

NO. 49491-4-II

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

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In re Personal Restraint Petition of

STEVEN D. KRAVETZ,

Petitioner.

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THE HONORABLE RICHARD L. BROSEY, JUDGE

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STATE'S RESPONSE TO PERSONAL RESTRAINT PETITION

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## **I. AUTHORITY FOR RESTRAINT OF PETITIONER**

The Petitioner was charged by Information in Grays Harbor Superior Court, on April 4, 2012, with Attempted Murder in the Second Degree – Count I, RCW 9A.28.020, RCW 9A.32.050(1)(a), Assault in the First Degree – Count II, RCW 9A.36.011(1)(a), Disarming a Law Enforcement Officer – Count III, RCW 9A.76.023(1), and Assault in the First Degree – Count IV, RCW 9A.36.011(1). Attachment “A”.

Count I and II were alleged to have been committed against Grays Harbor Sheriff’s Deputy Polly Davin. Counts I and II each contained an allegation that the defendant was armed with a firearm, and these counts further alleged that the acts were committed against a law enforcement officer who was performing her official duties. RCW 9.94A.533, RCW 9.94A.535(2)(v).

Count IV was alleged to have been committed against Judge David Edwards, and contained an allegation that the defendant was armed with a deadly weapon other than a firearm. RCW 9.94A.533(4).

A jury trial in this matter commenced in Lewis County Superior Court on March 26, 2013. Attachment “B”. On April 3, 2013, the jury returned the following verdicts:

Count I, Attempted Murder in the Second Degree – Not Guilty

Count II, Assault in the First Degree – Guilty; Firearm enhancement; Law Enforcement Officer Aggravator

Count III, Disarming a Law Enforcement Officer – Guilty

Count IV, Assault in the First Degree – Guilty of lesser included offense of Assault in the Second Degree; Deadly Weapons Enhancement

Attachment “C”.

On May 17, 2013, the Petitioner came before the court for sentencing. The standard ranges for his crimes were:

Count II, Assault in the First Degree – 189 to 231 months;  
(Includes Firearm enhancement – 60 months);  
Law Enforcement Officer Aggravator

Count III, Disarming a Law Enforcement Officer – 0-365 days;

Count IV, Assault in the Second Degree – 27 to 32 months;  
(Includes Deadly Weapons Enhancement – 12 months);

Attachment “D”.

All counts were ordered to run concurrently, with the exception of the deadly weapons enhancement on Count IV. Thus, the court imposed a total of 312 months, as follows:

Count II, Assault in the First Degree – 300 months

Count III, Disarming a Law Enforcement Officer – 364 days

Count IV, Assault in the First Degree – 32 months

The court supported the exceptional sentence on Count II with written findings attached to the Judgment and Sentence. Attachment “D”.

## **II. ISSUES PRESENTED**

- a) Was trial counsel ineffective when he failed to move for suppression of documents found in a box in the garage on the ground that the warrant was partially overbroad because there was no probable cause nexus between the documents sought and the crimes under investigation?
- b) Was trial counsel ineffective when he failed to move to suppress the documents found in the boxes in the garage on the ground that the documents seized did not fall within the scope of the search warrant because they did not show dominion or control of the Kravetz residence?
- c) Was trial counsel ineffective when he failed to ask the sentencing judge to find that Disarming an Officer and Assault 1 (on that same Officer) constituted the same criminal conduct?
- d) Was trial counsel’s failure to raise the sentencing issue of double counting of the same fact ineffective assistance of counsel?
- e) Was the Petitioner entitled to an exceptional sentence downward based on the statutory mitigating factor of mental illness?
- f) Did the sentencing judge abuse his discretion in imposing an exceptional sentence above the standard range on the Petitioner?

### III. STATEMENT OF THE CASE

The State agrees with the facts as presented by the Petitioner.

Where additional facts may be helpful, they have been cited in the Argument section of this Response.

### IV. ARGUMENT

Relief through a personal restraint petition is extraordinary. *In re Pers. Restraint of Coats*, 173 Wn.2d 123, 132, 267 P.3d 324 (2011). It is not a substitute for an appeal. *In re Pers. Restraint of Hagler*, 97 Wn.2d 818, 824, 650 P.2d 1103 (1982). Collateral relief is limited because it “undermines the principles of finality of litigation, degrades the prominence of the trial, and sometimes costs society the right to punish admitted offenders.” *Id.*

An appellate court will reach the merits of a personal restraint petition only after the petitioner makes a threshold showing of (1) constitutional error from which he has suffered actual and substantial prejudice, or (2) non-constitutional error constituting a fundamental defect that inherently resulted in a complete miscarriage of justice. *In re Pers. Restraint of Davis*, 152 Wn.2d 647, 671-72, 101 P.3d 1 (2004) (quoting *In re Pers. Restraint of Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990)). A petitioner’s compliance with this “threshold burden” is mandatory, and the

appellate court will refuse to address the merits of the petition in the absence of such compliance. *Cook*, 114 Wn.2d at 814 (citing *In re Pers. Restraint of Williams*, 111 Wn.2d 353, 365, 759 P.2d 436 (1988)).

The petitioner bears the burden of showing prejudicial error by a preponderance of the evidence. *In re Pers. Restraint of Lord*, 152 Wn.2d 182, 188, 94 P.3d 952 (2004) (citing *Cook*, 114 Wn.2d at 813-14)). Bare assertions unsupported by references to the record, citation to authority, or persuasive reasoning cannot sustain the petitioner's burden of proof. *State v. Brune*, 45 Wn. App. 354, 363, 725 P.2d 454 (1986). "Where the record does not provide any facts or evidence on which to decide the issue and the petition instead relies on conclusory allegations, a court should decline to determine the validity of a personal restraint petition." *Cook*, 114 Wn.2d at 814 (citing *Williams*, 111 Wn.2d at 365).

This Court should refuse to reach the merits of Kravetz's petition because he has failed to meet the required threshold burden of establishing both error and prejudice.

#### **A. Ineffective Assistance of Counsel Claims**

The Washington State Supreme Court has adopted the two prong Strickland test for analysis of the effectiveness of a defense counsel performance. *See State v. Jeffries*, 105 Wn.2d 398, 417, 717 P.2d 722,

733 (1986). Ineffective assistance of counsel is a fact-based determination...” *State v. Carson*, 184 Wn.2d 207, 210, 357 P.3d 1064, 1066 (2015) (citing *State v. Rhoads*, 35 Wash.App. 339, 342, 666 P.2d 400 (1983).) Appellate courts “review the entire record in determining whether a defendant received effective representation at trial.” *Id.*

Strickland explains that the defendant must first show that his counsel’s performance was deficient. *Strickland v. Washington*, 466 U.S. 668, 687, 80 L. Ed. 2d 674, 104 S. Ct. 2052 (1984). Counsel’s errors must have been so serious that counsel was not functioning as the “counsel” guaranteed the defendant by the Sixth Amendment. *Id.* The scrutiny of counsel’s performance is guided by a presumption of effectiveness. *Id.* at 689. “Reviewing courts must be highly deferential to counsel’s performance and ‘should recognize that counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.’” *Carson* at 216 (quoting *Strickland* at 690.)

Secondly, the defendant must show that the deficient performance prejudiced the defense. *Strickland* at 687. The defendant must show “that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.” *Id.* For prejudice to be claimed there must

be a showing that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. A reasonable probability is a probability sufficient to undermine confidence in the outcome. *Id.*

The defendant bears the “heavy burden” of proof as to both prongs. *Carson* at 210. If both prongs of the test are not met than the defendant cannot claim the error resulted in a breakdown in the adversary process that renders the result unreliable. *Strickland* at 687.

- i. Was trial counsel ineffective when he failed to move for suppression of documents found in a box in the garage on the ground that the warrant was partially overbroad because there was no probable cause nexus between the documents sought and the crimes under investigation?**

**No. The warrant was not overbroad and, even if the warrant was overbroad, the Petitioner was not prejudiced.**

On March 10, 2012, Mason County Detective Rhoades sought a telephonic search warrant authorizing him to search:

The property, curtilage, residence, outbuildings, and vehicles currently located at three three six Division Street in Olympia, Washington. Further described as a single story brown residence with light trim and a detached garage.

Lobsenz Declaration, Appendix E. The court authorized a search for evidence items including “...papers, receipts showing dominion and

control of the residence. Anything that could be used to help identify the occupants and or any conspirators, co-conspirators involved in this case.”

*Id.*

The Petitioner alleges that “Detective Rhoades did not even attempt to advance any basis for making a finding of probable cause to believe that papers showing dominion and control over the Olympia residence would constitute evidence of the assault crimes.” PRP at 43.

However, houses and vehicles ordinarily contain evidence identifying those individuals occupying or controlling them. Evidence identifying those in control of premises where stolen property, drugs, or, in this case, a weapon is found tends to aid in conviction of the guilty party. A warrant may authorize seizure of evidence establishing a nexus between the suspect and the crime. *See Warden v. Hayden*, 387 U.S. 294, 307, 18 L. Ed. 2d 782, 87 S. Ct. 1642 (1967).

In this case, the Petitioner gave a false name and he was not apprehended at the scene of the crime; therefore, identity and tying the Petitioner to the location where evidence was found was necessary.

Even if the court should not have authorized a search for indicia of dominion and control, the remaining warrant would have still authorized the search of the garage. The officers were seeking other items that could

have been located in the garage and within the boxes that were searched. The officers did not exceed their authority and the items were lawfully seized.

**ii. Was trial counsel ineffective when he failed to move to suppress the documents found in the boxes in the garage on the ground that the documents seized did not fall within the scope of the search warrant because they did not show dominion or control of the Kravetz residence?**

**No. The items were found in plain view.**

The Petitioner asserts that trial counsel was ineffective for failing to seek suppression of items found in the Petitioner's garage because "they did not show dominion or control of the Kravetz residence." PRP at 48. However, the documents were found in plain view and were clearly pertinent to the crimes under investigation.

The plain view doctrine is applicable where the police are justified by warrant, or by an exception to the warrant requirement, to search in a protected area for a specified object. If, in the course of that search, they happen across some item for which they had not been searching and the incriminating character of the item is immediately recognizable, that item may be seized. *State v. Hudson*, 124 Wash.2d 107, 113-14, 874 P.2d 160 (1994).

An officer need not have absolute knowledge that the object is related to a crime. It is sufficient that the officer have probable cause to believe that the object is evidence of a crime. *State v. Sistrunk*, 57 Wn. App. 210, 214, 787 P.2d 937 (1990). For example, in *State v. Gonzales*, a clear vial of capsules and pills, “viewed in context” of other items of drug paraphernalia, was properly seized. 46 Wn. App. 388, 400-01, 731 P.2d 1101 (1986).

On the other hand, a closed paper bag containing marijuana was improperly seized because the marijuana was clearly not visible. *Id.* at 400, 731 P.2d 1101; see also *Sistrunk*, 57 Wn. App. at 214, 787 P.2d 937 (no probable cause to seize empty beer cans in open view when the condition of cans was consistent with driver’s explanation that they had been picked up for recycling).

In this case, the documents at issue were found during the execution of a search warrant and the evidentiary value was clearly evident upon discovery. They officers were lawfully in the place being searched and had the authority to seize these documents.

**iii. There was no prejudice to the Petitioner by admission of the complained of documents, and use of these documents was a legitimate trial strategy by defense.**

Where evidence is improperly admitted, the trial court's error is harmless “if the evidence is of minor significance in reference to the overall, overwhelming evidence as a whole.” *State v. Bourgeois*, 133 Wash.2d 389, 403, 945 P.2d 1120 (1997). In *State v. Guloy*, 104 Wash.2d 412, 426, 705 P.2d 1182 (1985), the Washington Supreme Court adopted the “ ‘overwhelming untainted evidence’ ” because that test “allows the appellate court to avoid reversal on merely technical or academic grounds while insuring that a conviction will be reversed where there is any reasonable possibility that the use of inadmissible evidence was necessary to reach a guilty verdict.” *State v. Watt*, 160 Wash. 2d 626, 635–38, 160 P.3d 640, 644–46 (2007).

Under this test, the appellate court looks only at the untainted evidence to determine if the untainted evidence is so overwhelming that it necessarily leads to a finding of guilt. In *Guloy*, two cannery workers, Viernes and Domingo, were killed in order to advance a gambling conspiracy. *State v. Guloy*, 104 Wash.2d at 414–15. The evidence showed that Dictado was the leader of the gang and that Dictado wanted to send two members of the gang to Alaska in order to gain control of gambling in that state. *Id.* at 415. During the trial, witness San Pablo was permitted to testify to two out-of-court statements made by Dictado that he was going

to kill Viernes. *Id.* On review, the court held that the admission of these statements violated the confrontation clause. *Id.* However, focusing on the untainted evidence that the two defendants were observed leaving the scene of the murder and Domingo's dying declaration that the defendants had attacked him, the court held that exclusion of the statements would not have resulted in a different verdict and therefore the error was harmless. *Id.* at 422–23.

In the case at bar, the Petitioner takes issue with trial counsel's failure to seek suppression of two items, Exhibits 57 (courthouse sketch) and 59 (photograph of Deputy Libby). PRP at 49. He claims that this evidence "played a prominent role in the prosecutor's closing argument." PRP at 48. This is simply not true.

The prosecutor obliquely referenced Exhibit 59 during his closing argument during a discussion of the Petitioner's "...long-standing hatred, dislike for the Grays Harbor County Sheriff's Office...most law enforcement..." RP 610, 612. This assertion was not contested at trial. In fact, much of the Petitioner's statement to law enforcement regarding this case focused on the abuse he felt he endured at the hands of Deputy Libby. This one exhibit was not particularly material nor would its exclusion have resulted in a different verdict.

The prosecutor did not reference the courthouse sketch at all in his closing. RP at 593-618. It was defense counsel that brought up Exhibit 57 in his closing. RP 634. He used this to argue that the Petitioner had created the map, “[n]ot to figure out how to go back and kill people. He went there to go find a way to get documents.” RP 634-35. Counsel goes on to address the Petitioner’s issues with Deputy Libby:

What he’s trying to do is expose people. Yeah, he was fixated on Officer Libby. He was fixated on Mark Reed Hospital. He was fixated on the Grays Harbor County Sheriff’s Office, because he wanted to expose them. He wanted people to hear his story about what happened to him. That’s why he went to the courthouse in February.

RP at 635. As counsel continues in this line of argument, he ties these actions to “...the brain of a[n] untreated, paranoid schizophrenic, psychotic brain...” RP at 635.

The prosecutor countered this in rebuttal by saying that if the jury were “... just looking at this map you would say this man wasn’t mentally ill at all.” RP at 653. Out of approximately 25 transcribed pages of closing argument (RP at 593-618) and an additional 13 transcribed pages of rebuttal, the prosecutor made only this one mention of Exhibit 57.

The courthouse sketch was not the only evidence of the Petitioner’s ability to take in information and formulate a plan. First and foremost was the Petitioner’s own lengthy statement that demonstrated his

capabilities. Also, there was testimony that, on February 3, 2012, the Petitioner was observed by Corrections Officer (CO) Youmans in the courthouse and “[h]e appeared to be watching people as they would move, again, looking at his watch, write down notes.” RP at 187. After watching this behavior for a few minutes, CO Youmans attempted to make contact with the Petitioner. However, the Petitioner evaded CO Youmans and left the building. RP at 189. CO Youmans continued to watch the Petitioner through the window and observed him continue to look around and make notes. RP at 189-90. Again, CO Youmans tried to make contact and the Petitioner avoided him. RP at 190-191.

The prosecutor did not rely on either of these exhibits in any meaningful way. It was a legitimate trial tactic of the defense to try and use these items to support the contention that the Petitioner had a diminished capacity. If the Court finds that these items were improper, any error is harmless when looking at the overwhelming evidence of guilt in this case.

**iv. Was trial counsel ineffective when he failed to ask the sentencing judge to find that Disarming an Officer and Assault 1 (on that same Officer) constituted the same criminal conduct?**

**No. These crimes do not constitute “same criminal conduct.”**

RCW 9.94A.589(1)(a) defines “same criminal conduct” as “two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim.” In order to be “same criminal conduct” all three factors must be present. *State v. Porter*, 133 Wash.2d 177, 181, 942 P.2d 974 (1997), cited in *State v. Price*, 103 Wash.App. 845, 14 P.3d 841 (2000), *review denied*, 143 Wash.2d 1014, 22 P.3d 803 (2001).

If any one element is missing, multiple offenses cannot be said to encompass the same criminal conduct, and they must be counted separately in calculating the offender score. *See Note, The “Same Criminal Conduct” Exception of the Washington Sentencing Reform Act: Making the Punishment Fit the Crimes—State v. Collicott*, 112 Wash.2d 399, 771 P.2d 1137 (1989), 65 Wash. L.Rev.. 397, 402–03 (1990).

*State v. Lessley*, 118 Wash.2d 773, 778, 827 P.2d 996 (1992); *See State v. Wilson*, 136 Wash. App. 596, 612–13, 150 P.3d 144, 152 (2007).

The courts narrowly construe RCW 9.94A.589(1)(a) to disallow most assertions of “same criminal conduct.” *State v. Flake*, 76 Wash.App. 174, 180, 883 P.2d 341 (1994). The Appellate Court will not disturb a trial court's same criminal conduct decision unless the trial court abused its discretion or misapplied the law. *State v. Burns*, 114 Wash.2d 314, 317, 788 P.2d 531 (1990); *State v. Walker*, 143 Wash. App. 880, 890, 181 P.3d 31, 36 (2008).

In the case at bar, the Petitioner's two offenses occurred at the same general place and time and against the same victim. The inquiry must therefore focus on the Petitioner's criminal intent. To establish that two crimes share a criminal intent, the criminal conduct must either be the same for both crimes or one crime must further the other. See *State v. Williams*, 135 Wash.2d 365, 368, 957 P.2d 216 (1998); *State v. Vike*, 125 Wash.2d 407, 410, 885 P.2d 824 (1994).

#### Statutory Intent

Here, the statutory intents are clearly different. As charged in this case, Assault in the First Degree requires an assault committed with the intent to inflict great bodily harm. RCW 9A.36.011(1). Disarming a Law Enforcement Officer requires a knowing removal of a firearm from the person a law enforcement officer. RCW 9A.76.023.

Thus, the Court must look at the objective intent of the Petitioner and whether one crime furthered the other.

#### Objective Intent

Objective intent may be determined by examining whether one crime furthered the other or whether both crimes were a part of a recognizable scheme or plan. *State v. Lewis*, 115 Wash.2d 294, 302, 797 P.2d 1141 (1990). But where the second crime is "accompanied by a new

objective 'intent,' ” one crime can be said to have been completed before commencement of the second; therefore, the two crimes involved different criminal intents and they do not constitute the same criminal conduct.

*State v. Grantham*, 84 Wash.App. 854, 859, 932 P.2d 657 (1997).

*State v. Miller*

The Petitioner cites to *State v. Miller*, 92 Wash.App. 693, 964 P.2d 1196 (1998) in support of his contention that Counts II and III constituted same criminal conduct. PRP at 53-55. However, the facts of *Miller* are distinguishable from the case at bar.

In *Miller*, the defendant was convicted of attempted theft of a firearm and third degree assault. *State v. Miller*, 92 Wash. App. 693, 696, 964 P.2d 1196, 1198 (1998), as amended (Nov. 6, 1998), as amended (Dec. 11, 1998).

The charges in *Miller* arose out of an altercation between Miller and Vancouver Police Officer Charles Ford. Officer Ford pulled Miller over after he saw Miller's car nearly collide with another vehicle. After observing a revolver on the front seat of Miller's car, Ford ordered Miller away from the car and told him to turn around and put his hands behind his back. Ford tried to handcuff Miller but Miller resisted and pulled his hands apart. *State v. Miller*, 92 Wash. App. at 697.

Ford then jumped on Miller to control him while trying to put on the handcuffs. Miller rolled out from underneath Ford and put his hands on Ford's holstered gun. Miller yanked on the gun, while Ford struggled to keep it in the holster. During the struggle the two men moved about 25 feet across the parking lot. Several witnesses testified that Miller eventually had Officer Ford down on his knees with one arm wrapped around Ford's neck and the other hand on the gun. One witness said, "Officer Ford wasn't doing hardly anything. I think his face was purple and he was losing." The same witness broke up the fight with a football block and Miller was able to escape. *State v. Miller*, 92 Wash. App. at 697.

Miller was charged with Assault in the Third Degree which does not require any particular injury, simply an offensive touching with a law enforcement officer as the victim. The Court concluded that the assault and theft of a firearm were the same criminal conduct because "Miller could not deprive Officer Ford of his holstered weapon without assaulting him." *Miller* at 708.

The two cases are distinguishable because, in the case at bar, the Petitioner did not necessarily have to commit Assault in the First Degree in order to effectuate his Disarming of a Law Enforcement Officer. Further, the Petitioner was armed with a knife and had already assault

Deputy Davin; therefore, he did not necessarily have to commit Disarming a Law Enforcement Officer to commit the assault. No matter how short, the Petitioner had time to consider his next action between completing the disarming Deputy Davin and continuing on to assault her.

*State v. Anderson*

The Petitioner cites *State v. Anderson*, 72 Wash.App. 453, 864 P.2d 1001 (1994) for the proposition that the current convictions are the same criminal conduct as one crime furthered the other. PRP at 55-56.

In *Anderson*, the defendant was convicted of Assault in the First Degree and Escape in the First Degree. *State v. Anderson*, 72 Wash. App. 453, 457, 864 P.2d 1001, 1004 (1994).

The Court held that:

The evidence in this case clearly shows that Anderson committed the assault on Bergman in order to further his escape from Bergman's custody. Without incapacitating Bergman or at least neutralizing Bergman's firearm, Anderson would have been unable to complete his escape. Objectively viewed, Anderson's criminal intent was the same from one offense to the other: a desire to escape Bergman's custody. Therefore, we conclude the two offenses encompassed the same criminal conduct. The trial court abused its discretion in counting the offenses separately for sentencing purposes.

*State v. Anderson*, 72 Wash. App. at 464.

In this case, the facts are more analogous to *State v. Wilson*.

State v. Wilson

On April 16, 2005, the Clallam County District Court issued a no-contact order prohibiting Gregory Wilson from contacting Charlene Sanders, his girlfriend of six years, in person, by telephone, or through any intermediary except an attorney, a police officer, or an officer of the court. The no-contact order listed Sanders' address as 1123 East Park Avenue in Port Angeles, but it did not prohibit Wilson's presence at that address, where he and Sanders had been living together. *State v. Wilson*, 136 Wash. App. 596, 600, 150 P.3d 144, 146–47 (2007).

Shortly thereafter, Sanders and Wilson resumed living together. On August 22, 2005, Wilson and Sanders argued, and Wilson left the house angry around 11:00 p.m. Sanders “knew he'd be back.” Wilson returned home around 2:30 a.m. Unable to open the door without his key, which he had left behind, Wilson angrily forced open the kitchen door, splintering some of the wood, went to the bedroom, grabbed Sanders by her hair, and pulled her out of bed. Sanders asked Wilson to go into the kitchen with her so they would not wake her sleeping grandson. *State v. Wilson*, 136 Wash. App. at 601.

At some point, Wilson kicked Sanders once, left the house to speak with friends outside, immediately returned and re-entered the house,

picked up a piece of the splintered wood from the kitchen door, and used it to threaten to kill Sanders. *Wilson* at 601.

Using her cellular phone to call 911, Sanders told the police that Wilson was living at the home, but “he wasn't supposed to be there.” Wilson left the home and traveled by car to a friend's house. When the police arrived at the residence, Sanders refused medical attention because she “hadn't been hurt in any way.” *Id.*

Wilson was convicted of assault in violation of a protection order and felony harassment. The State appealed the trial court's finding that these crimes constituted the same criminal conduct for offender score purposes. *State v. Wilson*, 136 Wash. App. at 600.

The State argued, and the Court of Appeals agreed, that the record showed (1) Wilson entered the home with the intent to assault Sanders—he broke down the door, went immediately to the bedroom, pulled Sanders out of bed by her hair, and kicked her in the stomach; (2) when Sanders said that she was going to call the police, Wilson left the house to warn his friends outside; and (3) Wilson then reentered the house, this time with a newly formed and separate intent to harass Sanders verbally—he lifted a stick of wood from the broken door and threatened to kill Sanders. *Id.* at 614-15.

The criminal intent for harassment requires that the defendant knowingly threaten (1) to cause bodily injury to another; (2) to cause physical damage to the property of another; (3) to subject another to physical confinement or restraint; or (4) maliciously to perform any act that places the person threatened in fear for her physical or emotional safety. RCW 9A.46.020. Assault in violation of a no-contact order requires that the defendant intentionally assault another (assault not amounting first or second degree) when a court has already issued a protective order restricting contact between the parties. RCW 26.50.110(4).

The record clearly shows that Wilson had separate criminal intents for the two acts—one for the assault (physically assaulted Sanders when he pulled her by the hair from the bed) and one for the harassment (threatened to kill Sanders while waving a stick of wood at her). Not only do these two crimes' respective statutes define different criminal intents, but also the two acts giving rise to the two criminal charges were separated in time, providing opportunity for completion of the assault and ending Wilson's assaultive intent, followed by a period of reflection and formation of a new, objective intent upon reentering the house to threaten Sanders and to harass her. *Grantham*, 84 Wash.App. at 858, 932 P.2d 657.

Construing RCW 9.94A.589(1)(a) narrowly to disallow most assertions of “same criminal conduct,” the Court vacated the trial court's same-criminal-conduct finding. *Id.* at 614–15; See *Flake*, 76 Wash.App. at 180, 883 P.2d 341.

Prior to disarming Deputy Davin, the Petitioner had already begun his assault on her by stabbing, or trying to stab, her. RP 69, 107. This assault was interrupted when Judge Edwards intervened. RP 109-110, 130-132. The Petitioner then turned his attack towards the judge. RP 111, 134. This allowed Deputy Davin a chance to draw her gun and she pointed it at the Petitioner. RP 71, 135. The Petitioner stopped his attack on Judge Edwards and grabbed the deputy’s gun. RP 72, 135.

Deputy Davin testified about what occurred next as follows:

Q: Deputy, let me take you back to the point in time when the defendant had taken your gun away from you and you were on the ground on the first floor. Was there any time period, between when the gun was taken from you and the first shot was fired?

A: Yes.

Q: During that time, did you – were you able to struggle or move at all?

A: Yes.

Q: Is that the time that you described as the kicking?

A: Yes.

Q: Besides your kicking, were you also moving your body during that time period?

A: Yes.

Q: During that process, did the defendant keep the gun pointed at you?

A: Yes.

Q: After the first shot was there any delay or hesitancy in the second shot?

A: Yes.

RP 94. The testimony of Judge Edwards differed from this. He testified that the shots occurred “within a split second of him taking the gun...” RP 137.

This case differs from *Miller* and *Anderson* as the Petitioner did not make an attempt to take the deputy’s firearm until she unholstered the weapon and aimed it at the Petitioner. Arguably, the Petitioner’s intent when disarming Deputy Davin was to prevent her from shooting him. His intent in shooting Deputy Davin was presumably to injure her so that she could not follow him and he could effectuate his escape. The Petitioner’s statements bear this out:

KRAVETZ: And uh from that point the female person uh had pulled out a firearm and I thought this person was going to shoot me and I didn’t want that. So from there I grabbed it from her hands and as soon as I did that you know basically it just happened so fast I just panicked.

...

And fired two shots. And then I just got out I just wanted something so that these people would not be able to you know if somebody is stunned in some sort of a way by something like that then I can get out of there, they won't be able to hurt me.

PRP Appendix D-2 at 26.

The Petitioner completed the act of disarming the deputy prior to committing the assault by shooting her. These were two separate acts that had differing intents.

**v. Was trial counsel's failure to raise the sentencing issue of double counting of the same fact ineffective assistance of counsel?**

**No. *Nordby* is inapplicable to the case at bar.**

In *State v. Nordby*, the defendant was convicted of vehicular assault. *State v. Nordby*, 106 Wash. 2d 514, 516, 723 P.2d 1117, 1119 (1986). Under a former version of RCW 46.61.522(1) infliction of "serious bodily injury" was a prerequisite for vehicular assault. *State v. Nordby*, 106 Wash. 2d at 519. The trial court in *Norby* justified an exceptional sentence based upon the seriousness of the victim's injuries. *Norby* at 516.

The Court of Appeals found that "this factor was already considered in setting the presumptive sentence range for vehicular assault.

It cannot, therefore, be a basis for a sentence outside the presumptive range.” *Nordby* at 519.

In *State v. Fisher*, as cited by Petitioner, the Defendant was convicted of two counts of indecent liberties. *State v. Fisher*, 108 Wash. 2d 419, 420, 739 P.2d 683, 684 (1987). The court imposed a sentence outside the presumptive range based in part because Fisher “committed multiple incidents/acts with the same victim”. *State v. Fisher*, 108 Wash. 2d at 425. The Court found that

Pursuant to the SRA's provision on sentencing for multiple current convictions, the trial court took into account Fisher's simultaneous convictions of two counts of indecent liberties in determining Fisher's criminal history, in order to compute his offender score and the presumptive sentencing range. By considering the multiplicity of Fisher's convictions, the trial court already accounted for the multiple incidents underlying those convictions. Therefore, it was not justified in citing Fisher's commission of multiple incidents with the same victim as a reason for imposing an exceptional sentence.

*State v. Fisher* at 425–26.

In *McAlpin*, Douglas McAlpin received a sentence of 90 months following his plea of guilty to a charge of first degree robbery committed on the first day of April 1985. The sentence, signed on the 13th day of May 1985, exceeded the presumptive sentence range established under the

Sentencing Reform Act of 1981 (SRA), RCW 9.94A. *State v. McAlpin*, 108 Wash. 2d 458, 459, 740 P.2d 824, 824 (1987).

The court based the exceptional sentence, in part, on the fact that the defendant had an extensive criminal history of felonies committed while under the age of 15 that were not computed as prior criminal history and thus the defendant was not penalized twice for his behavior. *State v. McAlpin*, 108 Wash. 2d 458, 461, 740 P.2d 824, 825–26 (1987). McAlpin appealed.

The Court of Appeals held that, “[g]enerally, “criminal history” may not be used to justify an exceptional sentence, because it is one of two factors (the other being the “seriousness level” of the current offense committed) which is used to compute the presumptive sentence range for a particular crime.” *State v. McAlpin*, 108 Wash. 2d at 463. However, the Court concluded “[a]bsent an express legislative mandate that pre-age 15 felonies be ignored entirely, we decline to rewrite or modify the language of the SRA to reach the result sought here by the defendant” and found that this was a “substantial and compelling” reason for going outside the standard range. *State v. McAlpin* at 465.

The Petitioner is attempting to bootstrap the rationale of *Nordby* and *Fisher* to stand for the proposition that, because Count II – Disarming a Police Officer required knowledge that the victim was a law enforcement officer, the trial court couldn't use the Petitioner's knowledge of Deputy Davin's law enforcement status as an aggravating circumstance for Count II – Assault in the First Degree.

None of the cases cited by the Petitioner indicate this conclusion. The *Norby* (level of injury suffered by the victim) and *Fisher* (multiple incidents were addressed by multiple charged counts) cases prohibit additional punishment based on something already inherent in the charged crime. They do not extend so far as to prohibit the use of a fact or circumstance as an aggravating circumstance on one count simply because it may be the element of another charged crime.

## **B. Sentencing Issues**

- i. Was the Petitioner entitled to an exceptional sentence downward based on the statutory mitigating factor of mental illness?**

**No. Any deviation from the standard range pursuant to RCW 9.94A.535 is discretionary with the court.**

In considering a sentence above or below the standard range, RCW 9.94A.535 provides that: "The court may impose a sentence outside the

standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.”

Defense counsel asked the trial court to find that, pursuant to RCW 9.94A.535(1)(e), “The defendant's capacity to appreciate the wrongfulness of his conduct, or to conform his conduct to the requirements of the law, was significantly impaired.” CP 327-333.

The Petitioner asks that this case be remanded for resentencing and that “[t]he Superior Court should be directed to consider imposing an exceptional sentence below the standard range based upon this mitigating factor.” PRP at 65. However, there is no evidence in the record that the sentencing judge failed to consider this as an option. The Petitioner points to no statement or action by the trial court that indicates it operated under a misunderstanding as to what its authority was in regards to sentencing the Petitioner.

The aggravating/mitigating circumstances of RCW 9.94A.535 do not operate in the same way as the sentencing enhancements of RCW 9.94A.533 do. If 9.94A.533 applies in a case, then the trial court is bound to reduce or increase the sentencing range. However, there is no such mandate that a trial court impose an exceptional sentence, either upward or

downward, simply because one of the statutory factors may have been proven.

In this particular case, there was further tension because beyond the standard verdict, the jury found that the Petitioner's crime in Count II was aggravated as it was committed against a law enforcement officer. The court found that there were substantial and compelling reasons for an exceptional sentence upward that outweighed any potential mitigation. This sentence should be affirmed.

**ii. Did the sentencing judge abuse his discretion in imposing an exceptional sentence above the standard range on the Petitioner?**

**No. The court did not exceed its authority and properly imposed an exceptional sentence based upon the aggravating factor found by the jury.**

The Court of Appeals reviews an exceptional sentence under the abuse of discretion standard. *State v. Law*, 154 Wash.2d 85, 93, 110 P.3d 717 (2005). A trial court abuses its discretion with regard to sentencing length in two ways: (1) by relying on an impermissible reason; or (2) by “impos[ing] a sentence which is so long that, in light of the record, it shocks the conscience of the reviewing court.” *State v. Ritchie*, 126 Wash.2d 388, 396, 894 P.2d 1308 (1995) (citing *State v. Ross*, 71

Wash.App. 556, 571–72, 861 P.2d 473 (1993), *review denied*, 123 Wash.2d 1019, 875 P.2d 636 (1994)).

In this case, the Petitioner alleges that the trial court relied on an impermissible reason. He claims the court used his “...mental illness...as a de facto aggravating factor.” PRP at 65. Further, he asserts that the court used “future dangerousness as a reason for imposing an exceptional sentence above the range.” PRP at 65.

However, the trial court’s Findings and Conclusions do not support these claims. See Attachment “D”. The Petitioner makes no challenge to these findings.

The court made no finding regarding “future dangerousness” nor did the court reference the Petitioner’s mental health in any way. In essence, the court found that, unanimously and beyond a reasonable doubt, that the jury found that Count II was committed against a law enforcement officer who was performing her official duties at the time of the offense. Based on this finding by the jury, the court concluded that this was a “substantial and compelling” reason and that the standard range was “clearly too lenient and not proportionate to the seriousness of the offense.” Attachment “D”.

Any further comments made by the court are irrelevant, as the trial court reduced its findings and conclusions to writing and it is clear that the basis for the exceptional sentence in this case was proper and should be affirmed.

## **V. CONCLUSION**

Trial counsel in this matter was not ineffective. When viewing the record as a whole, it is clear that he had crafted an intentional strategy to present a strong defense of diminished capacity. It is worth noting that he did, in fact, win an acquittal on the most serious of the charges.

Any error that might be found with admission of Exhibits 57 and 59 is harmless beyond a reasonable doubt. Item 57 was not relied on at all in the prosecutor's closing, and was only briefly mentioned in rebuttal. Item 59 was referred to in closing generally, but was insignificant compared to the statements of the Petitioner regarding his intense dislike for law enforcement in general, and Deputy Libby specifically.

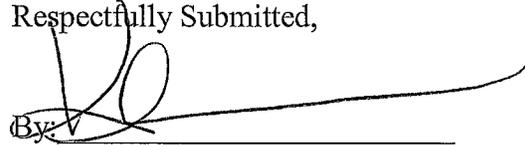
The sentence imposed in this case was a proper application of the trial court's discretion and was based upon an appropriate aggravating circumstance.

None of the issues raised in this petition were raised in the trial court or in the direct appeal. The Petitioner has failed to show any

prejudice that would justify the extraordinary remedy of disturbing the finality of this case at this juncture. The verdict and sentence should be affirmed and the petition should be denied.

DATED this 23<sup>RD</sup> day of January, 2017.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'K. SVOBODA', is written over a horizontal line. The signature is stylized and extends to the right.

KATHERINE L. SVOBODA  
Prosecuting Attorney  
for Grays Harbor County  
WSBA #34097

Attachment “A”

2012 APR -4 AM 8:17

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SUPERIOR COURT OF WASHINGTON FOR GRAYS HARBOR COUNTY

STATE OF WASHINGTON,

Plaintiff,

No.: 12-1-140-8

INFORMATION

v.

STEVEN DANIEL KRAVETZ,  
DOB: 11-16-1977

Defendant.

P.A. No.: CR 12-0146  
P.R. No.: MCSO 12-03019

I, H. Steward Menefee, Prosecuting Attorney for Grays Harbor County, in the name and by the authority of the State of Washington, by this Information do accuse the defendant of the crime(s) of ATTEMPTED MURDER IN THE SECOND DEGREE, ASSAULT IN THE FIRST DEGREE (TWO COUNTS), and DISARMING A LAW ENFORCEMENT OFFICER, committed as follows:

COUNT 1.

That the said defendant, Steven Daniel Kravetz, in Grays Harbor County, Washington, on or about March 9, 2012, with intent to commit the crime of Murder in the Second Degree, did an act which was a substantial step toward the commission of the crime of Murder in the Second Degree, to wit: did attempt to intentionally cause the death of another person, to wit: Polly Davin;

CONTRARY TO RCW 9A.28.020 and RCW 9A.32.050(1)(a); and furthermore at the time of the commission of the crime, the defendant was armed with a firearm as defined in RCW 9.41.010; contrary to RCW 9.94A.533(3) and against the peace and dignity of the State of Washington..

The State further alleges that the offense charged in Count 1 was committed against a law enforcement officer who was performing her official duties at the time of the offense, that the defendant knew that the victim was a law enforcement officer and the victim's status as a law enforcement officer is not an element of the offense charged in Count 1, Contrary to RCW 9.94A.535(2)(v).

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4 **COUNT 2.**

5 And I, H. Steward Menefee, Prosecuting Attorney aforesaid, further do accuse the  
6 defendant of the crime of Assault in the First Degree, a crime based on a series of acts connected  
7 together with Count 1, committed as follows:

8 That the said defendant, Steven Daniel Kravetz, in Grays Harbor  
9 County, Washington, on or about March 9, 2012, with intent to  
10 inflict great bodily harm did assault another person, to wit: Polly  
11 Davin, with a firearm or other deadly weapon or by any force or  
12 means likely to produce great bodily harm or death;

13 CONTRARY TO RCW 9A.36.011(1)(a); and furthermore at the time of the commission of this  
14 crime, the defendant was armed with a firearm as defined by RCW 9.41.010; Contrary to RCW  
15 9.94A.533(3) and against the peace and dignity of the State of Washington.

16 The State further alleges that the offense charged in Count 2 of this Information was committed  
17 against a law enforcement officer who was performing her official duties at the time of the  
18 offense, the defendant knew that the victim was a law enforcement officer and the victim's status  
19 of a law enforcement officer is not an element of the offense charged in Count 2 above. RCW  
20 9.94A.535(2)(v).

21 **COUNT 3.**

22 And I, H. Steward Menefee, Prosecuting Attorney aforesaid, further do accuse the  
23 defendant of the crime of Disarming a Law Enforcement Officer, a crime based on a series of  
24 acts connected together with Counts 1 and 2, committed as follows:

25 That the said defendant, Steven Daniel Kravetz, in Grays Harbor  
26 County, Washington, on or about March 9, 2012, with intent to  
27 interfere with the performance of a law enforcement officer's  
duties, did knowingly remove a firearm from the person of Polly  
Davin, a law enforcement officer, when that officer was acting  
within the scope of the officer's duties, did not consent to the  
removal and defendant had reasonable cause to know and/or knew  
that the individual was a law enforcement officer;

CONTRARY TO RCW 9A.76.023(1); and furthermore it is alleged that the firearm involved in  
the commission of this crime was discharged when the defendant removed the firearm. Contrary  
to RCW 9A.76.023(2)(b) and against the peace and dignity of the State of Washington.

**COUNT 4.**

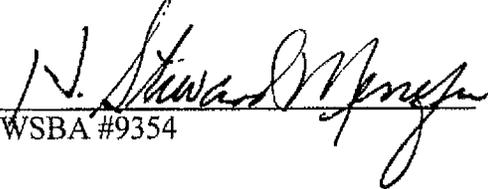
And I, H. Steward Menefee, Prosecuting Attorney aforesaid, further do accuse the  
defendant of the crime of Assault in the First Degree, a crime based on a series of acts connected  
together with Counts 1, 2, and 3, committed as follows:

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4 That the said defendant, Steven Daniel Kravetz, in Grays Harbor  
5 County, Washington, on or about March 9, 2012, with intent to  
6 inflict great bodily harm, did assault another person, to wit: David  
7 L. Edwards, with a deadly weapon, or by force or by means likely  
8 to produce great bodily harm or death;

9  
10 CONTRARY TO RCW 9A.36.011(1)(a) and furthermore it is alleged that at the time of the  
11 commission of the crime charged in Count 4 was armed with a deadly weapon other than a  
12 firearm; Contrary to RCW 9.94A.533(4) and against the peace and dignity of the State of  
13 Washington.

14 DATED this 3<sup>rd</sup> day of April, 2012.

15  
16 H. STEWARD MENEFEE  
17 Prosecuting Attorney  
18 for Grays Harbor County

19  
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22 WSBA #9354

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24 HSM/lh  
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Attachment “B”

LEWIS COUNTY SUPERIOR COURT  
CLERKS MINUTES

March 26, 2013

**JUDGE: RICHARD BROSEY, PRESIDING**  
COURT REPORTER: JANE WESTLAND  
CLERK: JOELLE ROBERTS

CAUSE # 13-1-00175-1

(7)

STATE OF WASHINGTON  
VS  
STEVEN KRAVETZ (PRES, IC)

GERALD FULLER (PRES)  
H STEWARD MENEFEE (PRES)  
DAVID ARCURI (PRES)

THIS MATTER CAME ON FOR JURY TRIAL

Pre-marked Plff ID #1-54.

Exhibits admitted and used in 3.5 hearing, have now been marked as IDs for trial.

<u>3.5</u>	<u>Trial</u>
1 =	27
2 =	28
3 =	29
4 =	30
5 =	31
6 =	32

10:38 In session.

Pretrial conference was held in courtroom with all parties present.  
Both parties ready to proceed.

Court gave the defendant his rights for trial.  
The defendant acknowledged understanding his rights.  
Court entered findings of fact regarding 3.5, hearing held prior.

Witnesses excluded except for the chief investigating officer.

11:09 Jurors entered the courtroom and were sworn for cause.

Court introduced the parties, the case and read the information.

11:20 General voir dire by the court.

Court excused Panel 2 jurors for cause;

3,5,8,9,11,15,20,24,25,26,39,42,43,46,48,52,53,57,65,69

And on Panel 1; 3,6,7,8,14,25,37,39,43,44,45

Mr. Fuller requested Juror #6 be excused for cause.

No objection.

Court granted Juror #6 excused.

11:52 Voir dire by Mr. Fuller.

Jurors from Panel 2 excused for cause; 4,14,16,17,19,29,31,47,55,59,70

Panel 1 excused for cause; 2,4,10,11,12,17,20,28,36,40,42,47,54

12:16 Jurors excused for noon recess. Jurors were told to return at 1:30.

12:22 Noon recess.

1:32 Court in session.

All parties present.

1:40 Jurors were brought into the courtroom.

Court read witness list to jurors.

1:43 Voir dire by Mr. Arcuri.

Mr. Arcuri moved to excuse juror #30.

No objection.

Court excused juror #30.

2:02 Further voir dire by Mr. Fuller.

2:20 No further voir dire by Mr. Arcuri.

St's 1st peremptory challenge #22

Deft's 1st peremptory challenge #21

St's 2nd peremptory challenge #35

Deft's 2nd peremptory challenge #23

St's 3rd peremptory challenge #45

Deft's 3rd peremptory challenge #40  
St's 4th peremptory challenge #53  
Deft's 4th peremptory challenge #51  
St's 5th peremptory challenge #61  
Deft's 5th peremptory challenge #63  
St's 6th peremptory challenge accept thru 64/#67  
Deft's 6th peremptory challenge #56  
St's 1<sup>st</sup> Alt peremptory challenge accept #5  
Deft's 1<sup>st</sup> Alt peremptory challenge accept #5  
St's 2<sup>nd</sup> Alt peremptory challenge #13  
Deft's 2<sup>nd</sup> Alt peremptory challenge accept #16

2:42 The following Jurors were sworn to hear the case at issue.

1. Nannette Hoile
2. Mary Roberts
3. Garnet Lund
4. Cheri Novak
5. Matthew Briggs
6. Deanne Minkoff
7. Konnie Precious
8. Brian Sansouci
9. Scott Rose
10. Nancy Enger
11. Diane Harris
12. Dean Phillips
13. Anne Miller
14. Tammy Zigler

2:43 The remaining jurors were thanked and excused.

Rules for the jurors were read by the court.

2:53 Jurors excused for recess.

Bailiff's handed out note pads and pens and the court gave the jurors instructions on note taking.

3:21 Court in session.

3:28 Jury was brought into the courtroom.

3:29 Opening statement by Mr. Menefee.

3:56 Opening statement by Mr. Arcuri.

**4:04 Ms. Jackie Watkinson** called to the stand, sworn by Court, and examined by Mr. Menefee.

Mr. Menefee moved to admit Piff ID #23, 24, 25 & 26.

No objection.

**COURT ADMITTED PLFF EX #23, 24, 25, & 26.**

Mr. Menefee moved to admit Piff ID #53, & 54.

No objection.

**COURT ADMITTED PLFF EX #53 & 54.**

Mr. Arcuri had no questions for this witness.

4:25 Ms. Watkinson stepped down.

**4:26 Ms. Juanita Chris Smith** called to the stand, sworn in by Court, and examined by Mr. Menefee.

No questions of this witness by Mr. Arcuri.

4:37 Ms. Smith stepped down.

**4:38 Deputy Polly Davin** was called to the stand, sworn in by Court, and examined by Mr. Menefee.

5:01 Deputy Davin stepped down.

5:02 Jurors excused for the evening recess. They were told to be back in the morning at 9:20.

5:02 Evening recess.

Attachment “C”

LEWIS COUNTY SUPERIOR COURT  
CLERKS MINUTES

April 3, 2013

**JUDGE: RICHARD BROSEY, PRESIDING**  
COURT REPORTER: CHERYL HENDRICKS  
CLERK: JOELLE ROBERTS

CAUSE # 13-1-00175-1

STATE OF WASHINGTON  
VS  
STEVEN KRAVETZ (PRES, IC)

GERALD FULLER (PRES)  
H STEWARD MENEFFEE (PRES)  
DAVID ARCURI (PRES)

THIS MATTER CAME ON FOR DAY SEVEN OF JURY TRIAL

Jury sent notice to Court that they are deadlocked.

9:57 Court in session. All parties present.

Court went on the record to state that this was the one and only inquiry by the jury.

10:09 Jurors escorted into the courtroom.

Presiding juror was questioned by the Court. The jury was sent back to deliberate.

10:11 Jurors escorted from the courtroom.

Court was informed that the jurors have reached a verdict.

1:37 Court in session. All parties present.

1:39 Jurors escorted into the courtroom.

Court inquired of the presiding juror if the jury had reached a verdict. The presiding juror stated yes and handed the verdict to the bailiff, the bailiff to the court and the court to the clerk who then read the verdict which was:

**NOT GUILTY** of Attempt to Commit Murder in the Second Degree Count I  
**GUILTY** of Assault in the First Degree Count II  
**GUILTY** of Disarming a Law Enforcement Officer Count III  
**NOT GUILTY** of Assault in the First Degree Count IV

**GUILTY** of Assault in the Second Degree –lesser included Count IV

**QUESTION:** Was the defendant armed with a firearm at the time of the commission of the offense?

**ANSWER: YES**

**QUESTION:** Was the crime of Assault in the First Degree committed against a law enforcement officer who was performing her official duties?

**ANSWER: YES**

**QUESTION:** Did the defendant know at the time of the commission of the offense that the victim was a law enforcement officer?

**ANSWER: YES**

**QUESTION:** Was the firearm discharged by the defendant after he removed the firearm from the law enforcement officer?

**ANSWER: YES**

**QUESTION:** Was the defendant armed with a deadly weapon other than a firearm at the time of the commission of the offense?

**ANSWER: YES**

Court inquired if counsel wanted the jury polled.

All jurors answered yes with the exception of #12.  
The Court told the jury to return to deliberating.

1:43 Jurors escorted from the courtroom.

The Court sent new verdict forms with bailiff for the jury.

Court was informed that the jurors have reached a verdict.

2:25 Court in session. All parties present.

2:26 Jurors escorted into the courtroom.

Court inquired of the presiding juror if the jury had reached a verdict. The presiding juror stated yes and handed the verdict to the bailiff, the bailiff to the court and the court to the clerk who then read the verdict which was:

**NOT GUILTY** of Attempt to Commit Murder in the Second Degree Count I

**GUILTY** of Assault in the First Degree Count II

**GUILTY** of Disarming a Law Enforcement Officer Count III

**NOT GUILTY** of Assault in the First Degree Count IV  
**GUILTY** of Assault in the Second Degree –lesser included Count IV

**QUESTION:** Was the defendant armed with a firearm at the time of the commission of the offense?

**ANSWER: YES**

**QUESTION:** Was the crime of Assault in the First Degree committed against a law enforcement officer who was performing her official duties?

**ANSWER: YES**

**QUESTION:** Did the defendant know at the time of the commission of the offense that the victim was a law enforcement officer?

**ANSWER: YES**

**QUESTION:** Was the firearm discharged by the defendant after he removed the firearm from the law enforcement officer?

**ANSWER: YES**

**QUESTION:** Was the defendant armed with a deadly weapon other than a firearm at the time of the commission of the offense?

**ANSWER: YES**

Court inquired if counsel wanted the jury polled.

All jurors answered yes.

Court then thanked and excused the jurors.

2:32 Jurors escorted from the courtroom.

Mr. Arcuri requesting Mr. Kravetz be housed in Lewis County Jail and sentenced here.  
Court allowed Mr. Kravetz to be housed here until further order of the Court.

2:42 Court adjourned

Attachment “D”

2013 MAY 17 PM 4:35

KATHY BRACK, CLERK

BY Bm  
DEPUTY

*Hlc*

ORIGINAL

Superior Court of Washington  
County of Lewis

State of Washington, Plaintiff;

vs.

STEVEN DANIEL KRAVETZ  
Defendant.

PCN:  
SID: WA22804475  
DOB: 11-16-1977

No. 13-1-00175-1  
( Grays Harbor No. 12-1-490-8)  
Felony Judgment and Sentence --  
Prison  
(FJS)

Clerk's Action Required, para 2.1, 4.1 (4.3) (5.2)  
(5.3) (5.5) and 5.7  
 Defendant Used Motor Vehicle  
 Juvenile Decline |  Mandatory |  Discretionary

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, David P. Arcuri, and (deputy) prosecuting attorney, H. Steward Menefee, were present.

II. Findings

2.1 Current Offenses: Based upon the jury's verdict entered on April 3, 2013, the defendant is guilty of:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
II	ASSAULT IN THE FIRST DEGREE	9A.36.011(1)(a)	A	03-09-2012
III	UNLAWFULLY DISARMING A LAW ENFORCEMENT OFFICER	9A.76.023(1)(b)	B	03-09-2012
IV	ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	B	03-09-2012

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

- Additional current offenses are attached in Appendix 2.1a.
- The jury returned a special verdict or the court made a special finding with regard to the following:
- The defendant used a firearm in the commission of the offense in Count II. RCW 9.94A.602, 9.94A.533.
- The defendant used a deadly weapon other than a firearm in committing the offense in Count IV. RCW 9.94A.602, 9.94A.533.

*13-9-00826-6*  
*382*

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

Crime	Cause No.	Court (County & State)

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

**2.2 Criminal History (RCW 9.94A.525):**

CRIME	DATE OF SENTENCE	SENTENCING COURT (County and State)	DATE OF CRIME	A (Adult) or J (Juvenile)	TYPE OF CRIME
False Statement to a Public Servant	07-08-2008	Lewis County Superior Cr., WA 08-1-212:2	03-28-2008	A	GM
Assault in the Third Degree	07-08-0008	Lewis County Superior Cr., WA 08-1-212:2	03-28-2008	A	CLASS C FELONY

\*DV: Domestic Violence was pled and proved.

Additional criminal history is attached in Appendix 2.2.

The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

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

**2.3 Sentencing Data:**

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
II	4	XII	129 to 171 months	60 months (F)	189 to 231 months	life/\$50,000
III	n/a	unranked	0 to 365 days	n/a	0 to 365 days	10 yrs/\$20,000
IV	4	IV	15 to 20 months	12 months (D)	27 to 32 months	10 yrs/\$20,000

\*(F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are  attached  as follows: \_\_\_\_\_

**2.4**  **Exceptional Sentence.** The court finds substantial and compelling reasons that justify an exceptional sentence:

below the standard range for Count(s) \_\_\_\_\_  
 above the standard range for Count(s) II

- the defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
- Aggravating factors were  stipulated by the defendant,  found by the court after the defendant waived jury trial,  found by jury, by special interrogatory.
- within the standard range for Count(s) \_\_\_\_\_, but served consecutively to Count(s) \_\_\_\_\_.

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

2.5 **Ability to Pay Legal Financial Obligations.** The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds:

- That the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein: RCW 9.94A.753.
- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):
- The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

### III. Judgment

- 3.1 The defendant is *guilty* of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1;
- 3.2  The court *dismisses* Count(s) 1 in the charging document upon the jury verdict of not guilty.

### IV. Sentence and Order

It is ordered:

- 4.1 **Confinement.** The court sentences the defendant to total confinement as follows:
- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

300 months on Count II

364 ~~months~~ <sup>days</sup> on Count III

32 months on Count IV

- The confinement time on Count(s) \_\_\_\_\_ contain(s) a mandatory minimum term of \_\_\_\_\_.
- The confinement time on Count II includes 60 months as enhancement for:  firearm
- The confinement time on Count IV includes 12 months as enhancement for:  deadly weapon

Actual number of months of total confinement ordered is: 312 months

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_

The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_

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

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

- (b) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.

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

the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

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

(A) The defendant shall be on community custody for the longer of:  
(1) the period of early release, RCW 9.94A.728(1)(2); or  
(2) the period imposed by the court, as follows:

- Count(s) II 36 months for Serious Violent Offenses
- Count(s) IV 18 months for Violent Offenses
- Count(s) III n/a 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition;

(7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and 706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

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

consume no alcohol.

have no contact with: David L. Edwards, Polly Davin, Rita Zastrow, Linda Foster and Jackie Watkinson.

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

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

participate in the following crime-related treatment or counseling services:

undergo an evaluation for treatment for  domestic violence  substance abuse

mental health  anger management, and fully comply with all recommended treatment;

comply with the following crime-related prohibitions:

Other conditions:

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

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

JASS CODE:

PCV	\$ <u>500.00</u>	Victim assessment	RCW 7.68.035
CRC	\$ <u>200.00</u>	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
PUB	\$ <u>TBD</u>	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ <u>1,200.00</u>	Court appointed defense expert and other defense costs	RCW 9.94A.760
CLF	\$ <u>100.00</u>	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
	\$ <u>100.00</u>	DNA collection fee <input type="checkbox"/> not imposed due to hardship.	RCW 43.43.7541
JASS CODE	\$ <u>30,325.78</u>	Restitution to: <b>Labor and Industries, P.O. Box 44835, Olympia, WA 98504-4835, Claim Number AR46814 &amp; AR46812</b>	

\$1,421.07 Restitution to: Grays Harbor Sheriff's Department, P.O. Box 630,  
Montesano, WA 98563

\$ 33,846.85 Total

RCW 9A.94A.760.

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

A restitution hearing:

[X] shall be set by the prosecutor.

[ ] is scheduled for \_\_\_\_\_ (date).

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

SDK

[ ] **Restitution** Schedule attached.

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

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing 60 days from this date. RCW 9.94A.760.

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

[ ] The court orders the defendant to pay costs of incarceration at the rate of \$ \_\_\_\_\_ per day, (actual costs not to exceed \$100 per day). (JLR). RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 **DNA Testing:** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

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

[X] The defendant must report to the Grays Harbor County Jail within 72 hours of sentence and provide a DNA sample.

4.5 **No Contact:**

[X] The defendant shall not have contact with David L. Edwards, Polly Davin, Rita Zastrow, Linda Foster and Jackie Watkinson, including but not limited to, personal, verbal, telephonic, written or contact through a third party for life. (which does not exceed the maximum statutory sentence).

[ ] The defendant is excluded or prohibited from coming within \_\_\_\_\_ (distance) of:

\_\_\_\_\_ (name of protected person(s))'s  home/residence

work place;  school  (other location(s)) \_\_\_\_\_

\_\_\_\_\_, or

other location \_\_\_\_\_, or

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

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

**4.6 Other:**

**4.7 Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_

**V. Notices and Signatures**

**5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

**5.2 Length of Supervision.** If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**5.3 Notice of Income Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

**5.4 Community Custody Violation.** (a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633;

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

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

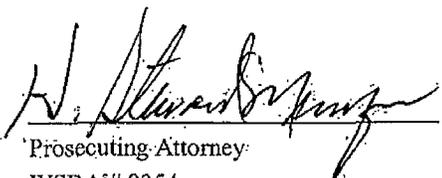
5.6 Reserved

5.7 **Motor Vehicle:** If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 **Other:** \_\_\_\_\_

Done in Open Court and in the presence of the defendant this date: 5/17/13

  
\_\_\_\_\_  
Judge Richard L. Brosey



Prosecuting Attorney:  
WSBA # 9354  
Print Name:  
H. STEWARD MENEFEE



Attorney for Defendant  
WSBA # 15557  
Print Name:  
DAVID P. ARGURI

Defendant:  
  
Print Name:  
STEVEN DANIEL KRAVETZ

**Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of the Department of Corrections (not serving a sentence of confinement in the custody of the Department of Corrections and not subject to community custody as defined by in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

My right to vote may be permanently restored by one of the following for each felony conviction: (a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; (b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; (c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or (d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: X

Any petition or motion for collateral attack on this judgment, including but not limited to any personal restraint petition, habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for a new trial or motion to arrest judgment must be filed within one year of the final judgment in this matter. The judgment in this matter will become final on the last of the following dates: The date it is filed with the clerk of the trial court, the date an appellate court issues its mandate disposing of a timely direct appeal in this case or the date that the United States Supreme Court denies a timely petition for certiorari to review a decision affirming this conviction. Failure to file a petition or motion for collateral attack within one year of the final judgment will waive any right you may have to collaterally attack this judgment.

Defendant's signature: X Steven D. Kravetz

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, the \_\_\_\_\_ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

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

Signed at Montesano, Washington, on \_\_\_\_\_

\_\_\_\_\_  
Interpreter

\_\_\_\_\_  
Print Name

I, \_\_\_\_\_, 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 the Court of said county and state, by: \_\_\_\_\_, Deputy Clerk

VI. IDENTIFICATION OF THE DEFENDANT

SID No: WA22804475 Date of Birth: 11-16-1977

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

FBI No: 167523JC2 Local ID No:

PCN No: Other: DOC No: 320316

Alias name; DOB:

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

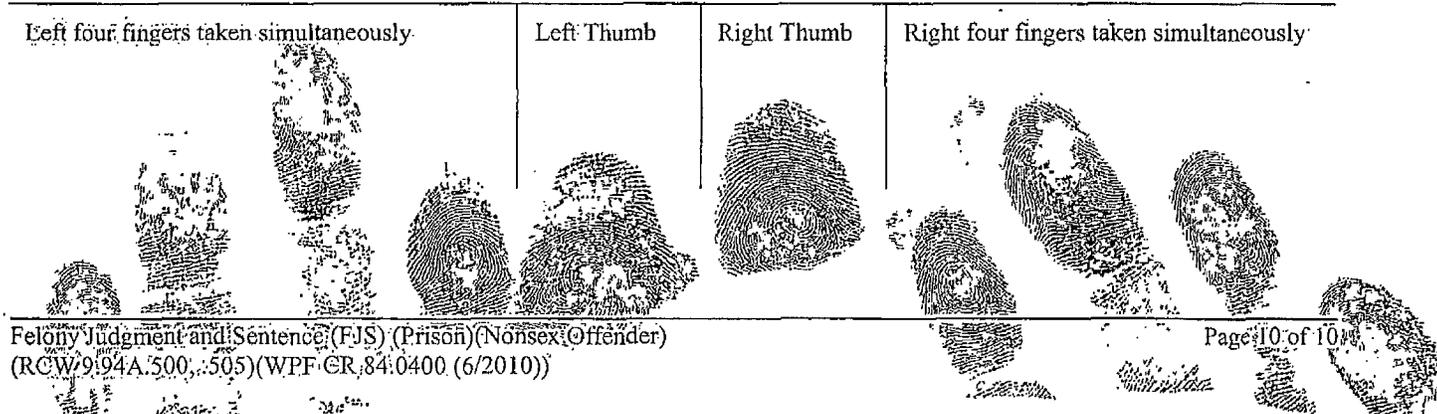
Fingerprints: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk Dated:

The defendant's signature:

Address:

Phone Number:



SUPERIOR COURT  
LEWIS COUNTY, WASH  
REC'D & FILED  
2013 MAY 17 PM 4:36  
KATHY BRACK, CLERK  
BY \_\_\_\_\_  
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR LEWIS COUNTY

STATE OF WASHINGTON,  
Plaintiff,

v.

STEVEN DANIEL KRAVETZ,  
Defendant.

No.: 13-1-175-1

(Grays Harbor Number 12-1-140-8)

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**  
Appendix 2.4 of Judgment and Sentence

THIS MATTER having come before the court for sentencing on the defendant on the above-titled cause and the court having heard the testimony at trial and viewed the exhibits and evidence admitted during the trial, considered the prosecutor's presentence report, considered the defendant's recommendation on sentencing and reviewed the certified copies of the defendant's previous criminal history in Lewis County cause number 08-1-00212-2 and being familiar with the files and records herein, the court makes the following findings and conclusions:

**FINDINGS OF FACT**

1.

After trial, the jury returned a verdict finding the defendant guilty on Count II, First Degree Assault, committed against Deputy Polly Davin and by special verdict found the defendant was armed with and/or used a firearm during the commission of that assault.

2.

The jury unanimously and beyond a reasonable doubt found as an aggravating circumstance that the First Degree Assault charged in Count II was committed against a law

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

1  
2 enforcement officer who was performing her official duties at the time of the offense, the  
3 offender knew that the victim was a law enforcement officer and the victim's status as a law  
4 enforcement officer was not an element of the crime of Assault in the First Degree. RCW  
5 9.94A.535(3)(v).

6 3.

7 For sentencing purposes for Count II, Assault in the First Degree, the defendant has an  
8 offender score of 4.

9 4.

10 The jury's special verdicts finding that the defendant was armed and/or used a firearm  
11 during the commission of the First Degree Assault and that the First Degree Assault was  
12 committed against a law enforcement officer performing her official duties at the time of the  
13 offense and the offender knew that the victim was a law enforcement officer are supported by  
14 evidence beyond a reasonable doubt.

15 5.

16 The defendant committed the crime of First Degree Assault against Deputy Polly Davin  
17 to prevent her from placing him under arrest and taking him into custody on outstanding warrants  
18 from the Grays Harbor County District Court. In order to prevent Deputy Davin from performing  
19 her duties, the defendant attacked her first with a knife and then fired two shots from a  
20 semiautomatic .45 caliber pistol from very close range, one of which struck Deputy Davin in the  
21 left arm. The crime took place in the Grays Harbor County Courthouse during a workday.

22 6.

23 The standard range sentence for the crime of Assault in the First Degree for this  
24 defendant with an offender score of 4 results in a range of 129 to 171 months. The firearm  
25 enhancement imposed pursuant to RCW 9.94A.533(3)(a) by the jury's special verdict finding in  
26 adds an additional 60 months to the standard range sentence:

1  
2 Based upon the foregoing findings of fact, the court enters the following:

3  
4 **CONCLUSIONS OF LAW**

5 1.

6 The jury's special verdict finding unanimously and beyond a reasonable doubt an  
7 aggravating factor under RCW 9.94A.535(3)(v) and the court's findings above, considering the  
8 purposes of the Sentencing Reform Act, are substantial and compelling reasons justifying an  
9 exceptional sentence above the standard range.

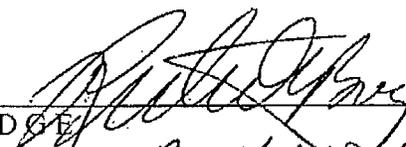
10  
11 2.

12 Given the aggravating factor found by the jury, a standard range sentence with the  
13 addition of the deadly firearm enhancement is clearly too lenient and not proportionate to the  
14 seriousness of the offense.

15 3.

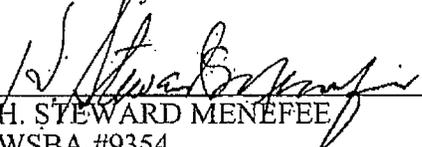
16 Considering the Court's findings and the aggravating factor found by the jury, the Court  
17 concludes that an additional 69 months should be added to the top end of the 171 month  
18 standard range for a total standard range sentence of 240 months plus the mandatory 60 month  
19 firearm enhancement resulting in a total confinement of 300 months on Count II, Assault in  
20 the First Degree.

21 DATED this 17<sup>th</sup> day of May, 2013.

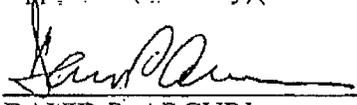
22  
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Presented by:

  
H. STEWARD MENEFEE  
WSBA #9354

Approved (for entry)(as to form):

  
DAVID P. ARCURI  
Attorney for Defendant  
WSBA #15557

HSM/ws

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

# GRAYS HARBOR COUNTY PROSECUTOR

**January 23, 2017 - 3:01 PM**

## Transmittal Letter

Document Uploaded: 2-prp2-494914-Response Brief.pdf

Case Name:

Court of Appeals Case Number: 49491-4

**Is this a Personal Restraint Petition?**  Yes  No

### The document being Filed is:

Designation of Clerk's Papers

Supplemental Designation of Clerk's Papers

Statement of Arrangements

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

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

Brief: Response

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: Katherine L Svoboda - Email: [ksvoboda@co.grays-harbor.wa.us](mailto:ksvoboda@co.grays-harbor.wa.us)

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

[lobsenz@carneylaw.com](mailto:lobsenz@carneylaw.com)