

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

IN RE THE PERSONAL RESTRAINT
PETITION OF:

JARRELL MAURICE MARSHALL,

Petitioner.

NO. 49302-1-II
Pierce County No. 06-1-02134-9
STATE'S RESPONSE TO
PERSONAL RESTRAINT PETITION

A. ISSUES PERTAINING TO DISCRETIONARY REVIEW

1. Should petitioner's PRP be dismissed as inadequately presented for review when it relies on self-serving speculation to win relief from the already lenient 15.75 year prison term he received for aiding in the murder of an innocent senior citizen and violently robbing a couple upon their return from an evening walk along the waterfront?

2. Is the challenge to his case's offense-based automatic transfer to adult court time-barred since it misapplies 8th Amendment penalty precedent to a non-punitive procedure and meritless due to his inability to prove actual prejudice at sentencing?

3. Is the PRP unreviewably mixed when it combines a time-barred challenge to the case's transfer to adult court with a meritless challenge to a facially valid sentence that is too short to trigger the Legislature's "*Miller* fix" despite the statute's retroactive application?

1 B. STATUS OF PETITIONER

2 Petitioner is restrained pursuant to final judgment entered on November 9, 2007, in
3 Pierce County Cause No. 06-1-02134-9 following his guilty plea to second degree murder and
4 two counts of first degree robbery. Apx.A. He was a juvenile prosecuted as an adult according
5 to the automatic decline provision of 13.04 RCW. A sentence of life without the possibility of
6 parole was not imposed, nor were mandatory enhancements. Rather, a *discretionary* standard-
7 range prison term of 189 months (or 15.75 years) was imposed, of which only about 5 years
8 remain. There is no record of whether the trial court considered petitioner's youth at the time of
9 sentencing, as a transcript of the proceeding has not been adduced. Nothing on the face of the
10 judgment provides the court refrained from considering petitioner's youth at sentencing, or
11 attributes of culpability modern courts perceive inherent to youth. Aspects of the record
12 petitioner purports to *recreate*, nonetheless suggest youth was, rightly or wrongly, considered
13 before the court exercised its discretion to sentence petitioner within the standard range.

14 But before commenting further on the outcome of his case or his belief that bargained
15 for disposition is no longer fair, or is antithetical to modern, perhaps transitory, notions about
16 the capacity of adolescent brains in this *dawning* of the neuroscience age, there is the matter of
17 the brutal murder of an innocent man and the two first degree robberies he committed. To the
18 extent room for concern about his victims remains, the fact of his age had no bearing on the
19 terror or suffering they endured, or what was lost. Amber Limanek strolled with her boyfriend
20 Carl Schmidt along the waterfront on the spring evening of April 20, 2006. Apx.B. They
21 returned to Limanek's car around 12:30 a.m. Petitioner was lying in wait, planning to rob them
22 with his two friends. *Id.* One of the three distracted the victims by asking for a lighter. *Id.* The
23 victims tried to make it to their car. *Id.* Petitioner's partner struck Schmidt in the back of the
24 head with a sheet-rock hammer. *Id.* Schmidt pitched forward onto the car. *Id.* His head was
25 bleeding profusely from the serious injury he sustained. *Id.* Petitioner stood by as a lookout

1 while his partner ordered the victims to the ground. Limanek pleaded with them, begging them
2 not to hurt her or Schmidt, offering them all there was to take. *Id.* And take they did. The
3 victims' valuables were removed. Petitioner's partner hovered over Schmidt with the hammer
4 in hand. Petitioner alerted his partners to an oncoming car. They responded by ordering the
5 victims to stand and behave as if all was well before ordering them back to the ground while
6 petitioner's other partner continued to rummage through their car for valuables to steal. Once
7 they had taken everything of interest, petitioner drove off with his partners leaving their
8 victims behind to pick up the pieces—but hey, petitioner and his partners *were just kids*, three
9 adolescents ... planning, and coordination, and cruelty of execution aside.

10 Three adolescents who descended upon Dien Huynh an hour later as he attended to
11 household chores after work. *Id.* Huynh was 55 years old. *Id.* He was smaller than petitioner
12 and his partners. *Id.* They targeted him. *Id.* And they surrounded him when petitioner knew
13 his partner had the hammer. Huynh tried to distract them with conversation. *Id.* Sensing an
14 attack, he tried to flee. *Id.* One of petitioner's partners intercepted him. *Id.* Huynh broke loose,
15 and again tried to flee. *Id.* Petitioner's other partner ran Huynh down and repeatedly struck him
16 in the head with the hammer. Four or five times he struck, severely cracking Huynh's skull. *Id.*
17 Petitioner and his partners then turned to profiting from the attack. *Id.* They rifled Huynh's
18 pockets, stealing his wallet and car keys before taking off. Huynh crawled to his front porch
19 where he was later found by a family member; tragically, Huynh died from the head trauma
20 within days. *Id.* Petitioner and his partners confessed to committing both crimes for money. *Id.*
21 One partner had an article about them in his room with an article about the beating and robbery
22 of a 69 year old man on Tacoma's Eastside. The other partner had Schmidt's stolen hat hanging
23 on a wall like a souvenir. *Id.* But hey, petitioner and his partners *were just kids*, three
24 adolescents ... planning, and coordination, and extreme cruelty of execution aside.

1 Petitioner and his partners were first charged with deadly weapon enhanced first degree
2 murder, deadly weapon enhanced first degree assault as well as three counts of deadly weapon
3 enhanced first degree robbery. Apx.C. The State amended petitioner's charges to murder in the
4 second degree and two counts of first degree robbery without the deadly weapon enhancements
5 out of consideration for his willingness to testify against his *relatively* more culpable partners
6 and lack of criminal history. Apx.D. Petitioner entered a guilty plea to those charges. Apx.E.
7 The standard-range prison term for the greatest concurrent offense was 165-265 months. *Id.* at
8 2. Pursuant to the plea agreement, the prosecutor recommended the low-end sentence of 165
9 months for the murder to be served concurrent with 51 months for each robbery. *Id.* Also
10 included in the bargained for recommendation was: a \$500 crime victim penalty assessment, a
11 \$200 filing fee, \$400 department of assigned counsel recoupment, a \$100 DNA fee and
12 restitution. *Id.* There is no transcript of the plea colloquy before this Court; however, the plea
13 provides the trial court advised petitioner the sentencing judge:

14 does not have to follow anyone's recommendation. The judge must impose a
15 sentence within the standard range of actual confinement and community custody
16 unless the judge finds substantial and compelling reasons not to do so. If the
17 judge goes outside the standard range of actual confinement and community
custody, either the State or [petitioner] can appeal that sentence. If the sentence is
within the standard range, no one can appeal the sentence.

18 Apx.E at 4. Nothing on the face of the presumptively valid judgement provides the trial court
19 was prohibited from finding youth, or a quality of youth, reason enough to impose a sentence
20 below the standard range. *Id.*

21 Petitioner offers as fact a convenient, irrelevant and self-serving memory of Huynh's
22 family beseeching the court for leniency on petitioner's behalf. There is no affidavit from them
23 to support his hearsay account. Huynh's brother revealed the family to be less supportive:

24 We used to be a happy family, the family used to get together on the weekends.
25 Since my brother passed away, we not [sic] come together anymore. Since my
parents passed away he held us together. In my culture the eldest brother did that.
We are not happy and its hard to remember. It's scary and we worry.

1 Before coming to this country my brother he was a professor at the University of
2 Vietnam. He come to [sic] America for freedom. He escaped and never died on
3 the ocean but he died like this for nothing.

4 Now he pass away [sic], let the law do what it should do. We want it to be over
5 and not think about this. We get angry when we think. My brother was a good
6 person, who murdered him will regret what they do. Let them think while they
7 spend time in prison. I hope they will become better people.

8 Apx.F. Petitioner did not adduce a transcript of the proceeding as he ostensibly could not. The
9 judgment proves the sentencing court perceived it just to impose 24 months more prison time
10 than the 165 months recommended by the State pursuant to the plea agreement. Apx.A at 4; E
11 at 4. There is accordingly no reason to infer the court would have imposed an exceptional
12 sentence below the standard range based on petitioner's age or any other fact so obvious to the
13 court when sentence was imposed. In total, petitioner received a 15.75 year sentence for his
14 role in violently robbing two people and murdering another. Yet, according to the unsworn
15 statement purportedly provided by his then teenage sympathizer, 15.75 years for taking each
16 additional year Huynh might have lived beyond the date of his murder and the unimaginable
17 terror petitioner took part in inflicting on an innocent couple out for a stroll "sounded quite
18 extreme," and did not appear lenient enough. Such sentiments betray the friend plainly values
19 petitioner's time more preciously than the time petitioner stole from Huynh and the sense of
20 security he stole from a couple whose lives he helped to imperil for petty personal gain.

21 A large part of the legal financial obligation petitioner thinks he should be spared is
22 \$3,055.67 in "burial expenses" Huynh's family paid to put their beloved brother in the ground.
23 Apx.G-H. According to petitioner, it is his future that should be the focus of everyone's
24 concern. To him, a greater good comes from leaving the victim's surviving family or the public
25 at large to bear this loss as well, so he can emerge from prison debt free, sooner than now
required he hopes, after stealing Huynh's future from Huynh, his family and our community, as

1 well as for viciously attacking, then terrorizing, then robbing a young couple who suffered
2 dearly for their ill-fated decision to take a walk. Apx.I-K.

3 C. ARGUMENT

4 Personal restraint procedure has origins in the State's habeas corpus remedy, guaranteed
5 by article 4, section 4, of the State Constitution. A personal restraint petition is not a substitute
6 for an appeal. *In re Pers. Restraint of Hagler*, 97 Wn.2d 818, 823-824, 650 P.2d 1103 (1982).
7 Collateral relief undermines the principles of finality, degrades the prominence of trial and may
8 deprive society the right to punish admitted offenders. *Id.*; *In re Pers. Restraint of Woods*, 154
9 Wn.2d 400, 409, 114 P.3d 607 (2005).

10 In this collateral action, petitioner must prove constitutional error resulted in actual
11 prejudice. Mere assertions are insufficient to demonstrate prejudice. The rule that constitutional
12 errors must be proven harmless beyond a reasonable doubt has no application. *In re Pers.*
13 *Restraint of Mercer*, 108 Wn.2d 714, 718-721, 741 P.2d 559 (1987); *Hagler*, 97 Wn.2d at 825;
14 *Woods*, 154 Wn.2d 409. A petitioner must show a fundamental defect resulted in a complete
15 miscarriage of justice to obtain collateral relief for alleged nonconstitutional error. *In re Pers.*
16 *Restraint of Cook*, 114 Wn.2d 802, 812 792 P.2d 506 (1990); *Woods*, 154 Wn.2d 409. This is a
17 higher standard than actual prejudice. *Cook*, at 810. Inferences must be drawn in favor of the
18 judgment's validity. *Hagler*, 97 Wn.2d at 825-826. Reviewing courts have three options in
19 evaluating personal restraint petitions:

- 20 1. If a petitioner fails to meet the threshold burden of showing actual
21 prejudice from constitutional error or a fundamental defect resulting in a
22 miscarriage of justice, the petition must be dismissed;
- 23 2. If a petitioner makes a prima facie showing of actual prejudice, but the
24 merits cannot be determined on the record, the court should remand for a
25 hearing on the merits or for a reference hearing pursuant to RAP 16.11(a)
and RAP 16.12;

1 3. If the court is convinced a petitioner has proven actual prejudice arising
2 from constitutional error or a miscarriage of justice, the petition should
 be granted.

3 ***In re Pers. Restraint of Hews***, 99 Wn.2d 80, 88, 660 P.2d 263.

4 Petitioner makes much of modern notions about maturing-adolescent brains. And with
5 good reason, for it has become an obsession for many these days. Yet while it may seem quaint
6 or out of date, it bears mentioning there was a time, not so long ago, when much more was
7 expected of our nation's youth notwithstanding common appreciation for obvious differences
8 between adolescents and adults. And the nation benefitted. So, in reply to petitioner's reliance
9 on popular notions about adolescent brains, it bears remembering adolescents unaware of their
10 newly discovered disabilities have ably performed under harrowing conditions that would likely
11 wilt many if not most modern adults.

12 At 11 years old, Willie Johnston of the 3rd Vermont Infantry Regiment earned a Medal
13 of Honor for keeping the drum cadence of a Union formation from which many men fled.¹ As
14 for adolescent capacity for conscientious use of violence and lethal force: The youngest Marine
15 to win the Medal of Honor enlisted to defend our nation from its advancing World War II foes
16 at the age of 14, two years younger than petitioner when he strategically robbed a couple and
17 murdered a smaller-older man. *Id.* Whereas the similarly aged WW II Marine earned his Medal
18 of Honor in the bloody fight for Iwo Jima 6 days after his 17th birthday, making him about 6
19 months older than petitioner was during his crimes. Not too bad for a WW II era adolescent
20 with a maturing brain. A 16 year old Navy seaman, an adolescent the same age petitioner was
21 during his crimes, earned a Medal of Honor *for heroism* amid the 1914 occupation of Veracruz,
22 Mexico, despite the disability of his maturing brain. *Id.* But hey, they *were just kids* ... three
23 adolescents who did what many modern adults could not and perhaps more would not, being
24

25 ¹ ER 201; <http://www.history.com/news/the-medal-of-honor-6-surprising-facts>; <http://articles.latimes.com/2008/jun/06/local/me-lucas6>; <https://www.wsj.com/articles/recruits-ineligibility-tests-the-military1403909945>; <http://www.military.com/join-armed-forces/join-the-military-basic-eligibility.htm>.

1 more concerned with claimed rights than corresponding responsibilities. Even today, one is
2 eligible for military service at the age of 17. *Id.* One wonders if adolescents forged in the
3 infantilizing mint of the modern era would fare so well as their predecessors should they in
4 mass be called back into national service by a modern peril. But, so it goes. Petitioner's
5 untimely PRP should be dismissed as it is not accompanied by an adequate record and contains
6 at least one time-barred claim that transforms it into an unreviewably mixed petition. The
7 retroactive relief available to those with final judgments eligible for Washington's "Miller fix"
8 does not reach petitioner as his sentence for one murder and two robberies is *too short* to trigger
9 its application.

- 10 1. THE PETITION SHOULD BE DISMISSED AS INADEQUATELY
11 PRESENTED FOR REVIEW SINCE IT FAILS TO ADDUCE THE
12 SENTENCING TRANSCRIPT REQUIRED TO ASSESS THE TRIAL
13 COURT'S EXERCISE OF SENTENCING DISCRETION AS HE MUST
14 TO MAKE A PREDICATE SHOWING OF ACTUAL PREJUDICE
WITHOUT WHICH RELIEF CANNOT BE GRANTED THROUGH A
PRP EVEN IF HIS CLAIMS WERE DEEMED TO BE TIMELY AND
MERITORIOUS, WHICH THEY ARE NOT.

15 Collateral attack claims must be supported by affidavits stating particular facts, certified
16 documents, certified transcripts and the like. RP 16.7(a)(2); *Petition of Williams*, 111 Wn.2d
17 353, 759 P.2d 436 (1988); *In re Pers. Restraint of Connick*, 144 Wn.2d 442, 451, 28 P.3d 729
18 (2001). Arguments that are not supported by citation to the record should not be considered. *See*
19 *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); *State v.*
20 *Elliott*, 114 Wn.2d 6, 15, 785 P.2d 440 (1990); *Saunders v. Lloyd's of London*, 113 Wn.2d 330,
21 345, 779 P.2d 249 (1989); *State v. Camarillo*, 54 Wn.App. 821, 829, 776 P.2d 176 (1989) (no
22 references to the record), *aff'd*, 115 Wn.2d 60, 794 P.2d 850 (1990); *In re Whitney*, 155 Wn.2d
23 451, 467, 120 P.3d 550 (2005)(citing *In re Lint*, 135 Wn.2d 518, 532, 957 P.2d 755 (1998)
24 (declining to scour the record and construct arguments)); RAP 10.3(a). "If [] allegations are
25 based on matters outside the [] record, the petitioner must demonstrate [] he has competent,
admissible evidence to establish the facts that entitle him to relief." *Connick*, 144 Wn.2d at 451.

1 Petitioners "must present evidence showing [] factual allegations are based on more than
2 speculation, conjecture, or inadmissible hearsay." *In re Pers. Restraint of Rice*, 118 Wn.2d 876,
3 886-87, 828 P.2d 1086 (1992). "[A] mere statement of evidence [] petitioner believes will prove
4 [] factual allegations is not sufficient." *Id.* "If the petitioner's evidence is based on knowledge in
5 the possession of others, [the petitioner] may not simply state what he thinks those others would
6 say, but must present their affidavits or other corroborative evidence." *Id.* The affidavits in turn,
7 must contain matters to which the affiants may competently testify. *Id.* Whereas, facts alleged
8 through inherently unreliable or factually deficient declarations will not be considered as proof
9 of a petitioner's claim. *In re Pers. Restraint of Reise*, 146 Wn.App. 772, 780-81, 192 P.3d 949
10 (2008) (citing *State v. Taylor*, 83 Wn.2d 594, 597-98, 521 P.2d 699 (1974)).

11 Momentarily putting aside the time bar and mixed quality that should preclude review,
12 the PRP should also be dismissed without consideration on the merits due to petitioner's failure
13 to adduce a record necessary to discern if the court factored mitigating qualities of age into its
14 discretionary decision to sentence petitioner within the standard range instead of below it. That
15 failure prevents him from proving actual prejudice resulted from the transfer of his case to adult
16 court. Unlike the mandatory life and firearm enhancement cases on which he relies, the court in
17 his case had discretion to impose a sentence comparable or less severe than the one he would
18 have presumptively received in juvenile court. Without a transcript of the sentencing, it remains
19 unknown if the court: (1) rightly, or wrongly, imposed a standard sentence after considering age
20 as a basis to impose a more lenient one; (2) perceived itself prohibited from taking petitioner's
21 age into consideration; or (3) made it clear petitioner's age would not have changed the result
22 even if capable of consideration due to some attribute particular to petitioner that set him apart.

24 Petitioner tries to sidestep this seemingly recognized barrier to collateral review with an
25 argument advanced from *State v Ha'min*, 132 Wn.2d 834, 837, 940 P.2d 633 (1997); *State v.*

1 *Law*, 154 Wn.2d 85, 94, 110 P.3d 717 (2005) and *State v. O'Dell*, 183 Wn.2d 680, 691-93, 358
2 P.3d 359 (2015). Which is: *We can presume the trial judge in petitioner's case did not consider*
3 *mitigating qualities of youth because precedent prevailing at the time prohibited the judge from*
4 *doing so.* Prp. 16-17. But such inferential leaps have no place in a PRP where petitioner must
5 prove *actual* prejudice against a presumptively valid judgement. That error aside, petitioner
6 overstates *Ha'min's* holding. Like the *O'Dell* court, petitioner's sentencing judge might not have
7 read *Ha'min* to be an absolute bar to considering mitigating qualities of youth as a basis for
8 downward departure. *Ha'min* recognized the SRA's mitigating factors are illustrative. *Id.* at
9 847. It further recognized the SRA included a factor for which age could be relevant, *i.e.*, the
10 capacity to appreciate wrongfulness of conduct or conform conduct to law. *Id.* (citing RCW
11 9.94A.535(1)(e)). "Ha'min's age [wa]s *not alone* a [] compelling reason to impose an
12 exceptional sentence." *Id.* at 847; *Law*, 154 Wn.2d at 98 (emphasis added).

14 *O'Dell* perceived the issue of whether age was factored into standard range sentences to
15 be an open question 8 years after petitioner's sentence became final:

16 In *Ha'min* [] this court held that a defendant's age, alone, does not
17 automatically support an exceptional sentence below the standard
18 range applicable to an adult felony offender. *Ha'min* contains
19 reasoning *that some*, including the trial court in this instance, *have*
20 *understood as absolutely barring any exceptional downward*
departure sentence below the standard range on the basis of youth.
That reasoning has been thoroughly undermined by subsequent
scientific developments. Accordingly, we disavow it.

21 *Id.* at 690-98 (emphasis added). *O'Dell* clarified *Ha'min*. Importantly for our purposes, *O'Dell*
22 recognized "some have understood," *Ha'min* as baring consideration of youth, which implies
23 some had not read *Ha'min* that restrictively—petitioner's sentencing judge might have been
24 among the some that read *Ha'min* to permit downward departures based on qualities of youth.

1 Most recently, the Supreme Court refrained from authorizing exceptional sentences for
2 "youth alone," framing factors to be considered in terms of "mitigating circumstances associated
3 with the youth," or "mitigating qualities of youth." *State v. Houston-Sconiers*, ___ Wn.2d ___
4 (No. 92605-1, published Mar. 2, 2017). *Ha'min* did not expressly preclude such considerations.
5 And *Houston-Sconiers* did not unequivocally declare a break from precedent, but spoke in
6 qualified terms of conflict capable of being perceived in precedent: "*To the extent our state*
7 *statutes have been interpreted to bar such discretion with regard to juveniles, they are*
8 *overruled.*" *Id.* at 20 (overruled). This passage cites *Cf. State v. Brown*, 139 Wn.2d 20, 29, 983
9 P.2d 608 (1999) (courts lack discretion to run enhancements concurrently), not *Ha'min* or *Law*.
10 So contrary to petitioner's argument, the sentencing judge could have read *Ha'min* to permit
11 consideration of mitigating qualities of youth as a basis to sentence petitioner like a juvenile;
12 but finding none, he imposed a sentence within the standard range. The fact 2 years above the
13 low-end were imposed despite a plea agreement to the low end evinces the court perceived
14 petitioner to be more culpable than a low-end adult offender. That possibility is but another
15 reason actual prejudice cannot be proved from the available record.

17 There is yet another scenario putting proof of actual prejudice beyond petitioner's reach.
18 If one assumes *Ha'min* precluded consideration of age in the way *Houston-Sconiers* required,
19 there is a possibility the sentencing court misapprehended the limitation and considered youth in
20 error before imposing a standard-range sentence. That unchallenged error would coincidentally
21 defeat a claim of prejudice now since sentencing courts will be affirmed on any basis supported
22 by *prevailing law*. *State v. Kelley*, 64 Wn.App. 755, 764, 828 P.2d 1106 (1992). Without the
23 transcript, one can only speculate about how petitioner's age was addressed at sentencing.
24
25

1 Petitioner explains the difficulties he encountered in his effort to perfect the record, but
2 those difficulties, disappointing as they may be for him, do not excuse his obligation to prove a
3 reviewable error and actual prejudice. One affidavit he presented to recreate the record is neither
4 signed, making it unreliable hearsay, nor helpful as it comes from an admittedly biased source
5 who does not recall much of what transpired. Prp.Apx.H.Attch.2. The purported affiant "do[es]
6 not recall exact wording," which makes her an incredibly unreliable historian. She concedes no
7 prior experience with the type of proceeding she observed. But purportedly recollects Huynh's
8 family seeking leniency on petitioner's behalf. Petitioner's statement suggests that his youth was
9 considered at sentencing, for he claims his lawyer argued "[petitioner] was the youngest of [the]
10 co-defendants and subject to their influence." Prp. at Apx.I, p.2. As for other matters, petitioner
11 proves as poor a historian as his sympathizer since "a lot of what the judge said is a blur to
12 [him]." *Id.* at p. 3. These failings combine with the missing transcript to produce a record that is
13 not capable of supporting the allegations of actual prejudice petitioner must prove to prevail.
14

15 2. THE CHALLENGE TO HIS CASE'S OFFENSE-BASED AUTOMATIC
16 TRANSFER TO ADULT COURT RAISES A TIME-BARRED CLAIM,
17 FOR IT MISAPPLIES 8th AMENDMENT PENALTY PRECEDENT TO
18 A NON-PUNITIVE PROCEDURE AND IT IS MERITLESS DUE TO
19 HIS INABILITY TO PROVE THE TRANSFER RESULTED IN ANY
20 ACTUAL PREJUDICE AT SENTENCING.

21 Untimely claims unsupported by an exception to the collateral attack time bar should be
22 dismissed. RCW 10.73.100. As for those with an exception, this Court rightly recognizes "a
23 collateral attack undermines the strong interest of courts in finality, and that interest justifies
24 the high sometimes very difficult actual and substantial prejudice standard." *In re. Pers.*
25 *Restraint of Wolf*, 196 Wn.App. 496, 507, 384 P.3d 591 (2016).

1 a. Petitioner cannot rely on developments in 8th Amendment
2 cruel and unusual punishment precedent to overcome the
3 RCW 10.73.100 time bar that prevents courts from peering
4 beneath facially valid judgments to review procedures that
5 preceded the imposition of a facially valid sentence.

6 Generally "[n]o petition ... for collateral attack ... in a criminal case may be filed more
7 than one year after the judgment becomes final" RCW 10.73.090(1). For the purposes of
8 this section, RCW 10.73.090(1)'s time limit does not apply when:

9 There has been a significant change in the law, whether substantive
10 or procedural, which is material to the ... sentence And either
11 the legislature has expressly provided ...the change in the law is to
12 be applied retroactively, or a court, in interpreting a change in the
13 law that lacks express legislative intent regarding retroactive
14 application, determines that sufficient reasons exist to require
15 retroactive application of the changed legal standard.

16 RCW 10.73.100(1)(6). Petitioner's untimely collateral attack relies on this exception to avoid
17 the time bar to the requested resentencing. Prp at 3. The change he perceives to apply to the
18 transfer of his case to adult court under RCW 13.04.030(1)(e)(v) occurred within the confines
19 of 8th Amendment precedent, which prohibits cruel and unusual *punishment*. His claim is
20 based on an untenable extension of three United States Supreme Court 8th Amendment cases
21 that address *punishment* imposed on offenders who had not reached the age of 18 at the time of
22 their crimes: ***Roper v. Simmons***, 543 U.S. 551, 125 S.Ct. 1183 (2005) (execution of individuals
23 under 18 at the time of capital crimes), ***Graham v. Florida***, 560 U.S. 48, 130 S.Ct. 2011 (2010)
24 (life without parole, juvenile noncapital offenses) and ***Miller v. Alabama***, 567 U.S. 460, 132
25 S.Ct. 2455 (2012) (mandatory life without parole, capital crimes committed by juveniles).

26 Most recently, the Washington State Supreme Court decided ***Houston-Sconiers***, *supra*
27 (No. 92605-1). *Leaping off Miller*, the case held "[t]rial courts must consider mitigating
28 qualities of youth at sentencing and must have discretion to impose any sentence below the

1 otherwise applicable SRA range and/or sentence enhancements." *Id.* at 20. Different from the
2 discretionary sentence imposed in petitioner's case, *Houston-Sconiers* involved imposition of
3 then mandatory sentencing enhancements that aggregated into decades of "flat time" without
4 the possibility of earned release. *Id.* at 2-3. And unlike petitioner's case, where there is no
5 record of what the trial court perceived its sentencing discretion to be, there was a clear record
6 of the frustration experienced by the sentencing judge in *Houston-Sconiers* who perceived he
7 had to impose the "flat time." *Id.* at 19. Still, *Houston-Sconiers* declined to overturn an earlier
8 Supreme Court decision petitioner would have this Court overrule. *Id.* at 27 (citing *In re Pers.*
9 *Restraint of Boot*, 130 Wn.2d 533, 925 P.2d 964 (1996)). To be sure it did not forecast a
10 glorious future for the automatic decline statute:
11

12 Some of our discussion in *Boot* stands in tension with the Supreme
13 Court's holding in *Roper*, *Graham*, and *Miller*.

14 *Id.* at 27. But it left *Boot's* continued validity for it to decide at a later date.

15 *Boot* held the automatic decline statute did not violate the 8th Amendment prohibition
16 against cruel and unusual punishment, or the 14th Amendment, or Wash. Const. Art. II § 19 for
17 that matter. 130 Wn.2d at 565-70. It does not stand to reason the Supreme Court just left *Boot*
18 to go on violating the 8th Amendment when it had the capacity to correct it and obligation to
19 ensure our state complies with the federal constitution. *E.g.*, *State v. Lord*, 161 Wn.2d 276,
20 287-89, 165 P.3d 1251 (2007). As this Court is not free to overrule *Boot*, it remains binding
21 precedent that must be applied to petitioner's case. *See Roberson v. Perez*, 156 Wn.2d 33, 42,
22 123 P.3d 844 (2005); *Coffel v. Clallam Cty.*, 58 Wn.App. 517, 521, 794 P.2d 513, 516 (1990).
23 And as *Boot*, published in 1996, remains good law, there is no intervening change in that law
24 to support petitioner's reliance on RCW 10.73.100(1)(6) to overcome the time bar to this claim.

25 So it should be dismissed.

1 b. Petitioner's claim is meritless as automatic transfer
2 does not govern punishment nor did it result in
3 prejudice since his court had discretion to impose a
4 sentence identical to that of a juvenile court.

5 Consistent with **Boot**, the surviving-relevant part of this Court's decision in **Houston-**
6 **Sconiars** recognized:

7 a successful Eight Amendment challenge to the automatic decline
8 statute still requires a [petitioner] to show that this method of
9 asserting adult jurisdiction, in and of itself, is punishment[.]

10 **State v. Houston-Sconiars**, 191 Wn.App. 436, 443, 365 P.3d 177 (2015) *rev'd in part* (92605-
11 1) *supra*. This Court rightly observed neither **Roper**, **Graham** nor **Miller** had anything to say
12 about the validity of a procedural statute that transfers juvenile cases to adult court. *Id.* at 443.
13 It is not surprising our State Supreme Court did not try to stretch them to reach the statute as it
14 is not easily accomplished. Our automatic decline statute is not punitive. It dictates the forum
15 in which a case will be tried. A non-punitive statute that does not trigger *punishment* cannot
16 logically violate a right against cruel and unusual *punishment*. **Boot**, 130 Wn.2d at 569. Nor
17 does the statute infringe upon due process for that right is protected by adult courts. *Id.* So,
18 unless the federal Supreme Court abrogates **Boot** by extending the **Roper** line to automatic
19 decline statutes, or the state Supreme Court overrules **Boot**, a change to the automatic decline
20 statute must come from our Legislature. **Wolf**, 196 Wn.App. at 445.

21 Still, if one put the 8th Amendment's actual purpose out of mind, ignored the collateral
22 attack time bar and then wrongly assumed an 8th Amendment violation, in this collateral action
23 petitioner would still be left to prove the transfer of his case resulted in actual and substantial
24 prejudice. *See Wolf*, 196 Wn.App. at 505. This would require him to establish that more
25 probably than not the trial judge would have elected to hear his case in juvenile court based on
 his youth if the automatic decline statute had not mandated he be charged and tried as an adult.

1 If not, the automatic decline statute cannot be said to have any effect on his case. *Id.* at 506.
2 Yet the record is devoid of such proof. As in *Wolf*, the minimal evidence available suggests
3 the judge would have believed adult court to be the appropriate forum for petitioner's case.

4 He was charged with three of the most serious crimes in our state—deadly weapon
5 enhanced first degree murder and two counts of deadly weapon enhanced first degree robbery.
6 They were not crimes that can be chalked up to youthful indiscretion or poor impulse control.
7 They were planned, coordinated and cruel. They included ambush as well as time and distance
8 for reflection amid and between offenses. Rather than dissuading re-offense, their successful
9 commission of the first robbery whet their appetites for the second that ended Huynh's life.
10 What we know of the trial court's reaction is it perceived the 13.75 year sentence recommended
11 by the plea to be 2 years too lenient for petitioner's role in those crimes. If true, accounts of the
12 sentencing attached to the petition reveal a court unmoved by the fact petitioner was younger
13 than his accomplices. All of this cuts against inferring the judge would have perceived his case
14 right for juvenile court. It certainly stands in the way of petitioner proving transfer would have
15 been probable. As all inferences must be drawn in support of the judgment's validity and
16 courts "refus[e] to presume prejudice for a PRP even when the claim [] requires no prejudice
17 on direct appeal," the petition should be dismissed. *See Id.* at 507 (citing *In re Pers. Restraint*
18 *of Coggin*, 182 Wn.2d 115, 120-22, 340 P.3d 810 (2014); *Hagler*, 97 Wn.2d at 825-826.
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

3. THE PETITION IS UNREVIEWABLY MIXED ON ACCOUNT OF ITS INCLUSION OF A TIME-BARRED CHALLENGE TO THE CASE'S TRANSFER TO ADULT COURT WITH THE MERITLESS ATTACK UPON A FACIALLY VALID SENTENCE THAT IS TOO SHORT TO TRIGGER A "MILLER FIX" DESPITE ITS RETROACTIVE EFFECT.

a. Petitioner has created an unreviewable mixed petition by combining a time-barred challenge to the transfer of his case to adult court with a Miller fix claim that could be addressed if his sentence were long enough for the fix to apply, but it is not.

"A petition which relies upon RCW 10.73.100 to overcome the one-year time bar in RCW 10.73.090 cannot be based on any grounds other than the six grounds in RCW 10.73.100. *In re Pers. Restraint of Stenson*, 150 Wn.2d 207, 220, 76 P.3d 241 (2003) (citing *In re Stoudmire*, 141 Wn.2d 342, 349, 5 P.3d 1240 (2000)). "[I]f a personal restraint petition claiming multiple grounds for relief is filed after the one year period of RCW 10.73.090 expires, and the court determines [] at least one of the claims is time barred, the petition must be dismissed" without any analysis of which claims are timely and which are not. *Id.* (citing *In re Hankerson*, 149 Wn.2d 695, 702, 72 P.3d 703 (2003))

The Supreme Court's recent unwillingness to unsettle *Boot* means there has been no intervening change in the law applicable to the automatic transfer to support petitioner's time-barred challenge to it, leaving him without the RCW 10.73.100(1)(6) exception on which his claim relied. So if one assumes his sentence is reviewable under Washington's *Miller* fix, the automatic transfer claim mixes the petition, which mandates dismissal. This is doubly true if review of the time-barred LFO claim is sought. Apx.A at 2, K; *Wolf*, 196 Wn.App. at 510, fn.8; *In re Pers. Restraint of Dove*, 196 Wn.App. 148, 381 P.3d 1280 (2016); RAP 16.4 (d).

1 b. Petitioner asks for sentencing relief as if his case were a
2 direct appeal based on a perfected record; instead, it is an
3 untimely PRP where only facial validity of his sentence
 can be reviewed without a time-bar exception and actual-
 prejudice cannot be shown from an incomplete record.

4 If one assumed the Supreme Court's decision in *Houston-Sconiers* could support review
5 of an untimely raised challenge to an SRA sentence imposed without consideration of a juvenile
6 offender's youth, it would do petitioner little good. There is no reliable evidence his trial judge
7 refrained from considering youth at sentencing. As the judgment is presumed to be valid, it
8 must be presumed the procedures required for validity were followed absent evidence to the
9 contrary. *Hagler*, 97 Wn.2d at 825-826. The unenhanced crimes of conviction are those for
10 which the court could have sentenced petitioner to a period of incarceration that matched or
11 bettered periods of incarceration presumptively available in juvenile court. RCW 9.94A.535.
12 For example, the trial court in *Houston-Sconiers* adjusted the base sentences to zero. The
13 sentencing court in petitioner's case could have done the same. *Id.* As petitioner's convictions
14 are unadorned by the mandatory minimum terms at issue in *Houston-Sconiers*, there is no
15 support for the claim he was sentenced in excess or derogation of the trial court's authority,
16 making his sentence facially valid for the purpose of this untimely collateral attack. *In re Pers.*
17 *Restraint of Coats*, 173 Wn.2d 123, 144, 267 P.3d 324 (2011); *In re Pers. Restraint of Richey*,
18 162 Wn.2d 865, 872, 175 P.3d 585 (2008).

19 Much of petitioner's misunderstanding about the relief available to him appears to arise
20 from misperceiving himself as similarly situated to the defendants in *Houston-Sconiers* despite
21 his sentence becoming final in 2007. Apx.A; RCW 10.73.090(3)(a). The distinction was made
22 in that case through reference to *Montgomery v. Louisiana*, ___ U.S. ___, 136 S.Ct. 736 (2016).
23 *Id.* at 22 (citing). As *Montgomery* explained:
24
25

1 Giving *Miller* retroactive effect [] *does not require States to*
2 *relitigate sentences*, let alone convictions, in every case where a
3 juvenile offender received mandatory life without the possibility of
4 parole. A State may remedy a *Miller* violation by permitting
5 juvenile homicide offenders to be considered for parole, rather than
6 resentencing them. [] Allowing those offenders to be considered
for parole ensures that juveniles whose crimes reflected only
transient immaturity—and who have since matured—will not be
forced to serve a disproportionate sentence in violation of the Eight
Amendment.

7 *Id.* at 736 (emphasis added). *Houston-Sconiers* recognized that our Legislature already passed
8 an act to allow inmates serving sentences for crimes committed when they were juveniles to
9 petition for early release after 20 years. *Id.* at 21 (citing LAWS of 2015, ch. 130, § 10; codified
10 at RCW 9.94A.730). Petitioner is only required to serve 15.75 years, making his sentence too
11 short to qualify for that relief. And a standard range sentence is not reviewable when compliant
12 with the SRA and constitution, which petitioner's sentence is being compliant with *Montgomery*
13 and Washington's "*Miller* fix." See *State v. Osman*, 157 Wn.2d 474, 482, 139 P.3d 334 (2006).
14 As this Court should not grant resentencing that is not authorized by statute or required by the
15 constitution, petitioner's untimely challenge to his sentence should be dismissed.

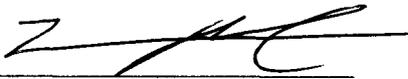
16
17 D. CONCLUSION

18 Petitioner's challenge to the automatic transfer statute is as meritless as it is time barred,
19 so it should be dismissed. If his sentence were reviewable, dismissal of the petition would be
20 required since that claim is mixed with the time-barred automatic transfer claim, and also the
21 challenge to his LFOs if it is actually a claim. Still, closer examination of the sentencing issue
22 reveals it to be inadequately supported for review, meritless and time-barred in its pursuit of
23 relief beyond that which has been given retroactive effect by the Legislature's *Miller* fix.
24 Dismissal is the proper result at every turn, which is fitting as the grievous nature of his crimes
25 leaves no room to doubt his sentence is exceedingly well deserved. Instead of pursuing even
greater leniency than that which he already *abundantly* received, he would do well to spend the

1 next 5 years in regret, *not for himself*, but for the couple he helped terrorize and man he helped
2 kill. This was the desire of that dead man's brother, and it is the least petitioner can do.
3 Atonement would be better. But it is not something that can be ordered or achieved through the
4 completion of his sentence alone.²

5
6 RESPECTFULLY SUBMITTED: April 17, 2017.

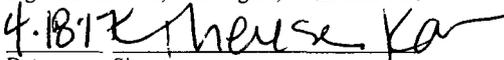
7 MARK LINDQUIST
8 Pierce County
9 Prosecuting Attorney

10 
11 JASON RUYF
12 Deputy Prosecuting Attorney
13 WSB #38725

14 Certificate of Service:

15 The undersigned certifies that on this day she delivered by  U.S. mail
16 to petitioner true and correct copies of the document to which this
17 certificate is attached. This statement is certified to be true and
18 correct under penalty of perjury of the laws of the State of Washington.

19 Signed at Tacoma, Washington, on the date below.

20 4.18.17 
21 Date Signature

22
23
24
25 ² This Court's order of March 7, 2017, authorized 10 additional pages to respond to *Houston-Sconiers*; however, the State had yet to file its RAP 16.9 response when the stay was granted. The State consequently complied with this Court's request for briefing about the impact of *Houston-Sconiers* without availing itself of 10 additional pages, which is only mentioned so this brief is not mistaken for overlength *supplemental* briefing.

APPENDIX “A”

Judgment and Sentence

Case Number: 06-1-02134-9 Date: March 3, 2006
SerialID: BD898E07-93F0-4DAC-8F329672CC088ED6
Certified By: Kevin Stock Pierce County Clerk, Washington



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 06-1-02134-9

vs.

JARRELL MAURICE MARSHALL,

Defendant.

WARRANT OF COMMITMENT NOV - 9 2007

- 1) County Jail
- 2) Dept. of Corrections
- 3) Other Custody

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

[X] 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 11/9/07

By direction of the Honorable

[Signature]
JUDGE

KEVIN STOCK
CLERK

By: Melissa Engler
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF
NOV - 9 2007

Date _____ By Melissa Engler Deputy

STATE OF WASHINGTON

ss:

County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this _____ day of _____.

KEVIN STOCK, Clerk

By: _____ Deputy

mrp



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.

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 (DOSA),
4.15.2, 5.3, 5.6 and 5.8

JARRELL MAURICE MARSHALL

Defendant.

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° (D5)	9A.32.050(1)(b)	NONE	04/20/2006	06-110-0186 06-110-0065
III	ROBBERY 1° (AAA1)	9A.56.190 9A.56.200(1)(a)(i)	NONE	04/20/2006	06-110-0186 06-110-0065
IV	ROBBERY 1° (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) VUCSA in a protected zone, (VH) Veh. Hom, 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

- 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 CUNCURRENTLY 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

RTN/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

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 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 cause 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 FINE, FAMILIES of FAMILY of DIANE HOYNH.

[] 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 KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. N/A

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: _____

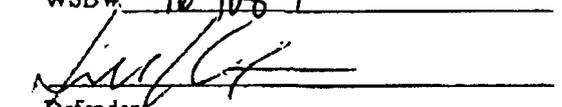


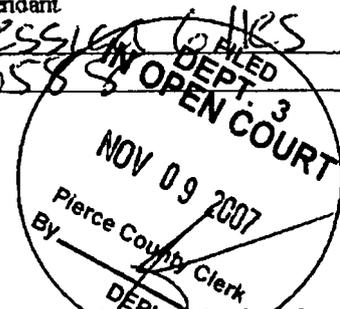
Deputy Prosecuting Attorney
Print name: TOMMY LANE
WSB #: 16706

JUDGE
Print name

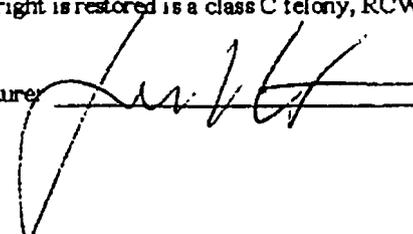

for Ronald Heslop

Attorney for Defendant
Print name: JESSIE WALKER
WSB #: 36588


Defendant
Print name: JARRELLE 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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Roetho
Court Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: with 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: _____

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:	<input type="checkbox"/> Asian/Pacific Islander	<input checked="" type="checkbox"/> Black/African-American	<input type="checkbox"/> Caucasian	Ethnicity:	<input type="checkbox"/> Hispanic	Sex:	<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: *[Handwritten Signature]*

DEFENDANT'S ADDRESS: _____

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,

enter **SerialID: BD898E07-93F0-4DAC-8F329672CC088ED6**.

This document contains 12 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “B”

1 Defendants said they committed the crimes because they wanted money. In Defendant Walrond's
2 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.
3 Defendant Harris had victim Schmidt's baseball hat hanging on a wall in his home like a souvenir.

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

5 DATED: May 10, 2006
6 PLACE: TACOMA, WA

7 
8 GERALD T. COSTELLO, WSB# 15738

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,

enter **SerialID: 8E609F2E-95E9-4F9B-BE4E5030F7F944DA**.

This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “C”

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 0A1ED688-3469-47FC-A4C89A05A40DCA43
Certified By: Kevin Stock Pierce County Clerk, Washington



06-1-02134-9

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

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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.

COUNT IV

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 ROBBERY 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 take personal property belonging
10 to another with intent to steal from the person or in the presence of Carl Schmidt, the owner thereof or a
11 person having dominion and control over said property, against such person's will by use or threatened
12 use of immediate force, violence, or fear of injury to Carl Schmidt, said force or fear being used to obtain
13 or retain possession of the property or to prevent or overcome resistance to the taking, and in the
14 commission thereof, or in immediate flight therefrom, Defendant or an accomplice was armed with a
15 deadly weapon, to-wit: a hammer or similar object, contrary to RCW 9A.56.190 and 9A.56.200(1)(a)(i),
16 and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other
17 than a firearm to-wit: a hammer or similar object, that being a deadly weapon as defined in RCW
18 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional
19 time to the presumptive sentence as provided in RCW 9.94A.370/9.94A.530, and against the peace and
20 dignity of the State of Washington.

COUNT V

21 And I, GERALD A. HORNE, Prosecuting Attorney for Pierce County, in the name and by the
22 authority of the State of Washington, do accuse JARRELL MAURICE MARSHALL of the crime of
23 ROBBERY IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on
24 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, acting as 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, 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),

INFORMATION- 3

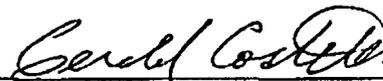
1 and in the commission thereof the defendant, or an accomplice, was armed with a deadly weapon, other
2 than a firearm to-wit: a hammer or similar object, that being a deadly weapon as defined in RCW
3 9.94A.125/9.94A.602, and invoking the provisions of RCW 9.94A.310/9.94A.510 and adding additional
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

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 0A1ED688-3469-47FC-A4C89A05A40DCA43**.

This document contains 4 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “D”

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 2F3654DA-329B-4590-8D002C004C493577
Certified By: Kevin Stock Pierce County Clerk, Washington



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

STATE OF WASHINGTON,
Plaintiff,

vs.

JARROU MARSHALL
Defendant.

NO. 06-1-02134-9

PROSECUTOR'S STATEMENT
RE: AMENDED INFORMATION

AUG 16 2007

The State requests the Court consider accepting a plea to the filing of an amended information pursuant to RCW 9.94A.090 for the following reasons:

1) the defendant is currently charged with: Murder 1/Assault 1/Robb.1/Robb.1 (all with deadly weapon enhancements); with the Amended Information, the State now seeks to amend the charges to: MURDER 2/ROBB1/ROBB1;

2) if the Court allows the Amended Information, the defendant will be pleading guilty;

3) the Court still has up to 265 months incarceration to impose under the standard-range;

4) other: no prior convictions or arrests; defendant agreed to cooperate with the State and testify against the more culpable co-defendant;

No victim on this case.

The surviving victims and deceased victim's family have been notified of the amendment, as well as of the plea date.

The victim has not been notified of the amendment, as the amendment does not affect the victim's count. The victim will, however, receive notice of the plea date.

DATE: August 14, 2007.

TERRY LANE
Deputy Prosecuting Attorney, WSB# 16708

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



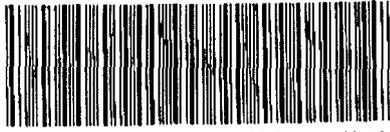
Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 2F3654DA-329B-4590-8D002C004C493577**.

This document contains 1 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “E”

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A
Certified By: Kevin Stock Pierce County Clerk, Washington



06-1-02134-9 28071276 STDFG 08-16-07

IN COUNTY FILED
CLERK'S OFFICE
A.M. AUG 15 2007 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

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

STATE OF WASHINGTON,

Plaintiff,

vs.

JARRELL MARSHALL

Defendant.

CAUSE NO. 06-1-02134-9

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY

AUG 16 2007

- 1. My true name is: JARRELL MARSHALL
- 2. My age is: 17 12-16-89
- 3. I went through the 10 grade.
- 4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is RON HESLOP

(b) I am charged with the crime(s) of:

Count I: MURDER II

The elements are: 20th DAY OF APRIL 2007 WHILE ATTEMPTING TO COMMIT A CRIME OF ASSAULT IN SECOND DEGREE

[Handwritten signature]

OF DINH HUYNH AS AN ACCOMPLICE WHEREBY MR HUYNH WAS HIT IN THE HEAD BY ANOTHER PARTICIPANT (WALTON) IN THE COURSE OF AND IN FURTHERANCE OF THE ASSAULT CAUSING HIS DEATH THIS OCCURRED IN PIERCE COUNTY, WA

This crime carries a maximum sentence of LIFE years imprisonment and a \$ 50,000 fine. The standard range is from 165 months to 265 months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense Serious Violent Violent
Non-Violent Sex Drug Traffic Check all that apply.

Count II: ROBBERY IN FIRST DEGREE

Elements: ON 20 APRIL 07 DID TAKE PERSONAL PROPERTY FROM CARL SCHMIDT BY USE OF FORCE OR IMMEDIATE THREAT OF FORCE AND HE OR AN ACCOMPLICE HAD A DEADLY WEAPON

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A
Certified By: Kevin Stock Pierce County Clerk, Washington

Case Name: JARRELL MARSHALL Cause No: 06-1-02134-9

ATTACHMENT "B"

4. (b) (continued) Defendant is pleading guilty to these additional counts:

Count 3: ROBBERY 1^o

RDB
JAM

Elements: ON 20 APRIL 07 DID UNLAWFULLY TAKE PERSONAL
PROPERTY ^{UNDER THREAT OF IMMEDIATE FORCE} FROM AMBER LILIANEK WITH INTENT
TO STEAL AND WHILE AN ACCOMPLICE WAS ARMED
WITH A DEADLY WEAPON

This crime carries a maximum sentence of LIFE years imprisonment and a \$ 20,000 fine. The standard range is from 51 months to

68 months based upon the attached stipulation as to my criminal history.
Offense Designations: Most Serious Offense [] Serious Violent Non-Violent [] Sex [] Drug [] Traffic [] (check all that apply)

Count : _____

Elements: _____

This crime carries a maximum sentence of _____ years imprisonment and a \$ _____ fine. The standard range is from _____ months to _____ months based upon the attached stipulation as to my criminal history.

Offense Designations: Most Serious Offense [] Serious Violent [] Violent [] Non-Violent [] Sex [] Drug [] Traffic [] (check all that apply)

6. (b) (continued) Defendant is pleading guilty to these additional counts:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement for (F) Firearm, (D) Other Deadly Weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, or (JP) Juvenile Present	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	STANDARD RANGE COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM PENALTY
<u>IV</u>	<u>51-68</u>		<u>51-68m</u>	<u>24-48</u> ¹⁸ _{30 mos}	<u>LIFE</u>

ATTACHMENT "B"

Case Number: 06-1-02134-9 Date: March 3, 2017
 SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A
 Certified By: Kevin Stock Pierce County Clerk, Washington

This crime carries a maximum sentence of LIFR years imprisonment and a \$ 20,000 fine. The standard range is from 51 months to 68 months based upon the attached stipulation as to my criminal history.
 Offense Designations: Most Serious Offense[] ~~Serious Offense~~ ~~Violent~~ Non-Violent[] Sex[] Drug[] Traffic[] (check all that apply)

(c) Additional counts are addressed in Attachment "B".

5. I UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial as well as other pretrial motions such as speedy trial challenges and suppression issues.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) Each crime with which I am charged carries a maximum sentence, a fine, and a STANDARD SENTENCE RANGE as follows:

COUNT NO.	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancement for (F) Firearm, (D) Other Deadly Weapon, (V) VUCSA in protected zone, (VH) Vehicular Homicide, See RCW 46.61.520, or (JP) Juvenile Present	TOTAL ACTUAL CONFINEMENT (standard range including enhancements)	STANDARD RANGE COMMUNITY CUSTODY (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f))	MAXIMUM PENALTY
1	165-265		165-265	24-48	LIFR
2 III	51-68		51-68	24-48 18-36	LIFR

_____ Additional counts are addressed in Attachment "B".

STATEMENT OF DEFENDANT
 ON PLEA OF GUILTY - 2

Case Number: 06-1-02134-9 Date: March 3, 2017

SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A

Certified By: Kevin Stock Pierce County Clerk, Washington

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding upon me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement, the judge will order me to pay \$500.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.
- (f) **For Crimes Committed Prior to July 1, 2000:**
 In addition to sentencing me to confinement, the judge may order me to serve up to one year of community supervision if the total period of confinement ordered is less than 12 months. If this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community placement. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community placement. If this crime is a sex offense, the court will order me to serve at least three years of community custody. The actual period of community placement, community custody, or community supervision may be as long as my earned early release period. During the period of community placement, community custody, or community supervision, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. My failure to comply with these conditions will render me ineligible for general assistance. RCW 74.04.005(6)(h).

For Crimes Committed On or After July 1, 2000:

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is less than 12 months. If the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the community custody range established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.150 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody range will be based on the offense type that dictates the

STATEMENT OF DEFENDANT
 ON PLEA OF GUILTY - 3

Case Number: 06-1-02134-9 Date: March 3, 2017
 SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A
 Certified By: Kevin Stock Pierce County Clerk, Washington

longest term of community custody. If I have been convicted of a crime that is not listed in the chart and my sentence is more than 12 months, I will be placed on community custody for the period of earned release.

OFFENSE TYPE	COMMUNITY CUSTODY RANGE
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months or up to the period of earned release, whichever is longer
Serious Violent Offenses	24 to 48 months or up to the period of earned release, whichever is longer
Violent Offenses	18 to 36 months or up to the period of earned release, whichever is longer
Crimes Against Persons as defined by RCW 9.94A.440(2)	9 to 18 months or up to the period of earned release, whichever is longer
Offenses under Chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months or up to the period of earned release, whichever is longer

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

(g) *On the condition that the defendant completes the contract ordered into with Prosecution Office, the prosecuting attorney will make the following recommendation to the judge: I - 165 MO*

II + III 51 MO. ALL TO RUN CONCURRENT LFD = 500 CUPA; 200 FIRM; 400 DAC 100 DNA RESTITUTION CREDIT FOR TIME SERVED
 No direct or indirect contact with victims or victims families or witnesses not related to him
 24-48 hrs community custody upon release. Agreement between defendant & prosecutor incorporated herein by reference

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range of actual confinement and community custody unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range of actual confinement and community custody, either the State or I can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(i) ~~If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.~~

(j) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. RCW 9.41.040.

STATEMENT OF DEFENDANT
 ON PLEA OF GUILTY - 4

NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.

- (k) This offense is a most serious offense, or strike, as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (1) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (2) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree, with a finding of sexual motivation, or (3) any attempt to commit any of the crimes listed in this sentence, and I have at least one prior conviction for one of these listed crimes in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.
- (l) The judge may sentence me as a first-time offender instead of giving me a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days confinement, and up to two years community supervision if the crime was committed prior to July 1, 2000, or two years of community custody if the crime was committed on or after July 1, 2000, plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.
- (m) The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.120(8). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; and I will be subject to all of the conditions described in paragraph (e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.
- (n) Because this crime involves a sex offense or a kidnaping offense involving a minor, I will be required to register where I reside, study, or work. The specific current registration requirements are set forth in Attachment "A". These requirements may change at a later date. I will be responsible for learning about any changes in the registration requirements and for complying with the registration requirements.
- (o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purpose of DNA identification analysis.
- (p) If this is a crime of domestic violence and if I, or the victim of the offense has a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

STATEMENT OF DEFENDANT
 ON PLEA OF GUILTY - 5

Case Number: 06-1-02134-9 Date: March 3, 2017

SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A

Certified By: Kevin Stock Pierce County Clerk, Washington

- (q) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.
- (r) The judge may sentence me under the special drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.120(6). This sentence could include a period of total confinement in a state facility for one-half of the midpoint of the standard range plus all of the conditions described in paragraph (e). During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose community custody of at least one-half of the midpoint of the standard range that must include appropriate substance abuse treatment, a condition not to use illegal controlled substances, and a requirement to submit to urinalysis or other testing to monitor that status. Additionally, the judge could prohibit me from using alcohol or controlled substances, require me to devote time to a specific employment or training, stay out of certain areas, pay thirty dollars per month to offset the cost of monitoring and require other conditions, including affirmative conditions.
- (s) If the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.
- (t) If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine or amphetamine, a mandatory methamphetamine clean-up fine of \$3,000.00 will be assessed. RCW 69.50.401(a)(1)(ii).
- (u) If this crime involves a motor vehicle, my driver's license or privilege to drive will be suspended or revoked. If I have a driver's license, I must now surrender it to the judge.
- (v) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(8).
- (w) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(k).
- (x) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.
- (y) I understand that the offense(s) I am pleading guilty to include a deadly weapon or firearm enhancement. Deadly weapon or firearm enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon or firearm enhancements.
- (z) I understand that the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm. The

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 6

sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.

(aa) This plea of guilty will result in the suspension of public assistance. RCW 74.08.290.

7. I plead guilty to count I, III & IV in the AMBRAND'S Information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

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

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

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

crime. This is my statement: ON APRIL 20, 2007 I WAS AN ACCOMPLISHER BY

KNOWINGLY ASSISTING WALROND IN
THE ROBBERIES OF CARL SCHMIDT AND AMBER LIM ANEK
WHEN MR. WALROND THREATENED THEM WITH THE HAMMER AND
DOK THEIR POSSESSIONS. I WAS ALSO INTENTIONALLY
WHEN HE KILLED MR. HUYNH WITH THE HAMMER
THIS OCCURRED IN PIERCE COUNTY, WA

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

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

Defendant

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

Defendant's Lawyer
WSBA # 13743

Approved for entry:

Prosecuting Attorney
WSBA # 16106

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY - 7

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A
Certified By: Kevin Stock Pierce County Clerk, Washington

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

- (a) The defendant had previously read the entire statement above and the defendant understood it in full; or
- (b) the defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- * (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

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

Dated this 15 day of August, 2007.

[Signature]
Judge

FILED
IN COUNTY CLERK'S OFFICE
AUG 15 2007 P.M.
PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
DEPUTY

*INTERPRETER'S DECLARATION

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, _____.

Interpreter

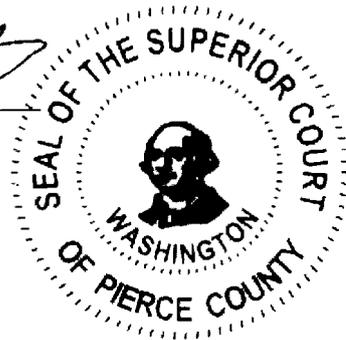
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



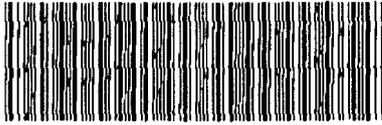
Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 9AAE73EA-660E-4B62-831CC0A4CBA9D42A**.

This document contains 9 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “F”

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 345F882F-058E-4348-897238544FB3C9C4
Certified By: Kevin Stock Pierce County Clerk, Washington



06-1-02134-9 28494047 VS 10-24-07

FILED
IN COUNTY CLERK'S OFFICE

A.M. OCT 24 2007 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

VICTIM IMPACT STATEMENT

vs Jarrell M. Marshall 06-1-02134-9.

State of Washington vs. CYRIL DELANTO WALROND Superior Court Cause No. 06-1-02136-5

vs Daniel D. Harris 06-1-02135-7

Please describe for the Court the impact of this crime on your life and/or the life of your family members. Special attention should be given to describing the emotional and/or financial impact resulting from this crime. This statement will be provided to the Judge, Prosecuting Attorney, Community Corrections Officer and the Defense Attorney. The original will be placed in the court file.

STATEMENT MUST BE WRITTEN IN INK ON FRONT SIDE ONLY. If needed, additional pages may be attached (please include Superior Court Cause Number on each page).

We used to be a happy family, the family used to get together on the weekends. Since my brother passed away, we not come together anymore. Since my parents passed away he held us together. In my culture the eldest brother did that. We are not happy and it's hard to remember. It's scary and we worry.

Before coming to this country my brother he was a Professor at the University of Vietnam. He come to America for freedom. He escaped and never died on the ocean but he died like this for nothing.

Now he pass away, let the law do what it should do. We want it to be over and not think about this. We get angry when we think my brother was a good person, who murdered him will

Signed: Kim Huynh Date: 10-17-07
Print your name: KIM NITAN HUYNH
Please return to: WAYNE SMITH, Victim Advocate
Room 946, 930 Tacoma Avenue South, Tacoma, WA 98402

P. 1 of 2

VICTIM IMPACT STATEMENT

State of Washington vs. CYRIL DELANTO WALROND Superior Court Cause No. 06-1-02136-5

Please describe for the Court the impact of this crime on your life and/or the life of your family members. Special attention should be given to describing the emotional and/or financial impact resulting from this crime. This statement will be provided to the Judge, Prosecuting Attorney, Community Corrections Officer and the Defense Attorney. The original will be placed in the court file.

STATEMENT MUST BE WRITTEN IN INK ON FRONT SIDE ONLY. If needed, additional pages may be attached (please include Superior Court Cause Number on each page).

regret what they do. let them think while they spend time in prison. I hope they will become better people.

Signed: [Signature] Date: 10-17-07
Print your name: KIM NITAN HUYNH
Please return to: WAYNE SMITH, Victim Advocate
Room 946, 930 Tacoma Avenue South, Tacoma, WA 98402

P. 2 of 2

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

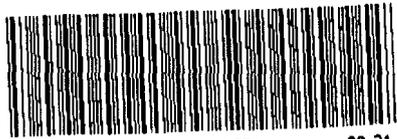
<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,

enter **SerialID: 345F882F-058E-4348-897238544FB3C9C4**.

This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “G”

Case Number: 06-1-02134-9 Date: March 3, 2017
SerialID: 3D5943EC-1A9D-476D-8000F92F76461622
Certified By: Kevin Stock Pierce County Clerk, Washington



SEALED

FILED
IN COUNTY CLERK'S OFFICE

A.M. **MAR 21 2008** P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ **DEPUTY**

CONFIDENTIAL

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 06-1-02134-9

vs.

JARRELL MAURICE MARSHALL,

RESTITUTION INFORMATION (RSTI)

Defendant.

RESTITUTION INFORMATION

Defense: RONALD D. HESLOP DPA: TERRY LANE Status: SENT 11/9/07

CRIME VICTIMS COMP \$3,055.67 LOSS, CLAIM #VK88926

\$3,055.67 TOTAL RESTITUTION

By: WAYNE SMITH
Victim Advocate
March 21, 2008

Case Number: 02134-9 Date: March 3, 2007
Serial: 1A9D-476D-900F92F76461622
Certified by: [Signature] Pierce County Clerk, Washington



*00-1-02134-9
marshall*

This FAX was sent by the
Washington State Department of Labor & Industries
CRIME VICTIMS COMPENSATION PROGRAM
Post Office Box 44520, Olympia WA 98504-4520
Mail Stop: 4520
Fax Number: 360-902-5333
CONFIDENTIAL INFORMATION

TO: Wayne Smith
@ Pierce Co V/W
FROM: Robin
DATE: 8/15/2007

PHONE:
FAX: 253 798 6636
PHONE: 360 902 4975

COMMENTS: **VK88926 Dien Huynh**
Per your request paid to date: \$3055.67

Number of pages including cover sheet: 3

Faxed by: Robin

Email:
cvcvictimwitness@lni.wa.gov

If there are any problems with this transmittal,
Please contact me ASAP.

**** **THANK YOU** ****

Robin Owens
Restitution Coordinator
Crime Victims Compensation Program

Case Number: 06-1-02134-9 Date: March 3, 2017
 SerialID: 3D5943EC-1A9D-476D-8000F92F76461622
 County Clerk, Washington

Paid to date for Purposes of Restitution

Report Date: 8/15/2007	Data as of: 8/10/2007		
Claim: VK88926		Bills:	0.00
Victim: HUYNH, DIEN		Gross Adjustments:	
DOI/Crime: 4/20/2006		Compensable:	3,055.67
Offender/s: HARRIS, DANIEL		Deduct Overpayment Balance:	0.00
MARSHALL, JARELL		Total Paid:	3,055.67
WALROND, CYRIL		Deduct Restitution Awarded:	
Cause ID/s: 06-1-02135-7		Deduct 1st and 3rd Party Recovery:	3,055.67
06-1-02134-9		Restitution Requested:	0.00
06-1-02136-5			

Compensable

<i>Paid Dte</i>	<i>Type</i>	<i>SubType</i>	<i>Paid From</i>	<i>Paid Thru</i>	<i>Paid</i>
5/11/2006	FA	BL	5/10/2006	5/10/2006	3,055.67

Confidentiality laws prohibit you from disclosing the information on this report without the previous authorization of the victim.

Case Number: 06-1-02134-9 Date: March 3, 2017

Serial: 305943EC-1A9D-476D-8900F92F76461622

CRIME VICTIMS COMPENSATION PROGRAM
Certified By: Kevin Stock, Pierce County Clerk, Washington
PO BOX 44520, OLYMPIA, WASHINGTON 98504

MOUNTAIN VIEW FUNERAL HOME
RE: DIEN KIEM HUYNH
PO BOX 99947
TACOMA WA 98499

CLAIM ID : VK88926
CLAIMANT : DIEN HUYNH
INJURY DATE : 4/20/06
MAILING DATE: 05/11/06

Dear KIM HUYNH:

Enclosed is our payment for burial expenses in the amount of \$3055.67.

If you have any questions please call me at 1-800-762-3716.

SINCERELY,

JANICE DEAL
PENSION ADJUDICATOR
1-800-762-3716
FAX #: (360) 902-5333

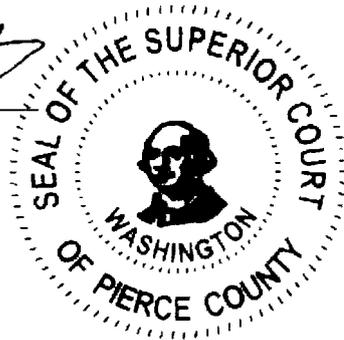
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 3D5943EC-1A9D-476D-8000F92F76461622**.

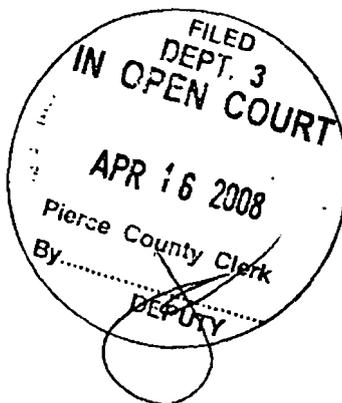
This document contains 4 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “H”

ROOM 846
COPY RECEIVED

MAR 31 2008

GERALD A. HORNE
PIERCE COUNTY PROSECUTING ATTORNEY



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 06-1-02134-9

vs.

JARRELL MAURICE MARSHALL,

ORDER SETTING RESTITUTION AND
DISBURSEMENT

Defendant.

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:

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

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM

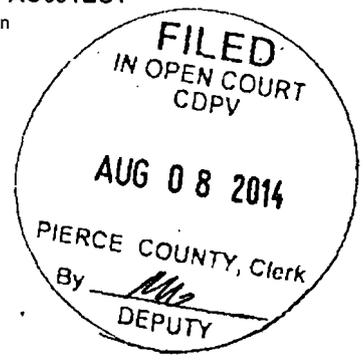
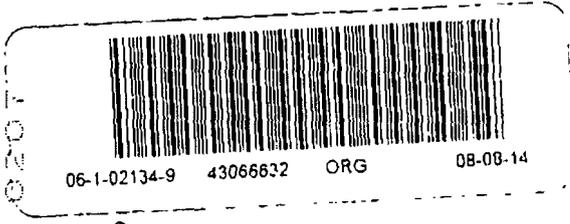


Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 76B883E6-75CF-468C-A7AE7FAF36AB1940**.

This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “I”



8/11/2014 2384

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE SUPERIOR COURT OF WASHINGTON, COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff/Petitioner,

vs.

JARRELL MAURICE MARSHALL,

Defendant/Respondent.

Cause No. 06-1-02134-9

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

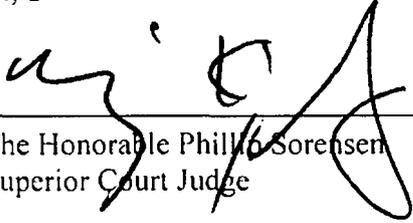
* Clerk's action required

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:

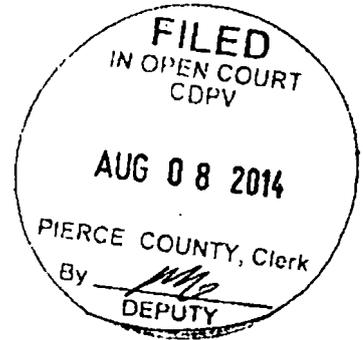
- All legal financial obligations previously imposed remain.
- Interest on any restitution amounts shall continued to accrue until it is paid in full regardless of whether or not the defendant is serving a term of total confinement pursuant to RCW 10.82.090 (2)(b)
- Interest on any other legal financial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

ORDER REGARDING MTN TO VACATE

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 109
Tacoma, Washington 98402-2171
Misdemeanors: (253) 798-7446

0200

2504

0/11/2014

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: E9D33D55-8ED3-41FE-B8FE60DFAC691EC1**.

This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “J”

April 14 2015 8:33 AM

KEVIN STOCK
COUNTY CLERK
NO: 06-1-02134-9

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

JARRELL MAURICE MARSHALL,

Appellant.

No. 46652-0-II

CERTIFICATE OF FINALITY

Pierce County

Superior Court No. 06-1-02134-9

THE STATE OF WASHINGTON TO: The Superior Court of the State of Washington in and for Pierce County.

This is to certify that the decision of the Court of Appeals of the State of Washington, Division II, filed on February 5, 2015, became final on March 10, 2015.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Tacoma, this 26th day of March, 2015.


David C. Ponzoha
Clerk of the Court of Appeals,
State of Washington, Division II

Page 2
COF 46652-0-II

Kathleen Proctor
Pierce County Prosecuting Atty Ofc
930 Tacoma Ave S Rm 946
Tacoma, WA, 98402-2171
PCpatcecf@co.pierce.wa.us

Jarrell Maurice Marshall
309755 MCC WSRU D-128
PO Box 777
Monroe, WA, 98272-0777

Hon. Philip K. Sorensen
Pierce Co Superior Court Judge
930 Tacoma Ave South
Tacoma, WA 98402

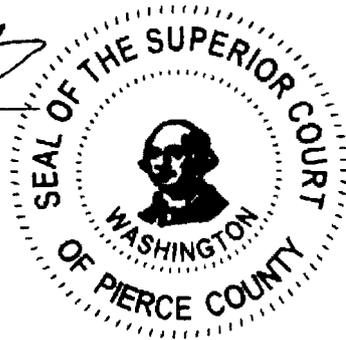
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 03 day of March, 2017



Kevin Stock, Pierce County Clerk

By /S/Tyler Wherry, Deputy.

Dated: Mar 3, 2017 7:59 AM



Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: 942A0571-8804-4AE0-AE7968B5CA5FDC8D**.

This document contains 2 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX “K”

Event Detail

Filing Type	Motion for Discretionary Review-C/a
Calendar Type	Commissioner's No-Oral Argument Motion Calendar
Hearing Official	Schmidt, Eric
Hearing Location	None
Motion Status	Decision filed
Action Date	12/16/2014
Event Participant	Marshall, Jarrell Maurice - Appellant
Comments	See ruling of 11-13-2014, Dismiss without further notice if motion is not filed. 12-15-2014 pm filed
Sealed	No

Associated Event 1:

Filing Type	Ruling terminating Review
Action Date	02/05/2015
Event Participant	SCHMIDT, ERIC - Commissioner
Case Resolution	Review Not Accepted
Resolution Reason	Discretionary Review - Superior Ct
Ruling Decision	Denied
Comments	Ruling Denying Review
Sealed	No

[Help](#)

[Search Screen](#)

[Logoff](#)

Appellate Court Case

[Basic Information](#)

[Participants](#)

[Appellants](#)

[Petitioners](#)

[Respondents](#)

[Attorneys](#)

[Events \(in
chronological order\)](#)

[Events](#)

[Briefs](#)

[Appellant's Brief](#)

[Respondent's Brief](#)

[Decisions](#)

[Motions](#)

**Superior Court
Information**

[Basic Information](#)

[Charge Sentence](#)

[Dockets](#)

[Participants](#)

CASE EVENTS # 466520

Date	Item	Action	Participant
03/26/2015	Disposed	Status Changed	
03/26/2015	Certificate of Finality Service Date: 2015-03-26	Filed	PONZOHA, DAVID
02/05/2015	Decision Filed	Status Changed	
02/05/2015	Ruling terminating Review Service Date: 2015-02-05 <i>Comment: Ruling Denying Review</i>	Filed	SCHMIDT, ERIC
01/21/2015	Ready	Status Changed	
01/21/2015	Reply to Response Pages: 5 Volumes: 1 Physical Location: e scan	Filed	Marshall, Jarrell Maurice
12/30/2014	Response to Motion for Discretionary Review Volumes: 1 Physical Location: e filed <i>Comment: when filed, set out reply 7 days and give pouch to sf</i>	Filed	PROCTOR, KATHLEEN
12/16/2014	Motion for Discretionary Review-C/a Calendar Type: Commissioner's No-Oral Argument Motion Calendar Hearing Official: Schmidt, Eric Hearing Location: None Motion Status: Decision filed <i>Comment: See ruling of 11-13-2014, Dismiss without further notice if motion is not filed. 12-15-2014 pm filed</i>	Filed	Marshall, Jarrell Maurice
11/13/2014	Ruling on Motions Service Date: 2014-11-13 <i>Comment: Jarrell Marshall responded to this court's letter to determine appealability of the trial court's order granting in part and denying in part his motion regarding legal financial obligations (LFO). Clerk's Spindle (notice of appeal). Because this matter does not involve a final judgment, in that Marshall continues to pay LFOs and can bring another motion to reduce/eliminate the LFOs at any time, his notice of appeal will be converted to a notice for discretionary review. RAP 5.1(c); RAP 6.2(b); RAP 2.3(b). Marshall will be given 30 days from the date of this ruling to file a motion for discretionary review pursuant to RAP 2.3(b). Cf. RAP 6.2(b). If the motion is not timely filed,</i>	Filed	BEARSE, AURORA

	<i>this matter will be dismissed without further notice.</i>		
11/04/2014	Answer to motion Volumes: 1 Physical Location: e scan	Filed	Marshall, Jarrell Maurice
10/28/2014	Ruling on Motions Service Date: 2014-10-28	Filed	BEARSE, AURORA
10/15/2014	Court's Mot to Determine Appealability Calendar Type: Clerk's Motion Calendar Hearing Official: Bearse, Aurora Hearing Date: 10/22/2014 Hearing Location: None Motion Status: Decision filed	Filed	Marshall, Jarrell Maurice
09/25/2014	Letter Service Date: 2014-09-25 <i>Comment: September 25, 2014</i> <i>Kathleen Proctor Jarrell Maurice Marshall</i> <i>Pierce County Prosecuting Atty Ofc 309755</i> <i>MCC WSRU D-128</i> <i>930 Tacoma Ave S Rm 946 PO Box 777</i> <i>Tacoma, WA, 98402-2171 Monroe, WA, 98272-</i> <i>0777</i> <i>PCpatcecf@co.pierce.wa.us</i> <i>RE: CASE #: 46652-0-II: State of Washington v</i> <i>Jarrell Maurice Marshallt</i> <i>Case Manager: Debbie</i> <i>Counsel:</i> <i>This court has received a Notice of Appeal from</i> <i>an Order Denying A Motion to Terminate Legal</i> <i>Financial Obligations (LFOs). It is</i> <i>questionable whether the order is appealable as</i> <i>a matter of right as provided in RAP 2.2(a) or</i> <i>as an aggrieved party seeking discretionary</i> <i>review under RAP 2.3(a). See State v. Smits,</i> <i>152 Wn. App. 514, 216 P.3d 1097 (2009); State</i> <i>v. Mahone, 98 Wn. App. 342, 989 P.2d 583</i> <i>(1999).</i> <i>As RAP 6.2(b) provides, I am placing this</i> <i>matter on the court's motion docket for</i> <i>appealability. A commissioner will consider this</i> <i>motion without oral argument. You may file a</i> <i>written response to the motion but no later than</i> <i>October 10, 2014. Division II General Order</i> <i>91-1. I will advise the parties and/or counsel in</i> <i>writing, at a later date, of the commissioner's</i> <i>decision.</i> <i>This court will waive the requirement that a</i> <i>party file a notice for discretionary review if a</i> <i>commissioner determines that the matter is</i> <i>subject to discretionary review and was timely</i>	Sent by Court	PONZOHA, DAVID

	<p><i>filed. In its decision determining appealability, this court will advise the parties if a motion for discretionary review is necessary and set the due date for that motion. If the parties and/or counsel have any questions concerning this action, do not hesitate to contact this office.</i></p> <p><i>Very truly yours,</i> <i>David C. Ponzoha,</i> <i>Court Clerk</i> <i>DCP: dlm</i></p>		
09/11/2014	Case Received and Pending	Status Changed	
09/05/2014	Order of Indigency in Superior Court	Filed	
09/05/2014	Notice of Appeal	Filed	
09/05/2014	Affidavit of Service Service Date: 2014-09-05	Filed	

PIERCE COUNTY PROSECUTOR
April 18, 2017 - 9:20 AM
Transmittal Letter

Document Uploaded: 5-prp2-493021-Response.pdf

Case Name: prp of marshall

Court of Appeals Case Number: 49302-1

Is this a Personal Restraint Petition? Yes No

The document being Filed is:

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

Statement of Arrangements

Motion: ____

Answer/Reply to Motion: ____

Brief: ____

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: Therese M Kahn - Email: tnichol@co.pierce.wa.us

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

jason@gordonsaunderslaw.com

saundersaalto@gmail.com