page)
- 2015: national conference for higher education in prison (NCHEP) speaker

# APPENDIX I

**UNDER THE PERJURY LAWS OF THE STATE OF WASHINGTON, I DO DECLARE  
THAT THE FOLLOWING IS TRUE:**

On November 9th, 2007, I was sentenced to serve 189 months in prison by the Honorable Thomas P. Larkin in the Superior Court of Pierce County. Terry Lane was the prosecutor for the State of Washington, & Ronald Heslop was my appointed attorney.

Present in the courtroom were a sizable number of my supporters, family of deceased victim Dien Huynh (2 brothers & nephew) along with an interpreter, & a number of people with whom I was unfamiliar. With my attorney was his associate, Jessica Giles. Also present were members of the media who had recording equipment in their possession.

After being escorted into the courtroom where everyone already awaited, I took a seat next to my attorney, who briefly explained to me how the hearing would proceed. After I entered the room, there was a few minutes of waiting while we awaited the judge's arrival. Heslop explained that everyone would have their opportunity to speak, including myself. He assured me that the hearing would go relatively smoothly & that the judge would, more than likely, follow the prosecutor's recommendation of 169 months, & with good behavior I would be out of prison in less than 10 years. I was nervous & scared of what was to come with the hearing, & my future. But I trusted in my attorney's words.

Everyone stood as the judge entered the courtroom. The hearing proceeded from that point. The prosecution spoke & presented their recommendation of 169 months- the low end of the standard range- which they offered as a plea bargain. The prosecutor then indicated that the family of deceased victim, Dien Huynh, was present & wished to speak. Sitting behind the prosecutor's table were Dien Huynh's two brothers & nephew, along with an interpreter. The interpreter spoke on their behalf. I distinctly remember the interpreter

saying that their religion teaches forgiveness & that they forgave me for my role in the death of their loved one. This surprised me, caught me off guard, & touched me all at the same time because I hadn't known how to even begin to forgive myself for my reckless behavior, & the pain I had brought to soo many people. Dien Huynh's family also requested that due to my lesser role in the death of their loved one & my young age that I be given less time.

After the victim's family finished speaking, the prosecutor spoke to the family's comment regarding my age. Although I can't recall what was said verbatim, it was along the lines of my age not being relevant because the court could not lawfully give less than the prosecutor's recommendation to the low end of the standard range.

Next to speak was my attorney, who also requested that I be sentenced to the low end of the standard range. He spoke about how my behavior in this crime was atypical of anything I had ever done before. He also spoke about how I was the youngest of my co-defendants & subject to their influence. Also mentioned was the fact that I had been cooperative from the initial moment I had been contacted by law enforcement.

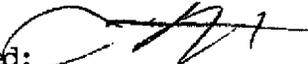
Heslop then introduced a number of people who spoke on my behalf. This included my family's pastor, family, friends, & the parents of some of my friends. They spoke of how respectful & kind they knew me to be, & requested the court to show leniency. It was during this time that Heslop leaned over to tell me that he had business elsewhere & that his associate, Jessica Giles, would remain with me. This struck me as odd that he would take leave at such a critical point in time & leave me with a stranger I had never met. But he assured me that everything would go as planned. Heslop then got up & left leaving me feeling alone & vulnerable.

After supporters were allowed to speak on my behalf, I was given the opportunity to address the court. In a prepared speech, I began by first apologizing to the family of Dien Huynh for having a hand in the death of their loved one. After that, I apologized to my loved ones for letting them

down. I felt nothing but shame while standing up in front of everyone present in that courtroom.

After I spoke, I believe that the floor was given to the judge. Judge Larkin spoke of how tragic & senseless the crimes committed were. I was soo eager to hear how much time I would be sentenced to that a lot of what the judge said is a blur to me. It was so scary to me that I could potentially be sentenced to the high end of the sentencing range- 269 months- that I was sitting in my seat silently praying to be given less time.

Judge Larkin eventually sentenced me to 189 months- 24 months above the prosecutor's recommendation. I'm not sure of his rationale, but I distinctly recall him saying, "in for a penny, in for a pound." The remainder of the hearing consisted of discussing the particulars of my Judgment & Sentence, which I didn't quite understand & therefore didn't contribute much to.

signed:   
Jarrelle Marshall

date: July 27, 2016

# APPENDIX J

Tacoma Police Department Supplemental Report

Incident No. 061100186.23

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Wade: And what was that?

Marshall: Uhm, my idea was everyone get out and, uh, see if this man had anything, see if he had, uh, see if he had a wallet. See if he had anything.

Wade: Okay. And when you guys got out and made contact with this guy, you told us earlier, he was, he had something in his hands.

Marshall: Yeah.

Wade: He had the ---

Marshall: He had a box of Decon in his hands.

Wade: Okay. And he looked like he was kinda afraid of you guys?

Marshall: Uh, no. He, yeah, yeah.

Wade: Okay. Before he look off running, what caused him to run from you guys? Did somebody ---

Marshall: What caused him to run, like, he just, like, like I guess, like he could, like he could sense, like, you know, we weren't just there, like, to talk to him, have a regular conversation.

Wade: Uh huh (affirmative).

Marshall: Like ---

Wade: What time, what time was this?

Marshall: No clue.

Wade: Late though?

Marshall: It was late.

Wade: Okay. And he ran around the side of his house, around the fence and you said that Cyril look off after him.

Marshall: Uh huh (affirmative).

Wade: And he hit the fence. Now you told me earlier that you didn't actually see Cyril hit him with the hammer.

Marshall: Correct.

Wade: But you saw the hammer in his hand?

Marshall: Yeah.

Wade: Okay. Did, did you take the hammer at any time?

Marshall: No.

Wade: What about Daniel?

Marshall: I don't think so.

Wade: Okay. So, as far as you know, Cyril had the, the hammer the whole time.

Marshall: Uh huh (affirmative). Yeah, I'm, I'm sitting here. I'm trying to think if I actually saw him with the hammer in his hand when we're standing right there, 'cause I do, I do remember 'em kicking him. I remember Daniel and Cyril kicking him, but, uh ---

Wade: Where on his body were they kicking him?

Marshall: Uh, I have no, uh, from where I stood, I couldn't really see it. I had, I had enough to see like body, see the man standing, sitting on the, or, lie there on the ground and, uh, ---

Graham: And so that I'm clear, 'cause you're using a lot of "him" and we're talking about you ---

Marshall: Sure.

Graham: --- and we're talking about a lot of people, so are you saying that you don't think you saw the hammer in Daniel's hands?

Marshall: I'm say---, I don't think, uhm, I don't think I saw the hammer in Cyril's hand.

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Wade: Okay.

Graham: Okay.

Marshall: Well, I don't, I don't, I saw the hammer in Cyril's hand, but I don't think that Cyril hit him. He may have, but I'm not sure, 'cause I didn't hit the man with the hammer.

Graham: It had happened, it happened before you got there?

Marshall: Yeah.

Graham: When you got there, the man, you heard the man hitting the fence and going down.

Marshall: 'Cause as soon, as soon as the man, as soon as the man ran, Cyril took off and then like right after that me and, uh, Daniel took off. And we were right there. Soon as I was running, as soon, the first thing I saw when I, is I heard, I heard the fence when I was around the corner and I looked and the man was going down on the ground. And Daniel was still going over there. I was still running over there, too. But Daniel was like, I slowed down a little bit, Daniel was over there and Cyril was over there. And they kicked him. And I'm standing right there and like they're, and then they're checking him to see if he had ---

Wade: They were checking his clothes.

Marshall: They were, they were checking the man. Yes.

Wade: Okay.

Graham: Did you touch that man at all?

Marshall: No.

Graham: With any part of your body?

Marshall: No.

Graham: Okay.

Wade: And what, what, uh, part of his body were they checking?

Marshall: Uh, his clothes.

Wade: And, and did they find anything?

Marshall: He had a wallet in his back pocket.

Wade: Okay. And did you see that the guy was injured at all?

Marshall: No. I didn't notice it.

Wade: Okay. Did he say anything?

Marshall: Uh, I didn't, I didn't, if he did, I didn't hear.

Wade: Okay. And you said that it was pretty dark out that night?

Marshall: Yeah. It was ---

Wade: And so you ---

Marshall: --- it was dark, but it was light, the only lights, there were street lights on, but like, they was like a little porch light that was on his porch. But I couldn't really see, 'cause like, it was dark on the ground and everything was dark.

Wade: Okay.

Marshall: And so, I, yeah, I couldn't see if there was blood or anything.

Wade: You couldn't see if there was blood?

Marshall: No.

Wade: Okay. What did this guy look like? This man?

Marshall: Uh, Asian man.

Wade: Okay.

000235

Wade: Okay. That's what I mean. Yeah.

Marshall: Yeah. I'm very, very, very sorry.

Graham: If ---

Marshall: Uh ---

Graham: --- if that man's family were in this room right now, what would you say to 'em?

Marshall: I'd just try to express my, my deepest remorse. My deepest apologies. You know, for being there and not doing more to stop it.

Wade: Did you try to stop it?

Marshall: Not so much. I was, I was like, come on. I mean, I, I didn't say, don't hit him or anything. You know.

Wade: Okay. So, it didn't really surprise you that on both of these incidents, that somebody got hit during it?

Marshall: Somewhat. Somewhat. I mean, I didn't, I didn't expect for anybody to get hurt. Anybody, you know. It was just one of those things that happen. I mean, like not, like it just happened, but I mean ---

Wade: So, you guys didn't go out intending to kill this guy?

Marshall: Definitely not. Uhm, we didn't go out intending to harm anybody or not our intentions to go out and kill or hit anybody over the head.

Wade: That wasn't yours.

Marshall: And I'm pretty sure it wasn't Daniel or Cyril's, but I can't speak for them.

Wade: Okay. I mean, if not, then, you know, uh, I'm thinking, uh, I guess I don't understand why he would have hit these people with the hammer then in the first place if he didn't intend to hurt 'em, 'cause I think we all know that if you get hit with a hammer in the head, that it's probably gonna cause some injuries.

Marshall: Yeah. I, I think that's why like, he turned it over to the wooden side, but I guess the wooden side caused just as much damage as you could hit them with the iron side, with the, you know, the ---

Wade: Do you think that you deserve a second chance?

Marshall: Do I think I deserve a second chance?

Wade: Uh huh (affirmative).

Marshall: Of course, I think I deserve a second chance. But, I mean, I'm just, I'm just sitting here thinking to myself and I'm beating myself up inside just for, you know, wishing I could have done more to prevent this. So ---

Graham: Had, uh, any of you guys been drinking alcohol that night?

Marshall: No.

Graham: Any of you drink, or, smoke any pot or do any other drugs?

Marshall: Uh, no. No drugs. No alcohol.

Graham: Okay. So you guys were fully in control?

Marshall: Yes.

Graham: Okay. Did anybody have a, a do rag or a bandana on their face?

Marshall: Uh, yeah.

Graham: Who?

Marshall: Cyril.

Graham: What color was it?

Marshall: Blue.

Graham: Okay.

000237

# APPENDIX K



**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: This is Detective DeVault. ID Number 202. This'll be a taped statement from Carl Schmidt, whose birth date is 4/12 of 1986, regarding Tacoma Police Department Case Number 06-110-0065. Mr. Schmidt was a victim of a robbery associated with that case number. Today's date is May the 1<sup>st</sup>, 2006 and the time now is about 1300 hours. Carl, do you know this statement's being recorded?

Schmidt: Yes, I do.

DeVault: And do we have your permission to record it?

Schmidt: That's correct.

DeVault: And you just heard me say this was about, uh, your incident where you were a victim of a robbery. Do you remember that incident?

Schmidt: Yes, I do.

DeVault: Uh, do you remember what day that occurred?

Schmidt: The 20<sup>th</sup>, early 20<sup>th</sup> morning.

DeVault: Okay. And do you know what day of the week that was?

Schmidt: On a Thursday.

DeVault: Okay. And, uh, where did the robbery take place?

Schmidt: At the waterfront, right next to the big red boat, the street racing parking lot.

DeVault: Okay. And for the record, uh, investigation has revealed that was the Les Davis Pier parking lot. Uhm, why don't you go ahead and tell me, uh, when you arrived at that parking lot.

Schmidt: We arrived there about midnight, midnight 15, uh ---

DeVault: And who were with, was with you?

Schmidt: Myself and my girlfriend, Amber.

DeVault: Amber. And her last name is?

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06-110-0065

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: LaManick.

DeVault: Okay. Could you spell that?

Schmidt: L-A-M-A-N-I-C-K. Something like that.

DeVault: Okay. And so you and Amber, uh, came to the parking lot and what did you do?

Schmidt: Uh, we went up to the dock, uh, to look at Tacoma. It was a beautiful night outside.

DeVault: Okay. And did you arrive in her car?

Schmidt: We arrived in her car.

DeVault: Okay. And did you drive?

Schmidt: Not there.

DeVault: Okay. So, she drove there and you got out of the vehicle and went out on the dock.

Schmidt: Yes.

DeVault: Okay. Okay. Then what happened after you decided to come back to the car?

Schmidt: Uhm, we came back to the car. Uhm, I asked her if I could drive her car. She said no. And then I asked again. She's like, sure. Uhm, so we were talking for a second in front of her car. Then I walk over to the driver's side and these three men walk up, uh, and ask me for a lighter. I say, no. I don't smoke.

DeVault: Did you see those men, uh, previously while you were walking up to the car?

Schmidt: Yes. I did. They were sitting on their, their maroon, red car.

DeVault: Okay. Well, let's clear up a few things. How long had you been at the Les Davis Pier?

Schmidt: Maybe half an hour, 20 minutes.

DeVault: Okay.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: Not too long.

DeVault: And was that maroon car that you're referring to, was it there when you walked out to the pier?

Schmidt: No. We did not, it showed up a little bit after we were there.

DeVault: Oh. Okay. So, is it fair to say while you were walking out to the pier you saw it kinda come into the parking lot?

Schmidt: Correct.

DeVault: Okay. And then it brings us back to the point where you're walking back to Amber's car and you see these, uh, people. Is that correct?

Schmidt: That's correct.

DeVault: And there's three of them?

Schmidt: That's correct.

DeVault: And, uhm, what were they doing outside that vehicle?

Schmidt: Uhm, I believe they were smoking.

DeVault: Okay. Do you know what they were smoking?

Schmidt: Uhm, from the smell and from what Amber told me, it was marijuana.

DeVault: Okay. And there was three of 'em.

Schmidt: That's correct.

DeVault: And were they White? Black? Asian?

Schmidt: They were African American or Black.

DeVault: Okay. And would you describe 'em?

Schmidt: Uhm, there was three of 'em. It seems there was a ring leader. Uhm, he had a, a black, uh, sweat shirt on, ur, uh, he had his hood up and he had a, a blue bandana around his face. Uh, and then there was two other men. There was a man in just,

**Statement of Carl Schmidt  
Case Number 06-110-0065**

a. a. a black sweat shirt with it cinched tight so I couldn't really see his face that well. Then there was the, uh, the last man in a camo jacket with fur around the hood and it looked like he had gold teeth or gold capped teeth.

DeVault: Okay. And these sweat shirts with the hood, that's commonly referred as hoodies, is that correct?

Schmidt: That's correct.

DeVault: And so as you described, uh, one of 'em was with a bandana and the other two did not have?

Schmidt: That's correct.

DeVault: And, uhm, could you tell height or weights?

Schmidt: Uhm, they weren't big. They weren't, they weren't fat. They were, they were skinny.

DeVault: Were there any differences in 'em? Was one smaller ---

Schmidt: Uhm ---

DeVault: --- or taller than the others?

Schmidt: Uh, the other two, not the ring leader, the ring leader was a small, the other two were a little bit taller.

DeVault: Okay. And did you get a pretty good look at the faces of the people that weren't covered with bandanas?

Schmidt: I got a okay look and the gentleman with the bandana, uhm, I got a look from the, the top of his nose up to his forehead.

DeVault: Okay. And you referred to this person who was masked as the ring leader, and why do you say that?

Schmidt: Because he did the, the talking and he did the hitting of the hammer.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

- DeVault: Okay. And you talked about another one who was in a camouflage hoodie and what was his role?
- Schmidt: Uhm, the look out, making sure nobody would come and just interrupt what they were doing to us.
- DeVault: What makes you say that?
- Schmidt: 'Cause he was making noises like chirp sounds and things and then at the end, at, uh, after all this end, he's like, let's go, as though people were coming.
- DeVault: Okay. And where was he located?
- Schmidt: He was by the bush at the end of the parking lot where we were parked.
- DeVault: And that's kinda like by the sidewalk, by the water?
- Schmidt: That's correct.
- DeVault: Okay. And then there was the other person. What was he doing?
- Schmidt: He was ravaging through our stuff. Uhm, going, trying to take Amber's radio out. Uhm ---
- DeVault: Oh. Okay. But we're kinda getting ahead of ourself, which is my fault here. Uhm, so, we're just getting a description of 'em, not exactly what they were doing and I want to just take it one step at a time, so, anyway, you approach to your car and you see these, uh, as you call, gentlemen, and you pass by them?
- Schmidt: That's correct.
- DeVault: And how far away is your car from theirs?
- Schmidt: A couple parking spots. Three, four, tops.
- DeVault: Okay. And then we're back to where you're asking Amber if you can drive.
- Schmidt: Yes.
- DeVault: And does she allow you to drive?

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: That's correct.

DeVault: So where are you, uh, when you're contacted by any of these ---

Schmidt: I was at her, left hand side of the driver's side.

DeVault: Oh. So, you're on the driver's side of the car.

Schmidt: The driver's side of the car. The door's just getting opened.

DeVault: Okay. Is the car parked with the front facing the water?

Schmidt: That's correct.

DeVault: Okay. And Amber's on the passenger side.

Schmidt: That's correct.

DeVault: And how was the contact made with these three people?

Schmidt: Uhm, he asked me for a lighter and I told him I don't ---

DeVault: Which one asked you?

Schmidt: The ring leader. The gentleman with the bandana.

DeVault: Okay. And what, what happened then?

Schmidt: After he asked me for a lighter, they started to walk past me and then from there I was, uh, got hit with the, bit, hit in the head with a hammer.

DeVault: Okay. And did you fall down?

Schmidt: Uh, I fell in the car.

DeVault: Fell into the car?

Schmidt: Fell into the car.

DeVault: Were you hit a second time?

Schmidt: I am not 100% sure, uhm ---

DeVault: Okay.

Schmidt: --- after ---

**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: What kind of injuries did you sustain?

Schmidt: Uhm, I sustained a cut on my head. I needed four staples put into it, and a, a bruise on my hand.

DeVault: Okay. So, there was two separate strikes.

Schmidt: There could have been. It could have been my hand went up and tried to block it, but ---

DeVault: Okay. And for the record, uh, Mr. Schmidt had been to, uh, the hospital and did receive medical aid and, uhm, a photo was taken of his injuries. So, after you were, uh, hit in the head, you eventually went to the ground.

Schmidt: Uh, they made me go to the ground and I remember, when I was on the ground, I remember, remember much.

DeVault: Okay. Do you remember if they ordered you to get on the ground?

Schmidt: Uhm, I'm, that I'm not sure.

DeVault: Okay. Do you remember Amber being on the ground?

Schmidt: I remember Amber being on the ground.

DeVault: Okay. And at any time did they tell you to get up?

Schmidt: They asked us to get up because, uh, the, the other automobile was coming.

DeVault: So, explain that. So, you're on the ground and somebody says get up.

Schmidt: Get up. They liked pulled my hood.

DeVault: They pulled your hood?

Schmidt: They pulled my hood.

DeVault: To try to help you to get up or ---

Schmidt: The ---

DeVault: --- indicate to get up?

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: Them saying to get me up faster, 'cause there was a car coming. They. I don't think they wanted to get caught.

DeVault: Okay. And did you get up?

Schmidt: Yes, we did.

DeVault: Okay. And did you go back down on the ground?

Schmidt: Yes, we did.

DeVault: Okay. Uhm, and do you know which person was telling you to get up and down?

Schmidt: The ring leader.

DeVault: Okay. The one with the hammer. Did you see him holding a hammer?

Schmidt: Yeah. That's how we, for the most part we knew it was a hammer, 'cause he was holding it, like he was grasping it.

DeVault: Okay. Describe it to me. The hammer.

Schmidt: Uhm, it had a, a waffle pattern. Uhm, and I didn't see the back of it. I don't know if it had a axe or the two claws. But I know it had the waffle pattern on it.

DeVault: Okay.

Schmidt: Like a carpenter's hammer.

DeVault: Do you know what color the handle was?

Schmidt: The handle was light wood.

DeVault: Okay. And was he menacing you with this hammer? Holding it like he was gonna hit you with it?

Schmidt: He, he was just holding it, like, like, he was like looking at us, like, try something.

DeVault: Okay. Uhm, so when you were on the ground, did you look up at him to see what he wa--- was doing?

Schmidt: I. I was just holding my head because ---

**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: Okay.

Schmidt: --- I was bleeding.

DeVault: Okay. And, uh, off tape you said that eventually Amber was ordered up to what, open the trunk or something?

Schmidt: To open the trunk and get, uh, other items and, 'cause she, she was cooperating. Doing everything they said and ---

DeVault: What did she do then?

Schmidt: Uhm, she's like, do you want my CDs? Do you, do you want my purse? Do you want my wallet? Do you want my cell phone? Just trying to get 'em off of me.

DeVault: Okay. And did anybody search her car?

Schmidt: Uhm, the gentleman in the black hoodie ---

DeVault: Okay.

Schmidt: --- uh, went through, went through her, uh, her purse, the trunk and, uh, the car.

DeVault: Okay. And that wouldn't be the one with the camouflage or the ring leader. It would be that third person then.

Schmidt: That's correct.

DeVault: Okay. And you say the, that person was in the car, ransacking it?

Schmidt: That's correct. Going through, seeing what he could find.

DeVault: Okay. And also the trunk?

Schmidt: And the trunk.

DeVault: And what was taken from her car?

Schmidt: Uhm, her CDs, uh, for the most part her CDs.

DeVault: Okay. Was any credit cards or anything taken?

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**Statement of Carl Schmidt  
Case Number 06-110-0065**

- Schmidt: Uhm, when we were, uh, they went through her purse, when they went through her purse, they took out her Washington Mutual credit card and when I was on the ground, they stole my cell phone and my wallet.
- DeVault: Okay. Did they look through your wallet and her purse to your knowledge?
- Schmidt: Uhm, they, when they went through her purse they, all they really took was just her credit card and when they went through my wallet, they stole everything. My Social Security card, my license, my YMCA card, a bus pass, my LIDs card, my Bank Card, (unintelligible) my number, uhm, for the most part, a whole bunch of cards.
- DeVault: Uhm, and I believe your, one of your hats was taken also?
- Schmidt: I had a, a Mariners, uh, Digi camo, what they called it, uhm, a Mariners hat. It had the S on the back and on the back of it said Mariners.
- DeVault: Okay. On the front of it did it have a, a Mariners' S logo?
- Schmidt: That's correct. It didn't have a Mariners' S, it had a S on it.
- DeVault: Okay. An S on it. Okay. Uhm, did you have any money in your wallets?
- Schmidt: I did not have any money in my wallet.
- DeVault: Do you know if Amber did?
- Schmidt: She did not either.
- DeVault: Okay.
- Schmidt: We both had, I had my credit card and my mother's credit card. She had her credit card.
- DeVault: Okay. About how long, uh, were you on the ground, if you can remember that?
- Schmidt: Minute, two minutes.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: Okay. And in what manner did this finally end? Is it when that look out said, let's go.

Schmidt: Let's, when the look out said let's go, people are coming.

DeVault: Okay. Did you get up at that point?

Schmidt: Yes, we, uhm, they told us to lay on the ground ---

DeVault: Okay.

Schmidt: --- and keep, gaze our eyes downwards.

DeVault: At one point or another, though, uh, as you earlier indicated, you did see the vehicle they were associated with. Is that correct?

Schmidt: That's correct.

DeVault: And describe that.

Schmidt: Uh, it was a red, maroon Oldsmobile. Uh, the nose kinda pointed out. I'm not sure if it had tinted windows. Uhm, it was a older car.

DeVault: Okay. Did it have any, like, special wheels? Like chrome wheels or anything?

Schmidt: No chrome wheels. It looked like a stock car.

DeVault: Okay. And when you walked by it initially, was there loud music coming from it or anything like that?

Schmidt: Uh, I believe there was loud music from it.

DeVault: Okay. Uhm, but other than that, you describe it as kinda plain. Is that correct?

Schmidt: Kinda plain.

DeVault: Okay. And, uhm, so it's a maroon Oldsmobile?

Schmidt: Yeah.

DeVault: And there's three persons associated with this?

Schmidt: That's correct.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: Do you know if there was anybody else that may have been waiting in the car?

Schmidt: I'm not sure on that. It's ---

DeVault: And, in what manner did they leave, did ---. When they left the parking lot, was the car loud?

Schmidt: Uhm, they sped out of there like they was, like they were in a high police chase or something. They had to get out of there now.

DeVault: Okay. In what direction did they go?

Schmidt: Uh, towards downtown Tacoma.

DeVault: Okay. Now, uh, as you indicated, that occurred, uh, on a early morning Thursday, a few minutes after midnight. Uhm, did you see, uhm, what you believe to be that car again?

Schmidt: Yes, I did.

DeVault: And when was that?

Schmidt: Uhm, a couple days later, I went to Fred Meyer's with my mother and a car cut us off. When we were behind it, the Oldsmobile, the maroon, the, the Digi camo hat was in the back.

DeVault: Okay. So, you were at the Fred Meyer Store. That's the one at 72<sup>nd</sup> and Pacific?

Schmidt: That's correct.

DeVault: And you were in the parking lot area?

Schmidt: That's correct.

DeVault: And you saw a car which, uhm, it looked like this car, so you began to follow it. Is that correct?

Schmidt: That's correct.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: And from the back of the car, you saw the back of this camouflage hat. Is that right?

Schmidt: That's correct.

DeVault: But you never saw the front of it.

Schmidt: I never saw the front.

DeVault: But at one point, did you ever get up next to see the driver?

Schmidt: Yes, I did.

DeVault: And what did he look like?

Schmidt: Uhm, he had like springy hair. Like kinda bumpy-ish.

DeVault: Like corn rows or braids or something like that?

Schmidt: Like braids, like small braids.

DeVault: Okay.

Schmidt: Looked like, like bed springs put upside down.

DeVault: Okay.

Schmidt: With the small part down.

DeVault: And does that mean anything to you?

Schmidt: Uhm, after I seen that, I recalled the, when the ring leader was talking to me, when he had a hood---, his hoodie on, it was bumpy. It wasn't smooth like the other gentlemen. It looked like they were smooth. But on the ring leader, it was kinda bumpy.

DeVault: So, you're saying that, uh, his hoodie was drawn so tight around him that you could see the bumps on the top of his head?

Schmidt: Yeah.

DeVault: That you think this hair design caused, is that what you're trying to say?

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: That's correct.

DeVault: Okay. And so, you saw that in the Fred Meyer parking lot and you also saw, uh, the vehicle which you think looked like the one down at the water front?

Schmidt: That's correct.

DeVault: Okay. Uh, and did you look at this person's face at all?

Schmidt: Uh, I looked him in the eyes.

DeVault: Okay.

Schmidt: I'm an eyes kinda person. I, if I see your eyes, I'll remember you ten years down the road.

DeVault: Okay. And you think this was one of the people involved?

Schmidt: That's correct.

DeVault: Okay. Were there anybody with this person in his car?

Schmidt: In the Fred Meyers parking lot, he had a full car.

DeVault: Did you recognize anybody in that car?

Schmidt: I didn't recognize anybody else.

DeVault: Okay. Did you get a good look at 'em?

Schmidt: At some of 'em. They had like bald heads, a coup---, one of, I believe the passenger had a bald head and for the most parts, what I remember, what I remember from ---

DeVault: Okay.

Schmidt: --- them in the car.

DeVault: Were they all Black Males though?

Schmidt: That's correct.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

DeVault: Okay. Is it fair to say that most of your attention was focused on the driver, though?

Schmidt: That's correct.

DeVault: So, you really didn't ---

Schmidt: Yeah.

DeVault: --- examine or look at the rest of the occupants, did you?

Schmidt: No.

DeVault: Okay. Uhm, what did you do after you, uh, saw that vehicle in the Fred Meyer parking lot?

Schmidt: Uhm, I tried to contact the police department. My mother went up to Customer Service and talked to their Logistics Supervisor, or Manager, and she said she could get information. I got a hold of the police, gave 'em what I saw and then my mom got a hold of 911, who then called and the Logistics, uhm, lady said she could get video of proof of them being there and then, they'd be better descriptions of these suspects.

DeVault: Okay. Now, off tape we had an interview. Right?

Schmidt: That's correct.

DeVault: And during that, uhm, we talked about most of what we discussed. Correct?

Schmidt: That's correct.

DeVault: And, uh, you said there seemed to be one person doing all the talking down there, the ring leader as you call him. Right?

Schmidt: That's correct.

DeVault: Was there another person that did any talking?

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: Uhm, the gentleman that ravaged, uhm, my girlfriend, Amber's, car. Uhm, he asked me, do I have a head ache.

DeVault: Do you have a head ache?

Schmidt: Yeah.

DeVault: And when did that occur?

Schmidt: Uhm, uh, right after he was in ra---, ravaging, uh, Amber's purse on the back of the car.

DeVault: Okay. Is that one of the times that you were told to get up?

Schmidt: That's correct.

DeVault: Okay. Do you remember how many times that occurred when they told you to get up, 'cause cars were coming?

Schmidt: They told us to get up once.

DeVault: Okay.

Schmidt: We were on the car and then on the ground and then up once and then back on the ground when they left.

DeVault: Okay. I understand. And you also said that, uhm, you think one of 'em may have had some gold capped teeth?

Schmidt: That's correct.

DeVault: Are you familiar with the term, uhm, or the use of these, uh, removable, uh, grills, they call them?

Schmidt: I, I've seen those.

DeVault: Okay. Uh, could that possibly have been what you seen?

Schmidt: It, it could have been that as well.

DeVault: You just don't know.

**Statement of Carl Schmidt  
Case Number 06-110-0065**

Schmidt: Yeah. 'Cause the moon light glistened off the teeth.

DeVault: Okay. And that is a dark area down there, isn't it?

Schmidt: That's correct.

DeVault: Uhm, and just for the record, I've been down there at, uh, the time this occurred to, uh, assess the lighting and it's, uh, very dark at this area where this occurred. We know exactly where it occurred because we found what we believe to be Mr. Schmidt's blood down there and Forensics had processed the area and it's at the, uh, western most end of the parking lot and the lighting is, is poor. Did you see anybody else, uh, referring to the, uh, three, uhm, assailants, did anyone else have any, uh, weapons?

Schmidt: Uh, I did not see any other ones.

DeVault: Okay. Could you tell if any of 'em were wearing glasses or anything?

Schmidt: None of 'em were wearing glasses.

DeVault: Okay. Could you tell, uhm, if any of 'em were wearing gloves?

Schmidt: I don't remember that part.

DeVault: So, you just didn't see it.

Schmidt: Yeah.

DeVault: Okay. And on the, uh, color of the bandana, are you 100% sure on the color?

Schmidt: 9---, 95% sure of the color.

DeVault: Okay. Okay. The time now is approximately 1322. We'll conclude this taped statement. Thank you, Carl.

End of Interview/bb

# APPENDIX L

Tacoma Police Department Supplemental Report

Incident No. 061100186.26

SSN: Driver License No. Altire: SMT: Victim Of: 0904 - Homicide - NonFamily - Weapon Individual Circumstances: 11 - Other Circumstances Injury: Testify: Reporting Statement Obtained: Fire Dept Response: y Hospital Taken To: Tacoma General Medical Release Obtained: Taken By: Ambulance Attending Physician: Hold Placed By:

Victim Offender Relationships

Offender: S1 - SUSPECT, UNKNOWN Relationship: Relationship Unknown A1 - Marshall, Jarrelle Maurice Victim Was Stranger A2 - Walrond, Cyril Victim Was Stranger A3 - HARRIS, DANIEL D. Victim Was Stranger

Law Enforcement Officer Killed or Assaulted Information Type: Assignment: Activity: Justifiable Homicide Circumstances:

Victim Notes:

Investigative Information

Means: Motive: Vehicle Activity: Direction Vehicle Traveling:

Synopsis:

Narrative: I am currently assigned to the Tacoma Police Department's Homicide Unit. I have been assisting Detective DeVault with this investigation. This report documents my involvement with the arrest and interview of Cyril Walrond as well as the obtaining of search warrants associated with this investigation.

On May 8, 2006 I developed a search warrant for several locations associated with this investigation. Those locations were 2110 S. 25th #B (Walrond's father's residence), 406 E. 66th (Walrond's mothers' residence), 7029 S. L st, which was identified as the residence of Marquel Inks, and 7046 S. Wapato, which was identified as the residence of Antonio Copeland. The search warrant also included Walrond's vehicle, a 1994 Olds 88, 4 door and maroon in color, and the school lockers at Mt. Tahoma High School associated with these three persons. That search warrant was presented to Pierce County Superior Court Judge Thomas Felnagle in his chambers. The warrant was reviewed and subsequently signed by Judge Felnagle.

On May 9, 2006 a team of CID detectives including myself responded to Mount Tahoma High School to make contact with Walrond, Inks and Copeland as they had been identified as suspects in this case. Detective DeVault and I contacted, arrested and subsequently transported Walrond to the main station. Walrond was placed into an interview room. Other detectives made contact with Antonio Copeland and dealt with him. Refer to other supplemental reports for details of that contact. Inks was not at school so he was not contacted. Other detectives were assigned to execute the listed search warrants. Refer to additional

supplemental reports for details of the execution of the search warrants.

Once in the interview room, Walrond was formally advised of his rights by Detective DeVault. Walrond acknowledged and waived his rights prior to the interview. During the course of the interview, Walrond was given breaks and escorted to the bathroom upon request. He initially denied any involvement in the incidents being investigated, but very quickly acknowledged his presence and involvement in both the Les Davis Pier robbery (06-1100065) and the robbery/homicide at S. 16th & Proctor (06-1100186). Walrond attempted to minimize his involvement, saying that he was compelled to be involved with both incidents due to threats being made to him by an unknown black male. Walrond was advised that there were elements of the investigation that suggested he was not being truthful at which point he admitted that there was no unknown black male involved. Walrond then stated that it was he, and two friends he identified as Daniel Harris and Jarrell Marshall that committed the Les Davis Pier robbery (06-1100065) and the robbery/homicide at S. 16th & Proctor (06-1100186). Walrond stated that it was Daniel Harris that was armed with a hammer and that it was Harris that struck both the male victim at the Les Davis Pier and the male victim at the S. 16th & Proctor incident. Walrond was told that there would be forensic evidence to either confirm his story or refute his story and that it was important for it to all make sense. He then described how Harris struck the male victim at the Les Davis Pier with the hammer but that the hammer flew out of his hand so Walrond picked it up. Walrond also then attempted to explain that Harris was the one armed with the hammer at the S. 16th & Proctor incident but that he was holding the hammer as well, trying to stop Harris. I then advised Sergeant Davidson that there was PC to arrest both Harris and Marshall. Detectives at Mt. Tahoma were able to locate and arrest both without incident. Both were transported to the main station and interviewed after being advised of their rights. Both admitted involvement in these incidents and implicated Walrond as well. Refer to additional reports documenting the interviews of Harris and Marshall for complete details.

Following the initial interview of and prior to the taped interview, Walrond agreed to show where he discarded the victim's property to include the wallets, identification and cell phone. Walrond was handcuffed prior to leaving the station but was cuffed in the front for his comfort. Additionally, food was obtained for him as he had stated that he was hungry. It was decided to start from the S. 12th and Proctor area so that Walrond could show the route taken in the event other items were thrown out along the way. I was driving and went to S. 19th and Proctor, turning north bound from there. While traveling to S. 12th and Proctor northbound, I noted that Walrond sat up as though he recognized the area. Walrond focused his attention on the east side of the street, which is the same side as the victim's residence. We approached the victim's residence and, without any prompting, Walrond stated, "That's the place isn't it"? I continued to drive northbound to S. 13th and then completed a turn around so that I was facing south bound. Detective DeVault then confirmed with Walrond that this was the route taken the morning of the homicide. I then drove southbound and Walrond again pointed out the victim residence at which time I pulled over and stopped in front of the residence. Walrond stated, "This is just about where I stopped but a little further back". I was about 40 feet east of the intersection at the time. Walrond then described how the incident occurred, which was consistent with the interview. He placed the victim's vehicle facing northbound on Proctor near where another vehicle was now parked. Walrond stated that the victim was initially confronted on the passenger side of his vehicle and then attempted to flee when Harris tried to grab him. Walrond stated that the victim was struck with the hammer and fell at the gate, which is also consistent with what is known from the crime scene. Refer to the interview transcript for additional details. Walrond then showed Detective DeVault and I the route they took once they left the incident location.

Walrond stated that they went one block east to Durango and then turned south. They traveled on Durango to S. 19th and then turned eastbound. They traveled east on S. 19th to Union and then turned northbound, traveling to S. 12th, where they turned eastbound. Walrond stated that they continued eastbound on S. 12th until Prospect, where they pulled over facing southbound. Once we arrived at this location, Walrond stated that he exited his vehicle and dumped the victim's property either into the bushes there or into a residential garbage can. Detective DeVault looked around the area briefly but could not locate anything. Other TPD detectives also responded to the location to look around but did not locate anything either. Walrond later told me he was pretty certain that he placed the items into the garbage can. That would have been nearly three weeks prior so the garbage can would have been dumped at least twice since.

Walrond stated that they left that location and got onto Sprague Street enroute to I-5 so that he could take Harris home. I got to Sprague Street, turning southbound and took the Nalley Valley Viaduct to I-5 southbound. Walrond subsequently provided directions to Harris' residence, which he identified as 6109 S.

Ainsworth. Walrond later told me that either Marshall or Harris threw the hammer out of the vehicle somewhere between the Sprague Street on ramp and I-5. He also made mention of "by Titus-Will". Detectives Vold, Bair, DeVault and myself have all searched the area, which is somewhat overgrown, but have not been able to locate the hammer as of this report. After identifying Harris' residence, Walrond was returned to the main station.

Walrond subsequently provided a taped statement concerning these incidents and his involvement in them. That tape will be transcribed and the transcript will be attached to a later report. Following that first taped statement, I spoke briefly about Walrond's admitted involvement and suggested that there was more that needed to be said. I told him that, based on my knowledge of these incidents, I believed he was the person that swung the hammer and he responded, "yeah". He then put his head down and slumped in his chair. I then asked him who had been armed with the hammer at the Les Davis Pier and he responded, "I was". I asked him who struck the male victim at the Les Davis Pier and he responded, "I did". I asked him the same questions as they applied to the S. 16th & Proctor incident and his responses were the same, that he was the one armed with the hammer and he was the one that struck the male victim at the S. 16th & Proctor incident. Detective DeVault and I then did a second taped statement to include this additional information. The only difference between what he had said off tape and what Walrond said on tape was on tape he attempted to describe the hammer striking victim Huynh's head as accidental. Refer to the transcript of that taped statement for additional details.

Walrond's jacket and cell phone were maintained as evidence in this case as he stated that the jacket was the same one he was wearing at the time of these incidents.

Walrond was turned over to PPO Bower for transport to the Pierce County Jail where he was booked for one count of Murder in the 1st degree and 3 counts of Robbery in the 1st degree.

I then prepared a search warrant allowing access to both Harris' residence and Marshall's residence. The warrant was reviewed by Pierce County Superior Court Judge Felnagle and signed. Detectives DeVault, Bair, Reidburn and I responded to and executed the search warrant on the Harris residence, 6109 S. Ainsworth. I made contact with the spoke to Harris' mother, Shawn Harris. She was very cooperative. She was provided a copy of the search warrant, which she chose to read to herself. The only item located was a black hoody that may have some trace evidence on it. I provided Shawn Harris with a Return of Service documenting the item taken as well as one of my cards in the event she had questions at a later date. Sergeant Davidson took other detectives and executed the search warrant on the Marshall residence, identified as 6437 S. Orchard. Refer to other reports for details of that search.

On May 11, 2006 I executed the search warrant on the suspect vehicle in this case, which belongs to (A) Cyril Walrond. The vehicle had been maintained in the Tacoma Police Department's secure forensics bay. Detective DeVault and Forensics Tech Tim Taylor were present also. Taylor photographed the vehicle in its current state and the truck was then opened using the keys obtained from Walrond. The trunk area was then photographed in its current state as well. Detective DeVault and I then began to remove items from the trunk while FT Taylor began to photograph the interior of the vehicle. While removing items from the trunk, I located a hammer consistent in physical appearance with what was described by victim Schmidt. The hammer was silver and shiny with a waffle pattern to the head. The opposing side is hatchet style and the handle is a cream color. The hammer was photographed in place and then collected as evidence. There were no other items of evidence located in the trunk, although there were several car stereo items located in the trunk. The vehicle's brake pad was collected also and the vehicle was processed for trace evidence. Refer to Forensics reports for additional details. The hammer will be maintained as evidence until it can be sent to the Washington State Patrol crime Lab for forensic processing.

This case is cleared with an arrest; however there is additional follow up investigation to be done.

Detective DeVault and I have met with the prosecutor's office regarding the charging of this case.

Reviewed By:

Reviewed Date:



Vehicle Style:  
Primary Vehicle Color:  
Secondary Vehicle Color:  
VIN:  
Special Features:

Damage:  
Damaged Area:  
Tow Company:  
Tow Consent:  
Hold Requested By:

**Drug Information:**

Drug Type:  
Drug Quantity:

Drug Measure:  
Drug Measure Type:

**Jewelry Information:**

Metal Color:  
Metal Type:  
Stone Color:

Total # of Stones:  
Inscription:  
Generally Worn By:

**Firearm Information:**

Caliber:  
Gauge:  
Action:  
Importer:

Length:  
Finish:  
Grips:  
Stock:

Property Notes: The tapes are the statements of Walrond

Enter	Date	Time	WACIC	LESA	Initial	Release Info.	Date	Time	Release No.	Release Authority
Clear						Owner Notified			Operators Name	

**Investigative Information**

Means: Motive:  
Vehicle Activity: Direction Vehicle Traveling:

Synopsis:

Narrative: On May 9th, 2006 R/D along with detective Miller contacted and arrested Cyril Walrond at Mt. Tahoma High School. He was taking an AP test and removed from the testing room by school security who then turned him over to R/D's. I presented my badge and identification and stated my name. I handcuffed Walrond and advised he needed to come to the police station to discuss incidents under investigation. He didn't ask what incidents. I informed Walrond we would not talk as we walked to my vehicle, stating the nature of the conversation was confidential. Walrond was cooperative and he was transported to the Tacoma Police Headquarters w/o/incident. No discussion of the incidents under investigation was conducted during the transport.

Upon arriving at the police station Walrond was placed in an interview room and the handcuffs removed. I explained that we would now talk about the incidents under investigation and that part of the process was he had to be provided with his Miranda rights/warnings. I asked Walrond if he had ever been given his rights and he said " Yeah, once". I then produced two standard Miranda rights/warnings documents the Tacoma Police Department utilizes. I handed one to Walrond and asked him to follow along as I read the document out loud. I observed Walrond as he tracked and followed along as I read the words. Afterwards I asked Walrond if he had any questions and he said he didn't. Walrond then signed the document. I then asked him if would talk to us and he said he would.

I then told Walrond we were investigating two robberies and assaults and referred to them as the waterfront robbery at the waterfront and the robbery of the man in his front yard. I focused on the waterfront robbery first, where a man and women couple had been robbed, case number 06 110 0186. I gave a brief account of what occurred and Walrond said " I'm in the dark, I can't help you guys". Although R/D's had not accused him of anything Walrond denied being involved. R/D's explained the investigation and evidence would prove he was at the waterfront. Walrond then said " I was there, but it's like this". He then asked if he could get up from his chair, which was allowed. He then demonstrated that he was standing by his car with his friends Daniel Harris

and Jarrell Marshall when a "big black dude came up and pointed a gun at me and said, your going to do this". Walrond went on to demonstrate and explain how the black male had pointed a gun at him and told him he had to rob someone for him. Walrond said he felt he would be shot if he didn't do as he was told. He then went on to say he did rob a "white couple, a man and woman", that he didn't know what his friends were told to do, but they helped me. Walrond said when the robbery was over everyone got in his car including the black male gunman. He said they drove away from the waterfront, driving all over town. When asked what happened to the gunman Walrond said " he got out somewhere, I'm not sure where". At this point R/D's explained to Walrond how ridiculous his story sounded and that lying made him look like an idiot. He then looked down at the table we were seated at and said "there's no black dude". R/D's asked him to tell the truth and explain his involvement. Walrond then admitted to being involved with robberies. He said he, Daniel Harris and Jarrell Marshall were at the waterfront. He referred to Harris as "D".

Walrond said he and Jarrell had been at his house studying for Jarrell's WASL test. When asked what date that was he said " I believe the 20th". He said he and Jarrell snuck out of the house at approximately 11 PM and drove around in his car, which he described as a 94 Oldsmobile, maroon. Walrond said they drove around looking for a party or friends and ended up in the area of So. 56th and Ainsworth Street where they saw Harris. He said they picked up Harris who asked to be taken to the eastside so he could jack a deck (radio) from a car. Walrond said he took Harris to the eastside "somewhere off 56th, I don't know that area cause I'm not from there". He said he dropped off Harris and he and Jarrell waited for him and after a short time he returned and said "something about not being able to get inside". After picking up Harris, Walrond said they drove to the waterfront and while doing so Harris talked of "jacking". Upon arriving at the waterfront Walrond said he parked by the pier, backing his car in so they could watch people. He explained the trunk of the car was closest to the water and they parked near the far end of the lot. Walrond said they were "chillin out, watching people" when Harris began talking about "robbing someone, getting someone". Walrond said after a few minutes all of them got out of the car and he and Harris went some bushes to pee. While there Walrond said Harris pointed out people and said "what about them, let's get them" referring to robbing people. Walrond said they were all smoking Black and Milds and that Jarrell was sitting on the car while he and Harris were at the bushes. He said they recognized someone they knew in a black Chrysler, T Folk, and Harris went to talk with him. Walrond said he hear Harris tell T Folk " we're about to rob someone you better leave". When asked Walrond said he did not know T Folk' real name but added a female was with him and they left after being told of what was going to happen. Walrond said at this point they were all back at his car leaning against it watching people when he observed a man and woman walking towards them from the pier. As the couple passed Walrond said Harris asked the man for a lighter and the man said he didn't smoke and then all followed the couple. He said as the couple was at their car Harris snuck up behind the male and hit him in the head with a hammer. Walrond said the hammer "flew out of D's hand and ended up in the parking lot". He said Harris told the couple "this is a robbery" and ordered the couple to get on the ground which they did. Walrond said he ran over a picked up the hammer and set it on the trunk of the couple's car. He said he observed Harris take the mans wallet and he was given the woman's wallet by the woman and he gave it to Harris. Walrond said the woman told them to take whatever they wanted and told them they didn't have any money. He said the woman also asked that her boyfriend not be hit again, offering her purse.

When asked what Jarrell was doing Walrond said "kinda looking out, he was telling if a car or people were coming". Walrond said at one point a car did come close and Harris ordered the couple to stand up and act normal, which they did..

Walrond said Harris told him to search the car and he admitted getting inside and looking for valuable. He also admitted to searching the trunk and said "there was just a tire there". During his account of the this incident it was obvious Walrond was minimizing his involvement. He continually said Harris told him what to do and Marshall acted as the lookout, saying "aye aye aye" whenever someone came close.

R/D's asked Walrond if he wore a mask and he said "bandanna". He was asked when he put it on and he said "when I got done peeing". He was asked what he wore that night and he said a black coat, the same one he had on, a black baseball cap, a blue bandanna, black gloves "like small girls gloves./ When asked about the gloves Walrond looked down at the table and said " I don't know why". Walrond was asked to describe the clothing Harris and Marshall wore and he said Harris wore "a black hoody cinched up tight", some Franklin baseball gloves. He said Marshall wore "a camouflage hoody with fur on the hood, up tight and some kind of gloves I can't remember". When asked about the shoes each wore Walrond said he wore white Addidas but didn't know what the other two wore. He was asked if all of their hair styles were the same now as back on April 20th and Walrond said they were. He described his hair as in Twists (lumpy when compressed) Harris as

having "more hair" and Marshall as "smooth" (short)

R/D asked Walrond how the robbery ended at the waterfront and he said Jarrell said " someone coming" so they all ran back to his car. He said he brought the hammer too and threw it in the back seat. Walrond said Jarrell got in the front seat with him and "D" got in the back seat behind him. R/D's asked Walrond where the hammer came from and he said it was his, that he carried it his car to "tap" the starter, although he admitted he never had used it on the starter.

When asked, Walrond said they left the parking lot and turned toward Tacoma. He said he turned right at the first street and went up the hill. As he drove Walrond said Harris and Marshall were searching the mans wallet and said "we didn't get nothing" R/D asked Walrond to explain the route he traveled and he said after turning up the hill he stopped at a stop sign and turned right onto Proctor street. He said he drove awhile and then Harris told him to slow down. He said when he slowed he saw an "Oriental man by his car" and that Harris said "let's get him" and he, Harris jumped out of the car. Walrond said turned left and parked the car and got out with the hammer. He said he and Jarrell ran to where Harris was with the man. Walrond said when he got there the "oriental man was saying something about a rat. He asked if we wanted to see a rat and "D" told him this was a robbery, and then I said this is a robbery but it was sarcastic". Walrond said Harris took the hammer from him and told the man to give up his wallet. He said the man said something he couldn't understand and tried to run to the house but "D grabbed him but the man made a move down and slipped past him". Walrond said all of them chased after the man and Harris was swinging the hammer at the mans head as he attempted to take it from Harris. Walrond added "that's why my fingerprints could be on the hammer". R/D's asked Walrond to clarify what he had just said and he said as Harris was coming down with his swing he, Walrond, tried to take the hammer. Walrond said he couldn't get the hammer away and it struck the man in the head at which time the man fell face first into a fence gate and he began to shake. Walrond said he began to help the man because he felt the man had landed in an awkward position. He said he tried to turn him over an "touched his pockets". When asked to be truthful Walrond denied searching the man for valuable. He said "D got the wallet and took it". Walrond was asked what Jarrell was doing and he said "I don't know looking out I guess". He said "Jarrell was there, three steps in back of me".

Walrond said after Harris took the wallet he picked up the hammer and ran to his car. He said the car wouldn't start right away and as he was attempting to get it started he observed Harris searching the mans pockets. When the car started he said Harris and Marshall got in, the same position as when leaving the waterfront.

When asked why he robbed the people Walrond said "I don't know, money". He said " I didn't really rob him" at which time R/D stated "didn't you tell us you told the man this is a robbery too?". Walrond replied "yeah, but I said it sarcastically".

At this point of the interview a break was taken as Walrond wanted to use the restroom. Detective Miller and myself conferred and decided to take Walrond to the area the Asian man ( Huynh) was robbed and assaulted. He was handcuffed and placed in the backseat of detective Millers work vehicle. R/D sat with Walrond. After we left the police station we stopped for food at the Burger King. Walrond ate and drank lemonade. We pulled off to the corner of the parking lot and spoke of general issues while we ate. During the conversation Walrond was asked about his success with running track. He said his best time was 10.9 in the one hundred yard run. As that is a good time R/D asked him about training and practice. Walrond said he had always been good citing when he was younger he competed with older boys, so he tried harder. A commented, saying he hated to lose and would win, whatever it took. R/D noted this as it appears relevant to Walrond state of mind.

After eating we traveled to the area of 16th and Proctor. Detective Miller turned onto Proctor street from So. 19th and as we drove north Walrond was very at tentative, looking out the window> When detective Miller slowed Walrond said "no, not here it's up further". R/D's asked Walrond if he had been back to the incident scene since it occurred he said " not right by but in this area". The incident scene is the corner house and yard at So. 16th and Proctor Street. As we passed by Walrond pointed out where he had seen the man. We turned around to put the direction of travel in perspective. Walrond provided a narrative account of what occurred and where he parked. He pointed out the fence and gate where the victim had fallen. All of what Walrond said has been corroborated.

Afterwards Walrond guided R/D's directing his route as he left the scene. He took us to the area of So. 12th and Prospect street and said he had driven there, gotten out of the vehicle and put the stolen items in a

garbage container. He said he put "two wallets, a cell phone and the other stuff in there". A check of the container revealed none of the items however this is not unexpected as nearly three weeks have passed. Walrond said after throwing away the items he took Harris home, traveling on Sprague Street and getting on Interstate 5. He said the hammer used in the attacks was thrown out of the vehicle near Titus Will Ford. R/D's as well as other detectives have searched this area and have not located a hammer.

R/D's transported Walrond back to the police station and questioned him regarding the details of what occurred. He was asked to provide a taped statement and he said he would. After the statement was obtained detective Miller advised Walrond that some of his details didn't make sense and there were discrepancies. He was confronted with some of the facts and circumstances and then admitted it was he who had wielded the hammer and struck both men. He said the rest of his account of what occurred was the truth. Walrond was asked if he would provide a second taped statement and he said he would. The tapes will be transcribed then placed in evidence.

After providing the statements Walrond was placed in a holding cell pending transportation to the Pierce County Jail. He was informed of the booking charges. R/D has had no further contact with him PPO Bowers transported Walrond and booked him. A cell phone and coat, Walrond was wearing, was seized. Inside the coat pockets were identification to Mt. Tahoma High School and a blue bandanna. All items will be placed into evidence.

R/D along with detective Miller obtained additional search warrants for Harris and Marshall's residences. The warrants were executed at approximately 1800 hrs. this same date. Detective Werner and Andren searched Marshall's residence and recovered a camouflage baseball hat stolen from Schmidt. R/D along with detective Bair and Miller searched Harris' residence and recovered a black "hoody" from his bedroom. These recovered items will be placed into evidence as well.

On 5/13/06 at approximately 0930 hrs. Waldron's vehicle was searched pursuant to the afore mentioned search warrant. Forensic technician T. Taylor was present and photographed the vehicle prior to the search. Subsequently a hammer was found and recovered from the trunk of the vehicle. The hammer had a light blond handle, a waffle head and blade back, similar to a sheet rock or roofers hammer. It appears to match the hammer described by robbery victim Schmidt. The hammer was photographed in place and eventually placed into evidence by T. Taylor. The vehicle will be forensically searched for blood transfer and trace evidence at a later date.

Although Walrond, Harris and Marshall have been arrested the investigation into the robbery and death of Dien Huyhn will continue.

Reviewed By:

Reviewed Date:

# APPENDIX M

Tacoma Police Department Supplemental Report

Incident No. [REDACTED] 186.22

Aliases:

DOB: 8/1/1945 Age: 60 Sex: Male Race: Asian/Pacific Islander Ethnicity: Non-Hispanic

Height: Weight: Hair Color: Eye Color:

Address: 3865 S. 16th St. County: Phone:

City, State Zip: Tacoma, WA Country: Business Phone:

Other Address: Other Phone:

Resident: Full - Time Resident Occupation/Grade: Employer/School:

SSN: Place of Birth:

Driver License No: Driver License State: Driver License Country:

Attire: Complexion:

SMT: Facial Hair:

Victim Of: 0904 - Homicide - NonFamily - Weapon Facial Shape:

Victim Type: Individual Circumstances: 11 - Other Circumstances Weapon Used:

Injury: Testify: Reporting Statement Obtained:

Type of Injury: Fire Dept Response: y

Hospital Taken To: Tacoma General Medical Release Obtained: Taken By: Ambulance

Attending Physician: Hold Placed By:

Victim Offender Relationships

Offender: S1 - SUSPECT, UNKNOWN Relationship: Relationship Unknown
A1 - Marshall, Jarrelle Maurice Victim Was Stranger

Law Enforcement Officer Killed or Assaulted Information Type: Assignment: Activity: Justifiable Homicide Circumstances:

Victim Notes:

Investigative Information

Means: Motive:
Vehicle Activity: Direction Vehicle Traveling:

Synopsis:

Narrative: On 05/09/06, I was assigned to assist, along with Detective L. WADE, with this investigation. We were advised by CID Sergeant DAVIDSON to pick up JARRELLE MARSHALL at Mt. Tahoma High School and transport him to the CID Office. He was not questioned during the transport to the station.

MARSHALL was placed into a CID Interview Room. Detective WADE and I met with him there. He was not handcuffed. The interview began at about 12:45 p.m.

Using a TPD Advisement of Rights form, MARSHALL was advised of his constitutional rights, per Miranda, to include the juvenile advisement. He acknowledged understanding his rights and signed the form without question.

MARSHALL was advised that an investigation was underway that centered on he and his friends. He

was asked if he knew his friend CYRIL was arrested and he said he had heard it happened this morning. He was told we wanted to talk about what happened the night he was supposed to study for the WASL Test. He shook his head up and down and said "okay".

MARSHALL said he and CYRIL went driving around in CYRIL's car, which he said as burgundy in color. CYRIL called DANIEL HARRIS and they drove to HARRIS' house and picked him up. They then drove around looking for something to do. He said they were out "looking for decks", which meant they were going to go out and steal stereo decks from cars. MARSHALL said he was sitting in the back seat.

He said they drove to the waterfront area in Tacoma. He didn't know the name of the street but described it as by the restaurants and the pier.

While sitting in the car talking, they saw a male and female walking across the parking lot towards their own car. CYRIL said, "Let's go" and they got out of the car. Asked what that meant, he said, "We all knew what that meant". Asked if it meant they were going to "jack" the couple, he said it did.

They got out and CYRIL walked up to the male and asked him if he had a light or a lighter. The male said he didn't and turned away. CYRIL then hit the male with a hammer and knocked him to the ground. HARRIS was with the female and she was "cooperative". MARSHALL said that meant the female started to give up things such as her cell phone and CD and whatever she had in her purse. He said the female kept saying "don't hit him" and "you can have whatever you want". MARSHALL said CYRIL then took the wallet of the male on the ground.

He said he thought CYRIL hit the male in the head one time with the hammer. He said he thought CYRIL swung at the male again with the hammer but it flew out of his hand. He said the male grabbed his head.

Asked where CYRIL got the hammer from, he said he thought CYRIL took out of the trunk before they started talking while sitting in the car.

MARSHALL said CYRIL put on some baseball batting gloves when he got out of the car. CYRIL had a black hat on his head.

When asked, MARSHALL said the male that was hit with the hammer was a white male who was tall. The female was white as well.

When asked, MARSHALL said he didn't hit either person and he didn't think HARRIS hit the female. He added that the female "offered up her stuff" and was cooperative. MARSHALL said that he stood there "surprised by it all". He said he'd never seem CYRIL do that before.

After getting the couple's property, he said they went back to CYRIL's car. Asked if they ran back to the car, he said, "It was brisk pace".

When asked, he said CYRIL got the hammer from the trunk of his car when they parked in the lot at the waterfront.

After getting back into the car, they drove away. He didn't know any of the street names but said they drove towards downtown and then made a right turn. He said they stopped to dump the property they took from the couple in a garbage can that was set out in front of someone's house. He couldn't recall where. He said they threw out the wallet and a debit card and the cell phone. He said they didn't get any money. When asked, he said they didn't use the cell phone to make any calls. Asked why they tossed the rest of it, he said, "We had no use for it". Asked if they kept anything, he said, "There seems like there was something but I'm not sure". After a long pause, he said, "I don't think so".

Asked about a hat that may have been taken, he said, "Yes, from the male". He described it as a camouflage baseball hat. Asked where they put it, he said it was in the trunk of CYRIL's car.

MARSHALL said they drove up a street and saw a man standing on the side of the street by a parked

car. CYRIL parked the car and they all got out and walked up to the man, who he described as an older Asian male.

When asked, MARSHALL drew a diagram of how they parked (across the street from the male).

Asked why they all got out of the car, MARSHALL said, "To see if he had anything".

MARSHALL said the male had some Decon and a dead rat and said something about the dead rat. HARRIS said something to the male about not wanting to see the dead rat. MARSHALL said the male must have figured out that he was in trouble at that time because he started to run.

Asked what happened next, MARSHALL said, "He didn't get very far". Asked what he meant by that, MARSHALL said CYRIL chased after him and then he and HARRIS started to run. CYRIL got the man first. MARSHALL said the man ran around a corner by a fence. When he got there, he heard the man falling into the fence. He said they "checked him for his wallet". He said CYRIL got the man's wallet but there was nothing in it.

Asked who hit the man, he said CYRIL did. Asked with what, he said, "The same thing as the dude on the water front". Asked if that was the hammer, he said, "Yeah".

Asked if he saw CYRIL hit the man, MARSHALL said, "I saw the man fall and hit the fence. He was on the ground when me and DANIEL got to him". He said he didn't see CYRIL do the hitting.

When asked, he said he never hit the man. Asked about HARRIS, he said, "I don't think so. I never saw him do it". He said he never touched the man. He said that CYRIL and HARRIS went through the man's pockets looking for his wallet.

He didn't think the man said anything after he ran. He said they went back to CYRIL's car and when he got in, he said the man sit up. He said he didn't notice if the man was bleeding.

He said they tossed out the man's wallet as there wasn't anything in it.

They then drove away and they dropped off HARRIS at his own house and then he and CYRIL drove to CYRIL's house.

Asked what they talked about on the way home, he said they asked themselves "what the hell did we just do". He said they said the same thing after they left the waterfront after hitting the first man.

Asked why they did it, MARSHALL said, "We needed money. That was a big thing".

Asked if he ever went through the wallet of either man, MARSHALL said he did touch both wallets and look through them before they were tossed out.

Asked if he knew if the Asian male was hurt, he said, "I didn't think too much about it". Asked if he knew now the condition of that man, he said he didn't.

MARSHALL was informed that the Asian male had died of his wounds. As he had throughout the interview, he showed no visible emotion to this information.

Asked if the three of them had talked about what they did since the incident, he said, "not really". Asked where the hammer was now, he said he didn't know.

Asked if they got any blood from either incident on any of them, he said they didn't.

MARSHALL was asked if any of them had on a bandana. He said, "Seems like all our faces were covered with hoods". Asked if any of them had a camouflage jacket on with fur around the hood, MARSHALL said, "That was me". Asked where that jacket was at this time, he said he wasn't sure as the jacket belongs to his friend, SAM MEANS. He said it was full length jacket that went down to his knees. He took it off in the car.

and that's the last time he saw it.

MARSHALL said CRYIL told him that CRYIL's mom called him and said the police had come to check on him and his car. His mom told him the police said something about someone hurt in the hospital. He said they all talked about it and went to church over it. He said SAM MEANS was there one time when they talked about it. SAM is his friend and attends Mt. Tahoma High School.

After a short break, MARSHALL was asked about his living arrangements. He said he lives in his grandmother's house. Asked how he thought his family would react to his involvement in this incident, he said he thought they would be mad. He asked that we only tell his uncle if we were going to call his house.

MARSHALL said he had never done anything like this with CYRIL. He said they didn't have a plan to hurt anyone that night. He said they haven't done any like that since that night.

Asked if when they parked across the street from the Asian male they got out to 'jack' him, MARSHALL said, "Yeah".

Asked if CYRIL hit the Asian male with the hammer, he said, "I think he did". Asked if he saw the hammer in CYRIL's hand when they got out of the car, he said he did.

Told that it appeared the male had multiple injuries, MARSHALL said that CYRIL and HARRIS kicked him when he was on the ground. MARSHALL denied he did any kicking or hitting of the male. Asked if he (MARSHALL) said anything during that incident, he said he told them they "needed to go" after they got the man's wallet.

Asked if CYRIL is a gang member, MARSHALL said, "He from the Hilltop". Asked if CYRIL had a 'doo-rag' on his face, MARSHALL said, "He may have. He had something covering his face but I'm not sure what it was. He had a hat and something else".

Asked what he thought about this whole situation now, MARSHALL said, "I don't know what to think".

Asked if any of them had any drugs or alcohol during the night, he said they didn't.

At about 1:30 p.m., we took a break and MARSHALL was brought a glass of cold water at his request.

The break ended at about 1:40 p.m. We told MARSHALL that he was being booked into jail for the murder and robberies. He said he understood.

**Taped Statement:**

MARSHALL was asked if he would make a taped statement and he agreed. The taped statement began at about 1:44 p.m. and ended at about 2:06 p.m.

R/D:

At the conclusion of the interview, I notified MARSHALL's Aunt Linda and Uncle KENNETH CRITTENDON. Both were advised of the arrest/booking and how to contact MARSHALL at the P.C. Jail. Both were given the contact information for Lead Detective DEVAULT.

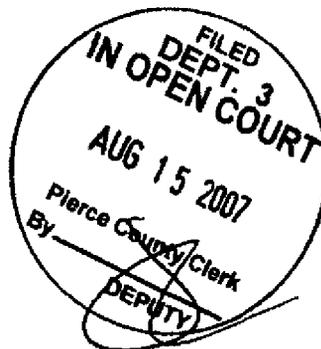
MARSHALL was transported to the PC Jail for booking by Detective L. WADE.

Prior to our interview with MARSHALL, Detective WADE and I joined other members of the CID at Mt. Tahoma HS. While there, Detective WADE and I interviewed JASON SNYDER. Refer to her Supplemental Report for details.

# APPENDIX N



06-1-02134-9 28071265 AMINF 08-16-07



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 06-1-02134-9

vs.

AUG 16 2007

JARRELL MAURICE MARSHALL,

AMENDED INFORMATION

Defendant.

DOB: 12/16/1989  
PCN#: 538757641

SEX : MALE  
SID#: UNKNOWN

RACE: BLACK  
DOL#: UNKNOWN

COUNT I

I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse JARRELL MAURICE MARSHALL of the crime of MURDER IN THE SECOND DEGREE, committed as follows:

That JARRELL MAURICE MARSHALL, the defendant, and/or a person to whom he was an accomplice, in the State of Washington, on or about the 20th day of April, 2006, did unlawfully and feloniously, while committing or attempting to commit the crime of Assault in the Second Degree of Dien Huynh, and in the course of and in furtherance of said crime or in immediate flight therefrom, did intentionally struck Dien Huynh in the head with a hammer, thereby causing the death of Dien Huynh, a human being, not a participant in said crime, on or about the 22nd day of April, 2006, contrary to RCW 9A.32.050(1)(b), and against the peace and dignity of the State of Washington.

COUNT III

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

AMENDED INFORMATION- I

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

1 That JARRELL MAURICE MARSHALL, the defendant and/or a person to whom he was an  
2 accomplice, in the State of Washington, on or about the 20th day of April, 2006, did unlawfully and  
3 feloniously take personal property belonging to another with intent to steal from the person or in the  
4 presence of Carl Schmidt, the owner thereof or a person having dominion and control over said property,  
5 against such person's will by use or threatened use of immediate force, violence, or fear of injury to Carl  
6 Schmidt, said force or fear being used to obtain or retain possession of the property or to prevent or  
7 overcome resistance to the taking, and in the commission thereof, or in immediate flight therefrom, the  
8 defendant and/or a person to whom he was an accomplice was armed with a deadly weapon, to-wit: a  
9 hammer, contrary to RCW 9A.56.190 and 9A.56.200(l)(a)(i), and against the peace and dignity of the  
10 State of Washington.

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23  
24  
COUNT IV

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

That JARRELL MAURICE MARSHALL, the defendant, and/or a person to whom he was an  
accomplice, in the State of Washington, on or about the 20th day of April, 2006, did unlawfully and  
feloniously take personal property belonging to another with intent to steal from the person or in the  
presence of Amber Limanek, the owner thereof or a person having dominion and control over said  
property, against such person's will by use or threatened use of immediate force, violence, or fear of  
injury to Amber Limanek, said force or fear being used to obtain or retain possession of the property or to  
prevent or overcome resistance to the taking, and in the commission thereof, or in immediate flight  
therefrom, the defendant and/or a person to whom he was an accomplice was armed with a deadly  
weapon, to-wit: a hammer, contrary to RCW 9A.56.190 and 9A.56.200(l)(a)(i), and against the peace and  
dignity of the State of Washington.

DATED this 14th day of August, 2007.

TACOMA POLICE DEPARTMENT  
WA02703

GERALD A. HORNE  
Pierce County Prosecuting Attorney

By: \_\_\_\_\_

TERRY LANE  
Deputy Prosecuting Attorney  
WSB#: 16708

txl

# APPENDIX 0

## ADOLESCENT BRAIN DEVELOPMENT & JUVENILE JUSTICE FACT SHEET

### Why is brain development important for juvenile justice?

Brain imagery now allows us all to see the developmental milestones achieved by the human brain as it grows and matures throughout the early stages of life—confirming in pictures what parents and those who work closely with youth have long found to be true: adolescence is a period of gradual maturation. Hard science demonstrates that teenagers and young adults are not fully mature in their judgment, problem-solving and decision-making capacities.

Adolescence, roughly defined as the period between the onset of puberty and maturity, may last from age 10 to age 25. During this period of rapid growth, American adolescents live in a precarious middle ground between the innocence and immaturity of childhood and the responsibility and accountability of adulthood. On the one hand, the law shields adolescents from their inability to make sound judgments and their natural propensity to be impulsive and reckless. Such societal understanding is expressed in the laws of 29 states where the legal alcohol consumption age is expressly 21 years of age.<sup>1</sup> In 48 states, the marriageable age is set at age 18, unless a minor obtains parental or judicial consent.<sup>2</sup> Nationwide, no one can cast a ballot or join the military until age 18. The intent of such laws is clear—to protect the young from their own immaturity, while providing opportunities for learning and maturation.

On the other hand, some laws—specifically those in some criminal statutes—do not reflect such societal understanding of the nature of child and adolescent development. In fact, there are 15 states that regard children as young as 10 years of age as competent and responsible enough to be put on trial in the juvenile court.<sup>3</sup> Forty-four states and the District of Columbia regard children as young as 14 years of age as mature enough to be held as responsible as adults for wrongdoing and to be sanctioned as adults in the criminal court, without full regard what is know about child and adolescent development or full consideration of the age-appropriate services and supports needed.<sup>4</sup> In addition, treatment approaches used for court-involved youth with substance abuse and mental health problems are often modeled after those used for adults—again, without appropriate regard to what is known about more effective approaches based on the research of adolescent development.

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<sup>1</sup> National Institute on Alcohol Abuse and Alcoholism, Alcohol Policy Information System, "Exceptions to Minimum Age of 21 for Consumption of Alcohol as of January 1, 2005."

<sup>2</sup> Cornell Law School, Legal Information Institute, "Marriage Laws of the Fifty States, District of Columbia and Puerto Rico," Copyright 2006.

<sup>3</sup> Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, "Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions," Dec. 1998.

<sup>4</sup> Griffin, Patrick, National Center for Juvenile Justice, "Trying and Sentencing Juveniles as Adults: An Analysis of State Transfer and Blended Sentencing Laws," Oct. 2003.

KEY FACTS

- During adolescence, the brain begins its final stages of maturation and continues to rapidly develop well into a person's early 20s, concluding around the age of 25.<sup>5</sup>
- The prefrontal cortex, which governs the "executive functions" of reasoning, advanced thought and impulse control, is the final area of the human brain to mature.<sup>6</sup>
- Adolescents generally seek greater risks for various social, emotional and physical reasons, including changes in the brain's neurotransmitters, such as dopamine, which influence memory, concentration, problem-solving and other mental functions. Dopamine is not yet at its most effective level in adolescence.<sup>7</sup>
- Adolescents commonly experience "reward-deficiency syndrome," which means they are no longer stimulated by activities that thrilled them as younger children. Thus, they often engage in activities of greater risk and higher stimulation in efforts to achieve similar levels of excitement.<sup>8</sup>
- Adolescents must rely heavily on the parts of the brain that house the emotional centers when making decisions, because the frontal regions of their brains are not fully developed.

KEY RESEARCH & QUESTIONS

Brain and developmental research conducted over the past 10 to 15 years have opened new pathways to understanding the true developmental differences between adolescents and fully mature adults. The findings highlight the need to conduct more basic and applied research regarding such developmental differences—how they influence motivation, judgment, thinking, feeling and social relationships—and to explore the ways in which intervention and treatment strategies may be changed to incorporate such research, with an ultimate goal of balancing positive outcomes for youth with public safety and individual accountability.

The research also brings difficult questions to the forefront. How does one guide an adolescent to cope in a healthy manner with this tumultuous stage of life? How do we hold young offenders accountable and take advantage of every opportunity to positively influence their development? How can and should common delinquency prevention and juvenile justice practices and laws change to incorporate a more sensible approach to addressing the needs of adolescents, while balancing them with community safety needs?

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<sup>5</sup> Beatrice Luna, Ph.D., "Brain and Cognitive Processes Underlying Cognitive Control of Behavior in Adolescence," University of Pittsburgh, Oct. 2005.

<sup>6</sup> Paul Thompson, Ph.D., "Time-Lapse Imaging Tracks Brain Maturation From Ages 5 to 20," National Institutes of Mental Health, and the University of California Los Angeles, May 2004; also, author interview with Robin Jenkins, Ph.D., June 2006.

<sup>7</sup> Linda Patia Spear, Ph.D., "Neurodevelopment During Adolescence," *Neurodevelopmental Mechanisms in Psychopathology*, Cambridge University Press, Nov. 2003.

<sup>8</sup> Ibid.

At the highest levels of jurisprudence, changes have already begun. In 2005, the U.S. Supreme Court's ruling in *Roper v. Simmons* outlawed the juvenile death penalty. In authoring the majority opinion that the death penalty is not appropriate for youth under age 18, Justice Anthony Kennedy noted that "juveniles are more vulnerable or susceptible [than adults] to negative influences and outside pressures, including peer pressure... This is explained in part by the prevailing circumstance that juveniles have less control, or less experience with control, over their own environment." Justice Kennedy further cited scientific and sociological studies on the "underdeveloped sense of responsibility found in youth." Following the logic of the high court's ruling and its roots in a clearer understanding of the adolescent mind, it becomes important for juvenile court professionals and practitioners engaged in delinquency prevention and rehabilitation to re-examine each point of contact or interaction with adolescents—to ensure that developmentally appropriate responses are in place.

### RESOURCES

The following list of Web sites, reports and books provides key resources on the science of adolescent brain development.

**Abigail Baird, Ph.D.** (<http://www.theteenbrain.com/research/projects/>). Baird's extensive research on the decision-making processes and social and emotional development of adolescents can be found on this site.

*Adolescent Brain Development: Vulnerabilities and Opportunities*, by Ronald Dahl and Linda Patia Spear, Annals of the New York Academy of Sciences, 2004. A collection of more than 60 research papers and essays, this book examines the finer points of adolescent brain maturation.

*Brain Facts: A Primer on the Brain and Nervous System*, Society for Neuroscience, 2005. This extensive, well-illustrated overview of brain functioning and development may be found in a pdf format at <http://www.sfn.org/skins/main/pdf/brainfacts/brainfacts.pdf>.

**Centers for Disease Control (CDC)** ([www.cdc.gov](http://www.cdc.gov)). The CDC's extensive Web site has a user-friendly search engine. Key words such as "youth," "juvenile," and "youth assets" will lead to reports and surveys on youth risk behavior and adolescent health.

**Chapin Hall Center for Children at the University of Chicago** ([www.chapinhall.org](http://www.chapinhall.org)). Chapin Hall dedicates a large section of its Web site to community, child and youth development. Among the many resources is an issue brief entitled, "Focusing Juvenile Justice on Positive Youth Development."

**Cornell Law School** ([www.law.cornell.edu](http://www.law.cornell.edu)). The U.S. Supreme Court's opinions—majority, concurrent and dissenting—on *Roper v. Simmons* can be found using this Web site's database.

**Diana H. Fishbein, Ph.D.** (<http://www.rti.org/index.cfm>). By searching from the RTI home page on her name, you can locate Fishbein's work. She has applied neuroscience to the evaluation of crime prevention programs and consults regularly with federal, state and local agencies for purposes of expert witnessing in criminal court, training, technical assistance, scientific peer reviews and development of research protocols.



## JJDPA Fact Book

**Jeffrey A. Butts, Ph.D.** ([www.jeffreybutts.net](http://www.jeffreybutts.net)). Butts' presentation at the CJJ-OJJDP conference on the implications of adolescent brain development, "Using Developmental Evidence and Youth Assets to Design Juvenile Justice Systems," is available on this Web site.

**Juvenile Law Center (JLC)** ([www.jlc.org](http://www.jlc.org)). The JLC Web site has a section devoted to research, publications and fact sheets. In addition, it contains the work of Marsha Levick, the JLC legal director, and Laurence Steinberg, Ph.D., Director of the MacArthur Research Network on Adolescent Development and Juvenile Justice.

**The MacArthur Research Network on Adolescent Development and Juvenile Justice** ([www.mac-adoldev-juvjustice.org](http://www.mac-adoldev-juvjustice.org)). The John D. and Catherine T. MacArthur Foundation has supported the work of the MacArthur Research Network on Adolescent Development and Juvenile Justice, directed by Laurence Steinberg, Ph.D., for many years. The Research Network's Web site is filled with information about ongoing and completed studies that illuminate issues of competence and culpability in the relationships that adolescent offenders have with the juvenile justice system.

**National Academies Press** ([www.nap.edu](http://www.nap.edu)). More than 3,000 books and reports can be found through the National Academies Web site, including *From Neurons to Neighborhoods: The Science of Early Childhood Development*. *Neurons to Neighborhoods* dedicates a significant section to the stages of brain maturation and considers the impact of other factors on child development.

**National Academies' Board on Children, Youth, and Families** ([www7.nationalacademies.org/bocyf/](http://www7.nationalacademies.org/bocyf/)). The National Academies' Board of Children, Youth and Families provides summaries of adolescent brain development research and a report on emerging issues in the study of adolescence at the above listed Web site.

**Office of Juvenile Justice and Delinquency Prevention (OJJDP)** ([www.ojjdp.ncjrs.org](http://www.ojjdp.ncjrs.org)). OJJDP, at the Office of Justice Programs, U.S. Department of Justice, provides a national overview of the latest findings and programs in youth development and the juvenile court system.

**Oklahoma Institute for Child Advocacy (OICA)** ([www.oica.org](http://www.oica.org)). With a primary focus on early child development and prevention, OICA conducts the "Youth Asset Study," which involves teens and their parents as participants. The study is funded in part by the CDC and delves into how assets counter risky behavior.

***Primal Teen: What the New Discoveries about the Teenage Brain Tell Us about Our Kids***, by Barbara Strauch, Bantam Doubleday, 2004. Peppered with anecdotes, Strauch provides a layman's guide to the hard science underlying adolescent brain development.

**Search Institute** ([www.search-institute.org](http://www.search-institute.org)). The Search Institute's Web site presents a definitive description of the 40 developmental assets for youth. It also offers strategies and research on positive youth development.

**Thomas Grisso, Ph.D., at University of Massachusetts Medical Center, Department of Psychiatry** ([www.umassmed.edu/crmhsr/faculty](http://www.umassmed.edu/crmhsr/faculty)). By following the link for Grisso, you will locate several resources of note, including: *Double Jeopardy: Adolescent Offenders With Mental Disorders* by Grisso, 2004; *Evaluating Juveniles Adjudicative Competence: Agenda for Clinical Practice*, by Grisso, 2005; and *Youth on Trial: A Developmental Perspective on Juvenile Justice*, Grisso and Robert Schwartz, editors, 2000.



**JUVENILE JUSTICE**

**JJDPFA Fact Book**

Wisconsin Council on Children and Families (WCCF) ([www.wccf.org](http://www.wccf.org)). Under projects and topics, WCCF's Web site has a section on juvenile justice where the report "Rethinking the Juvenile in Juvenile

Justice" is available. The report discusses adolescent brain development and makes recommendations to improve the juvenile court system.

*Why Do They Act That Way?: A Survival Guide to the Adolescent Brain for You and Your Teen*, by Dr. David Walsh with Nat Bennett, Simon & Schuster, 2005. Geared toward parents, Walsh's book explains how adolescent brain development affects mood, judgment and communication.

*Your Adolescent: Emotional, Behavioral, and Cognitive Development from Early Adolescence Through the Teen Years*, by the American Academy of Child and Adolescent Psychiatry, HarperCollins Publisher, 2000. While covering brain development, the book also looks at the physical and social changes of adolescence.

For additional information on adolescent brain development, please also visit the Web site of the Coalition for Juvenile Justice (CJJ) ([www.juvjustice.org](http://www.juvjustice.org)).

*Prepared by the Coalition for Juvenile Justice*  
[www.juvjustice.org](http://www.juvjustice.org)

# APPENDIX P

# Potential for Change: Public Attitudes and Policy Preferences for Juvenile Justice Systems Reform

## Executive Summary

### A Center for Children's Law and Policy Report

#### Introduction

New polling data on Americans' attitudes about youth, race and crime reveal strong support for juvenile justice reforms that focus on rehabilitating youthful offenders rather than locking them up in adult prisons. The public also believes that African American and poor youth receive less favorable treatment than those who are white or middle class.

The poll was commissioned by the Center for Children's Law and Policy as part of the John D. and Catherine T. MacArthur Foundation's Models for Change juvenile justice reform initiative, which supports juvenile justice reform in Illinois, Pennsylvania, Louisiana and Washington state. Prior to the poll, focus groups on the issues were held in Chicago, Pittsburgh, Baton Rouge and Seattle. The poll included oversampling in the four Models for Change states to determine attitudes by the public there.

#### Survey findings include:

- **The public recognizes the potential of young people to change.** Nearly nine out of 10 (89 percent) of those surveyed agreed that "almost all youth who commit crimes have the potential to change," and more than seven out of 10 agreed that "incarcerating youth offenders without rehabilitation is the same as giving up on them."
- **The public supports redirecting government funds from incarceration to counseling, education and job training programs for youth offenders.** Eight out of 10 favor reallocating state government money from incarceration to programs that provide help and skills to enable youth to become productive citizens.
- **The public views the provision of treatment and services as more effective ways of rehabilitating youth than incarceration.** Majorities saw schooling, job training, mental health treatment, counseling and follow-up services for youth once they leave the juvenile justice system to help them go back to school or find a job as "very effective" ways to rehabilitate young people. Less than 15 percent of those surveyed thought that incarcerating juveniles was a "very effective" way to rehabilitate youth.

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**Models for Change**  
Systems Reform in Juvenile Justice

- **The public favors keeping nonviolent juveniles in small, residential facilities in their own communities rather than in large distant institutions.** More than three-quarters of the public favors juvenile justice policies that keep nonviolent youth in small facilities in their own communities, and six in 10 favor community supervision for nonviolent youth. Eight out of 10 favor keeping these youth in small residential facilities rather than in large institutions.
- **The public believes the juvenile justice system treats low-income youth, African American youth and Hispanic youth unfairly. Almost two-thirds of respondents said that poor youth receive worse treatment than middle-class youth who get arrested for the same offense.** A majority think that African American youth receive worse treatment than white youth who get arrested for the same offense. More than seven out of 10 favor funding programs that help Hispanic youth who get in trouble with the law overcome the language barriers they face in the juvenile justice system.

## 1. The public recognizes the potential of young people to change.

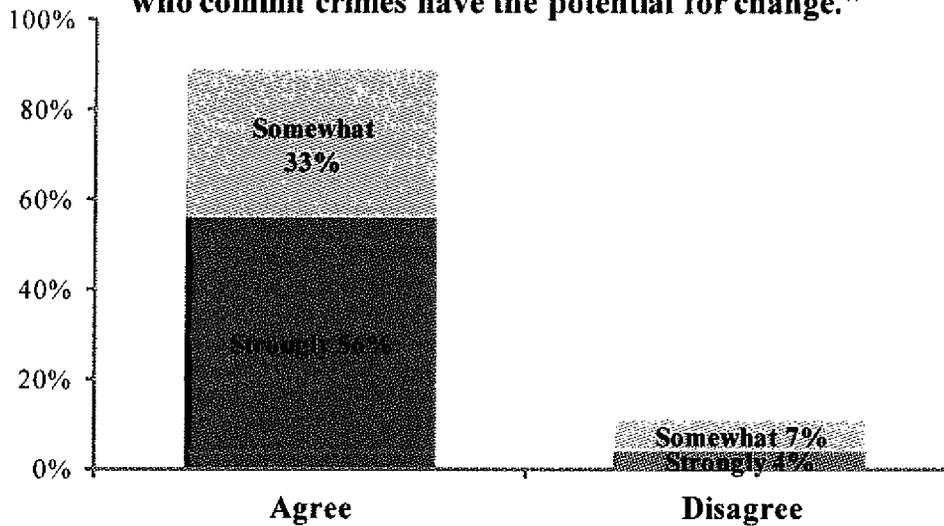
The juvenile justice system in the United States began a century ago in Chicago with the enlightened goal of providing individualized treatment, supervision and services to troubled and at-risk youth. In the 1990s, attitudes changed. A temporary rise in violent juvenile crime and a few spectacular cases fueled political calls for more punitive approaches: a shift away from rehabilitation and toward the implementation of harsher sanctions, reduced confidentiality of juvenile proceedings and increased incarceration of young people.

Today, the fallacies that drove the wave of punitive policies are being challenged and the space for new ideas to flourish is growing. A number of factors—falling crime rates, state budget crises, rigorous demonstrations of “what works” and new research on brain development in adolescents—are encouraging policymakers to reconsider the wisdom of “get-tough” policies. There is a large reservoir of public support that policymakers can draw upon to help shift the juvenile justice system back to the principles on which it was founded.

*“The system seems to ignore the potential any child may have. The way the system seems to be set up, they seem to be written off rather than helping them become productive society members. I think they keep throwing these kids away.”— Focus group respondent, Chicago*

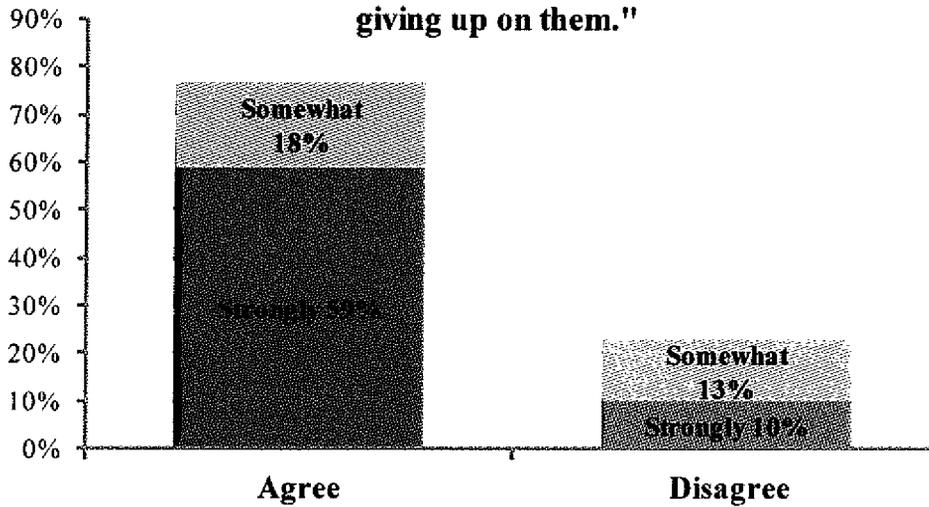
The public believes that almost all young people who commit crimes have the potential to change. Nearly nine out of 10 people nationally (89 percent) agreed with the statement that “almost all youth who commit crimes are capable of positive growth and have the potential to change for the better.” In the Models for Change states, more than eight out of 10 agreed with the statement. Similarly, more than eight out of 10 disagreed with the statement that “there is not much you can do to change youth who commit crimes.” More than three out of four agreed that “incarcerating youth offenders without rehabilitation is the same as giving up on them.”

**Nearly nine out of 10 agreed that "almost all youth who commit crimes have the potential for change."**



"Please tell me if you agree or disagree with each of the following statements. (Do you agree or disagree? Is that strongly or somewhat agree/disagree?) Almost all youth who commit crimes are capable of positive growth and have the potential to change for the better.

**More than seven out of 10 agreed that "incarcerating youth offenders without rehabilitation is the same as giving up on them."**



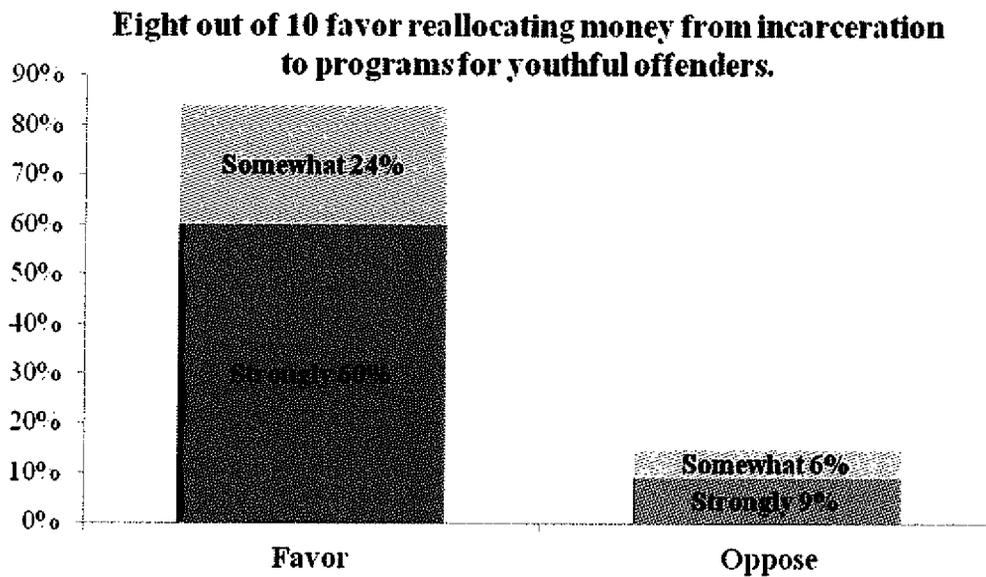
"Please tell me if you agree or disagree with each of the following statements. (Do you agree or disagree? Is that strongly or somewhat agree/disagree?) Incarcerating youth offenders without rehabilitation is the same as giving up on them."

## 2. The public supports redirecting government funds from incarceration to counseling, education and job training for youth offenders.

In Illinois, Pennsylvania, Louisiana and Washington, the legislatures have enacted policies that discourage incarcerating youth in large state facilities and encourage having more young people under community supervision or receiving services and treatment in their own communities. The public supports this change in policy.

A majority in the United States and in the four Models for Change states strongly favor taking away some of the money their state spends on incarcerating youth offenders and spending it instead on programs for counseling, education and job training for youth offenders. Eight out of 10 say they strongly favor or somewhat favor this policy choice.

*"For nonviolent crimes, it would make more sense to take the money, x amount of dollars to keep an individual incarcerated for x amount of time—you could put that to programs to prevent them from being in jail to begin with."*—Focus group respondent, Baton Rouge



"Do you favor or oppose taking away some of the money your state government spends on incarcerating youth offenders and spending it instead on programs for counseling, education and job training for youth offenders. Is that strongly or somewhat favor/oppose?"

**3. The public views the provision of treatment, services and community supervision as more effective ways of rehabilitating youth than incarceration.**

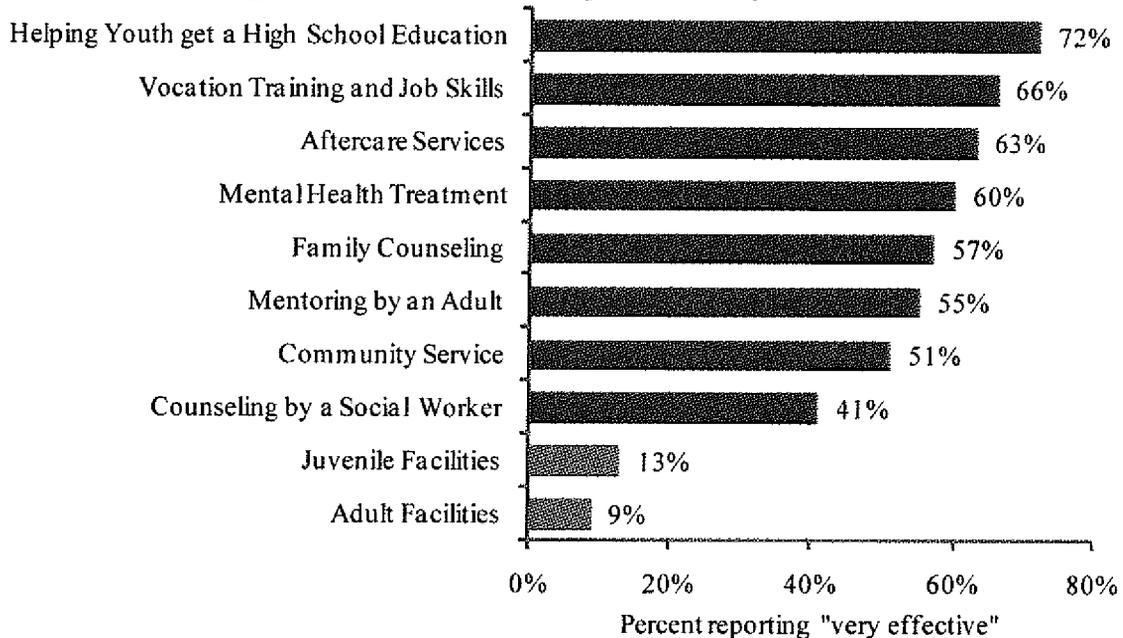
Large majorities see providing treatment, services and community supervision as more effective ways of rehabilitating youth who commit crimes than punishment or incarceration in either an adult or juvenile facility.

*"If you're just going to throw them in a place where no one cares and nobody does anything, you're just going to grow up an 18-year-old kid that still has nothing"* —Focus group respondent, Baton Rouge

A majority views family counseling, mental health treatment, vocational and job training and assistance with getting a high school education as "very effective" ways to rehabilitate young people who commit crimes. In contrast, less than 15 percent see incarcerating youth in either a juvenile or adult facility as being "very effective" at rehabilitating youth who commit crimes.

One of the biggest challenges facing communities is the development of effective "aftercare" services and plans for juveniles: the ability to connect juveniles leaving the system with the programs and services they need to adjust and succeed. More than six in 10 of those surveyed nationally said that "providing follow-up services once youth leave the juvenile justice system to help them go back to school or get a job" was a "very effective" way to rehabilitate young people who commit crimes.

**Treatment, supervision and services were seen as "very effective" ways to rehabilitate youthful offenders. Less than 15 percent thought that "locking them up" was "very effective."**

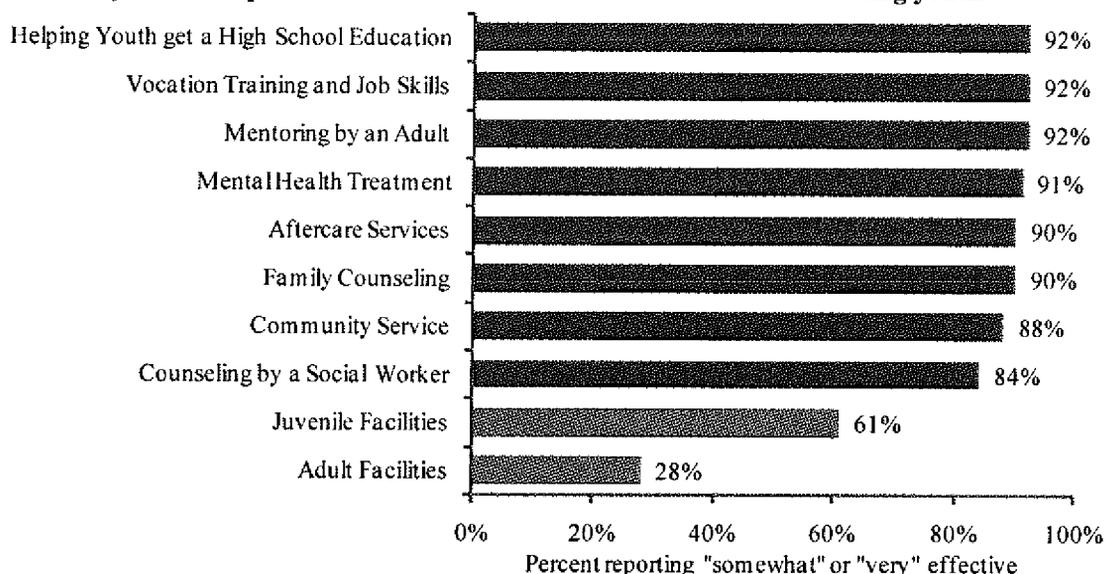


"I am going to read you a list of things the juvenile justice system can do to help rehabilitate youth who commit crimes. In your opinion, please tell me how effective each of the following is in rehabilitating youth offenders: very effective, somewhat effective, not very effective, or not at all effective way to rehabilitate youth who commit crimes?"

Similarly, when responses of “somewhat effective” and “very effective” are combined, most respondents believe that non-incarceration options are productive ways to rehabilitate youth. Across all question items, about nine out of 10 see mentoring, job training, mental health treatment and other non-incarceration options as effective ways to rehabilitate youth who commit crimes.

By contrast, six out of 10 survey participants see incarcerating youth in a juvenile facility as “somewhat” or “very” effective. Few people think that incarcerating youth in adult jails and prisons is effective: less than three out of 10 see them as effective ways to rehabilitate youth.

**More than eight out of 10 people said that providing community-based services is a “somewhat” or “very” effective way to rehabilitate youth, compared to six out of 10 or three out of 10 for incarcerating youth.**



“I am going to read you a list of things the juvenile justice system can do to help rehabilitate youth who commit crimes. In your opinion, please tell me how effective each of the following is in rehabilitating youth offenders: very effective, somewhat effective, not very effective or not at all effective way to rehabilitate youth who commit crimes?”

*“Putting them in prison without even a thought to rehabilitation is pretty much the status quo and is not accomplishing anything. There’s a lot more options than just giving them a DCN [Department of Corrections number] and forgetting about them.” — Focus group respondent, Baton Rouge*

*“The problem is that we are punishment-focused rather than education-, rehab- and change- focused. The change I would make is to provide funding for mentor and group-based education and rehabilitation.” — Focus group respondent, Chicago*

#### **4. The public favors keeping nonviolent juveniles in small, residential facilities in their own communities rather than in large distant institutions.**

Of all youth arrested each year, more than 90 percent are charged with nonviolent offenses. Of the youth subsequently held either in detention or juvenile corrections facilities across the country, more than six in 10 are held for nonviolent offenses.<sup>1</sup> Illinois and Louisiana recently made policy changes to increase the number of young people in “community-supervision,” which generally involves keeping nonviolent youth in their own homes under the close supervision of a caseworker or probation officer, where they are required to receive counseling services and attend school.

To help move more nonviolent youth to places more likely to reduce their reoffending, several states have embraced the “Missouri model” approach. In Missouri, young people were removed from large, distant state institutions and into small, “community-based” residential facilities that provide intensive services. Three-fourths of those committed to state care in Missouri are placed in open environments, such as nonresidential treatment programs, group homes or other non-secure facilities. In open environments, youth typically spend each weekday focused on both academics and counseling alongside 10 to 12 other youths who share a dormitory. Afterwards, residents participate in community service activities, tutoring, and individual and family counseling.<sup>2</sup> Statistics from the Missouri Department Youth Services found that in 2006, the recidivism rate was only 8.7 percent.<sup>3</sup> It is difficult to compare that figure to other states’ recidivism rates because states use different measurement practices.<sup>4</sup> In an effort to overcome these measurement differences, the Virginia Department of Juvenile Justice conducted a study in 2005 using the same definition of juvenile recidivism in 27 states.<sup>5</sup> The study showed that 55 percent of juveniles released from facilities in Florida, New York and Virginia were rearrested within one year. Louisiana and Washington, D.C., have recently embraced the “Missouri model” approach.

Wherever young people are in the juvenile justice system, the public wants them to be held accountable. Eight out of 10 say that they want a stronger focus on accountability and that the system is not focused enough on “teaching youth who commit crimes to be accountable for their actions.” However, the public supports keeping nonviolent offenders, who comprise the majority of youth who enter the system and the majority of youth who are incarcerated, in community-based facilities or under community supervision.

<sup>1</sup> Sickmund, Melissa, T.J. Sladky and Wei Kang. 2005. Census of Juveniles in Residential Placement Databook. [www.ojjdp.ncjrs.org/ojstatbb/cjrp/](http://www.ojjdp.ncjrs.org/ojstatbb/cjrp/)

<sup>2</sup> Mendel, Richard A. 2001. Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice. Washington, D.C.: American Youth Policy Forum. [www.aecf.org/upload/PublicationFiles/less%20cost%20more%20safety.pdf](http://www.aecf.org/upload/PublicationFiles/less%20cost%20more%20safety.pdf).

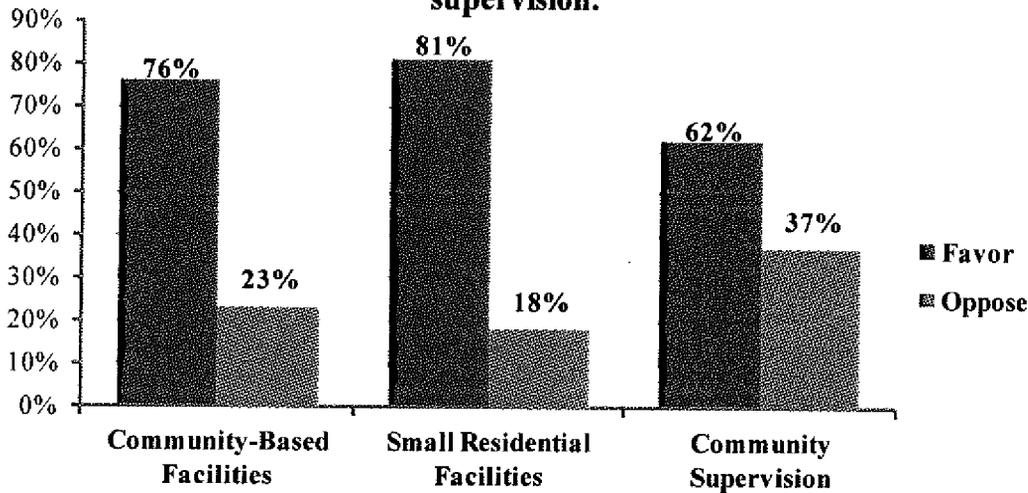
<sup>3</sup> Missouri Department of Social Services. 2006. Division of Youth Services Annual Report: Fiscal Year 2006. [www.dss.mo.gov/re/pdf/dys/dysfy06.pdf](http://www.dss.mo.gov/re/pdf/dys/dysfy06.pdf).

<sup>4</sup> Snyder, Howard N. and Melissa Sickmund. 2006. Juvenile Offenders and Victims: 2006 National Report. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. <http://ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/NR2006.pdf>.

<sup>5</sup> Virginia Department of Juvenile Justice. 2005. Juvenile recidivism in Virginia. DJJ Research Quarterly. Richmond, VA: VDJJ; cited in Snyder, Howard N. and Melissa Sickmund. 2006. Juvenile Offenders and Victims: 2006 National Report. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention.

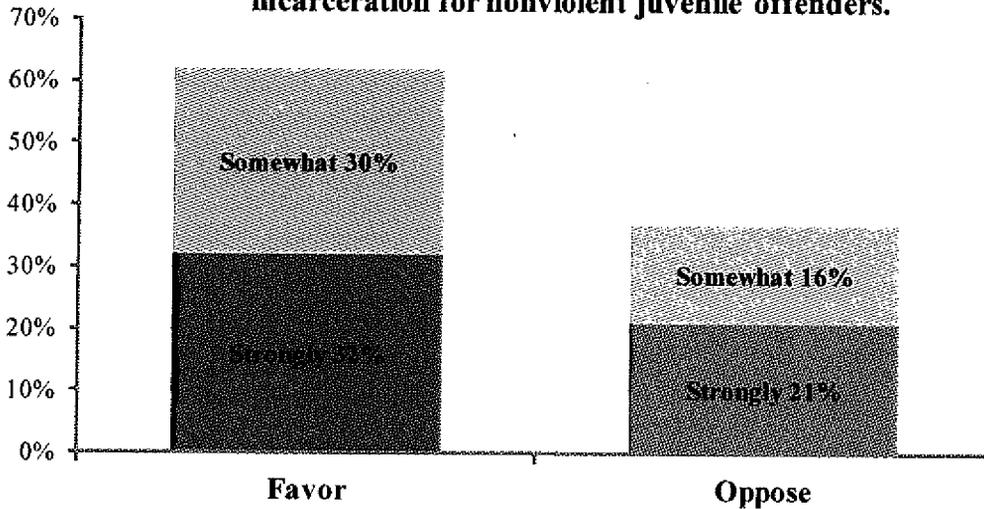
Seventy-six percent strongly or somewhat favor "placing nonviolent youth in facilities located in their own communities." Eight out of 10 say they favor placing nonviolent youth "in a residential facility that holds a small number of youth" instead of incarcerating them in a large juvenile facility. Six out of 10 nationally say that instead of incarceration in a large juvenile facility, they favor assigning a nonviolent youth "to live in their own homes and receive counseling and other services under the close supervision of a caseworker."

**The public favors keeping nonviolent juvenile offenders in community-based facilities or under community supervision.**



"Please tell me whether you favor or oppose each of the following proposals for dealing with youth convicted of NONVIOLENT crimes. Is that strongly or somewhat favor/oppose?"

**A majority of respondents favor community supervision over incarceration for nonviolent juvenile offenders.**



"Please tell me whether you favor or oppose each of the following proposals for dealing with youth convicted of NONVIOLENT crimes. (Do you favor or oppose this? Is that strongly or somewhat favor/oppose?) Instead of incarceration in a juvenile facility, assigning youth to live in their own homes and receive counseling and other services under the close supervision of a caseworker."

## 6. The public believes the juvenile justice system treats low-income youth, African American youth and Hispanic youth unfairly.

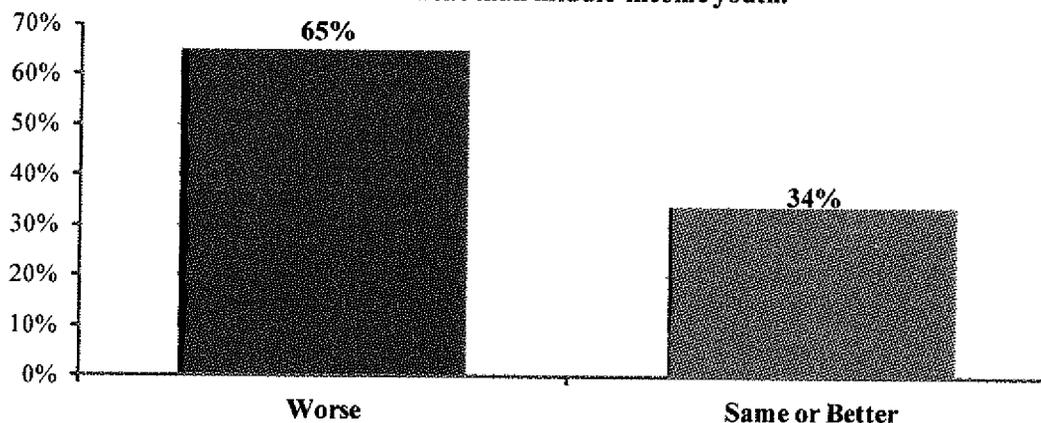
*"It's almost like that's the face they expect to see."*—Focus group participant, Baton Rouge

*"I've seen kids in white neighborhoods be picked out just for being black. I think there's definitely an attitude. The attitude that cops have towards them is they're guilty for walking down the street."*—Focus group respondent, Chicago

The public thinks that the system treats some youth—specifically, poor or low-income youth, and African American and Hispanic youth—unfairly and that the juvenile justice system or “programs” should be developed to help the system be more fair to youth of color.

The public strongly believes that low-income youth receive worse treatment at the hands of the justice system. Nearly two-thirds of people polled nationwide (65 percent to 34 percent), and the majority of those surveyed in the Models for Change states think poor youth receive worse treatment than middle-income youth arrested for the same offense.

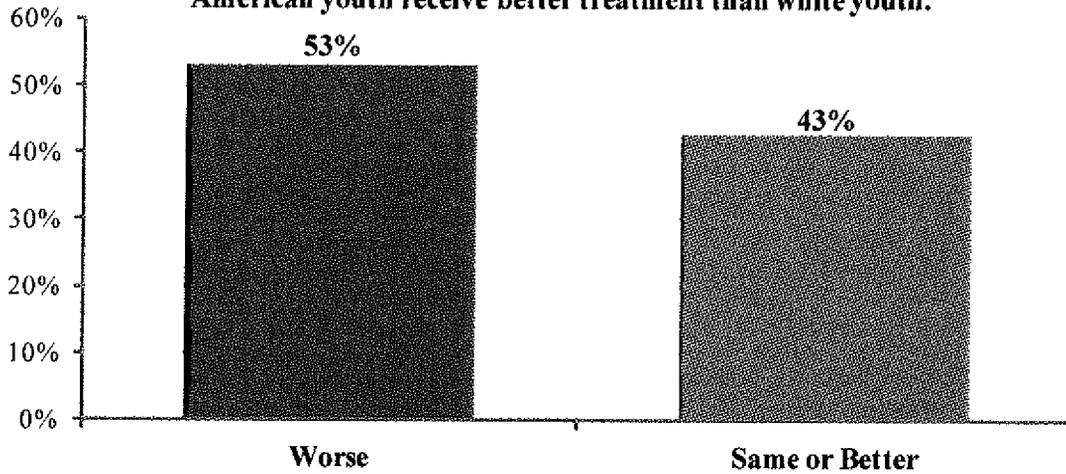
**Nearly two-thirds of respondents said that poor youth who get arrested receive worse treatment by the justice system than middle-income youth arrested for the same offense. Three percent said that poor youth receive better treatment than middle-income youth.**



*"In general, do you think a poor youth who gets arrested receives the same, better, or worse treatment by the justice system than a middle-income youth who gets arrested for the same offense?"*

About half of those polled said that “an African American youth who gets arrested receives worse treatment by the justice system than a white youth who gets arrested for the same offense.” In each of the Models for Change states, a larger proportion of the public believe that African American youth receive worse treatment rather than the “same” or “better” treatment. At a time when the justice system is just beginning to learn the scale of Hispanic overrepresentation in the justice system, 47 percent of the public thought Hispanic youth receive worse treatment compared with white youth, with 41 percent saying they thought Hispanics received the same treatment as white youth.

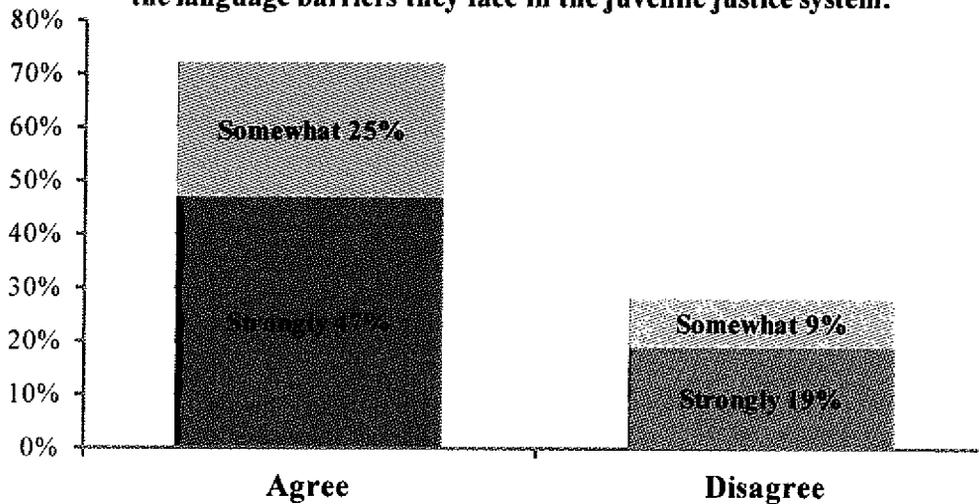
**About half of those polled said that African American youth who get arrested receive worse treatment by the justice system than white youth arrested for the same offense. Three percent said that African American youth receive better treatment than white youth.**



"In general, do you think an African American youth who gets arrested receives the same, better, or worse treatment by the justice system than a white youth who gets arrested for the same offense?"

The public recognizes the language barriers that Hispanic youth face in the juvenile justice system. More than seven out of 10 nationally, and more than six out of 10 in the Models for Change states, think "we should fund more programs to help Hispanic youth who get in trouble with the law overcome the language barriers they face in the juvenile justice system." In addition, six out of 10 respondents agreed that "we should fund more programs that acknowledge and address the cultural backgrounds of Hispanic youth who get in trouble with the law."

**More than seven out of 10 think we should fund more programs to help Hispanic youth who get in trouble with the law overcome the language barriers they face in the juvenile justice system.**



"Please tell me if you agree or disagree with the following statements. (Do you agree or disagree? Is that strongly or somewhat agree/disagree?) We should fund more programs to help Hispanic youth who get in trouble with the law overcome language barriers they face in the juvenile justice system."

## **Conclusion: The public is ready to support juvenile justice reform.**

The findings from the survey show that the public is ready to support juvenile justice reform. The public sees rehabilitation, services, treatment and community supervision as more effective ways to curb reoffending than incarceration in either juvenile or adult facilities. A majority of respondents support moving juveniles out of large institutions and into community-based facilities or into community supervision. And the public favors redirecting funds spent on incarceration to support these community-based services.

The public believes the juvenile justice system treats low-income youth, African American youth and Hispanic youth unfairly. The public thinks that poor youth, African American youth and Hispanic youth are more likely to receive worse treatment in the juvenile justice system than white youth charged with the same offense. More than seven out of 10 think that the system should fund more programs that help Hispanic youth overcome language barriers, and six out of 10 support measures to address their cultural backgrounds when they are in the justice system.

These results also show that Models for Change is implementing the kinds of reforms the public supports in Illinois, Pennsylvania, Louisiana and Washington. While the nature of the work varies from state to state, all are working toward reducing overrepresentation and racial and ethnic disparities, improving the delivery of mental health services, expanding community-based alternatives to incarceration, increasing the number of youth receiving services that have been proven effective, keeping young people out of adult facilities and helping young people return home after being in the juvenile justice system.

## About the Poll and Methodology

As part of Models for Change, one of the initiative's grantees—the Center for Children's Law and Policy—asked a public opinion research firm to survey public attitudes on youth, crime, race and the juvenile justice system. In the summer of 2007, Belden Russonello and Stewart (BRS) conducted eight focus groups on the issues in Chicago, Pittsburgh, Baton Rouge and Seattle. Informed by the results from the focus groups, BRS conducted a national survey in September 2007.

Survey interviews were conducted September 17 to September 29 of 500 adults 18 years or older nationwide and approximately 300 adults in the four Models for Change states. The national survey of 500 people had a margin of error of  $\pm 4.4$  percent, and the individual state surveys had a margin of error of  $\pm 5.7$  percent.

For more information, contact Mark Soler, Executive Director, Center for Children's Law and Policy, at [msoler@cclp.org](mailto:msoler@cclp.org) or (202) 637-0377 ext. 104.

**Models for Change** is an effort to create successful and replicable models of juvenile justice system reform through targeted investments in key states. With long-term funding and support from the John D. and Catherine T. MacArthur Foundation, Models for Change seeks to accelerate progress toward a more rational, fair, effective, and developmentally appropriate juvenile justice system. Four states - Illinois, Louisiana, Pennsylvania and Washington - have been selected as core Models for Change sites. Other states participate in action networks targeting mental health and disproportionate minority contact in juvenile justice systems.

### Contact information:

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[www.macfound.org](http://www.macfound.org)

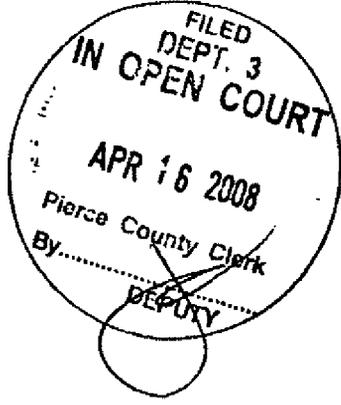
[www.modelsforchange.net](http://www.modelsforchange.net)

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**Models for Change**  
Systems Reform in Juvenile Justice

# APPENDIX Q

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GERALD A. HORNE  
PIERCE COUNTY PROSECUTING ATTORNEY



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,  <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">vs.</div> JARRELL MAURICE MARSHALL,  <div style="text-align: center;">Defendant.</div>		CAUSE NO. 06-1-02134-9  ORDER SETTING RESTITUTION AND DISBURSEMENT
---	--	---

THIS MATTER having come on before the undersigned judge of the above entitled court and restitution having been ordered pursuant to a criminal conviction and RCW 9.94A.753 which provides in part that restitution be ordered for easily ascertainable damage for injury or loss of property and actual expenses incurred for treatment for injury to persons and lost wages resulting from injury, but that the amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime; and the files of the Prosecuting Attorney having reflected that the following persons or entities should receive restitution; Now, Therefore, IT IS HEREBY

ORDERED that restitution in the above entitled matter be, and the same is hereby set in the sum of \$3,055.67 Joint and Several\* and the Clerk of the above entitled Court is hereby directed to disburse said funds as they are received in the manner following:

Office of Prosecuting Attorney  
 930 Tacoma Avenue S. Room 946  
 Tacoma, Washington 98402-2171  
 Telephone: (253) 798-7400

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Crime Victims Compensation \$3,055.67  
Claim #VK88926

\*Joint and Several with co-defendant Cyril Delanto Walrond, cause #06-1-02136-5.

DONE IN OPEN COURT this 16 day of April, 2008.

[Signature]  
JUDGE

Presented by:  
[Signature]  
TERRY LANE  
Deputy Prosecuting Attorney  
WSB # 16708

FILED  
DEPT. 3  
IN OPEN COURT  
APR 16 2008  
Pierce County Clerk  
By: [Signature]

I, JARRELL MAURICE MARSHALL, Cause No. 06-1-02134-9 being fully advised I have a right to be brought before the Court for a full Restitution Hearing, and to have an attorney present to represent me, and that the Court will appoint an attorney if I cannot afford one, hereby waive these rights and agree to entry of this order

3-29-08  
Date

[Signature]  
Signature of Defendant

[Signature]  
Signature Witness or Attorney for Defendant

alg

**GORDON & SAUNDERS LAW OFFICE**

**August 12, 2016 - 11:54 AM**

**Transmittal Letter**

Document Uploaded: 0-prp-Personal Restraint Petition-20160812.pdf

Case Name: In Re The Personal Restraint of Jarrell Maurice Marshall

Court of Appeals Case Number:

**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:

**Comments:**

No Comments were entered.

Sender Name: Jason B Saunders - Email: [jason@gordonsaunderslaw.com](mailto:jason@gordonsaunderslaw.com)

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[robert@gordonsaunderslaw.com](mailto:robert@gordonsaunderslaw.com)