

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:

JONATHAN HARRIS,

Petitioner.

NO. 49641-1

STATE'S RESPONSE TO PERSONAL
RESTRAINT PETITION

A. ISSUES PERTAINING TO PERSONAL RESTRAINT PETITION:

1. Must the petition be dismissed because it does not show actual and substantial prejudice stemming from an error of constitutional magnitude, or establish a fundamental defect which inherently results in a complete miscarriage of justice?

B. STATUS OF PETITIONER:

Petitioner, Jonathan Harris, is restrained pursuant to a Judgment and Sentence (Appendix "A") entered in Pierce County Cause No. 15-1-02431-2. Petitioner pleaded guilty to one count of Murder in the Second Degree, one count of Assault in the Second Degree and one count of Assault in the Third Degree, and was sentenced to a total of 316 months in custody. Appendix A. His judgment and sentence was filed with the Superior Court on October 31st 2016. Appendix A.

1 On January 12th 2017, petitioner filed a "Motion for Relief from Judgment/Request
2 for Factual Hearing and Supporting Declaration". Personal Restraint Petition (hereinafter
3 "PRP"). On February 3rd 2107, the motion was transferred to this Court to be considered as
4 a personal restraint petition. It appears to be timely.

5 C. ARGUMENT:

6 1. THE PETITION SHOULD BE DISMISSED BECAUSE PETITIONER HAS
7 NOT SHOWN A PREJUDICIAL CONSTITUTIONAL ERROR OR A
8 FUNDAMENTAL DEFECT RESULTING IN A COMPLETE
9 MISCARRIAGE OF JUSTICE NECESSARY TO OBTAIN RELIEF BY
10 PERSONAL RESTRAINT PETITION.

11 a. Petitioner's plea was made knowingly, intelligently and voluntarily.

12 Personal restraint procedure has its origins in the State's habeas corpus remedy,
13 guaranteed by article 4, section 4 of the State Constitution. Fundamental to the nature of
14 habeas corpus relief is the principle that the writ will not serve as a substitute for appeal. A
15 personal restraint petition, like a petition for a writ of habeas corpus, is not a substitute for
16 an appeal. *In re Hagler*, 97 Wn.2d 818, 823-24, 650 P.2d 1103 (1982). "Collateral relief
17 undermines the principles of finality of litigation, degrades the prominence of the trial, and
18 sometimes costs society the right to punish admitted offenders." *Id.* (citing *Engle v. Issac*,
19 456 U.S. 107, 126, 102 S. Ct. 1558, 71 L. Ed. 2d 783 (1982)). These costs are significant
20 and require that collateral relief be limited in state as well as federal courts. *Id.*

21 Because of the costs and risks involved, there is a time limit in which to file a
22 personal restraint petition. RCW 10.73.090(1) subjects petitions to a one-year statute of
23 limitation. The statute provides:

24 No petition or motion for collateral attack on a judgment and sentence in a
25 criminal case may be filed more than one year after the judgment becomes
final if the judgment and sentence is valid on its face and was rendered by
a court of competent jurisdiction.

1 RCW 10.73.090(1). The time bar is applicable to any petition filed more than one year
2 after July 23, 1989. RCW 10.73.130.

3 Under RCW 10.73.090(3), a judgment becomes final on the last of the following
4 dates:

5 (a) The date it is filed with the clerk of the trial court;

6 (b) The date that an appellate court issues its mandate disposing of a timely direct
7 appeal from the conviction; or

8 (c) The date that the United States Supreme Court denies a timely petition for
9 certiorari to review a decision affirming the conviction on direct appeal. The filing
10 of a motion to reconsider denial of certiorari does not prevent a judgment from
11 becoming final.

12 Petitioner's judgment in this case became final on October 31st 2016, the date it was
13 filed with the Superior Court. Appendix A; RCW 10.73.090(a). Petitioner filed this
14 personal restraint petition on January 12th 2017, and thus, it appears to be timely.

15 In order to prevail in a personal restraint petition, a petitioner must meet an
16 especially high standard. A petitioner asserting a constitutional violation must show actual
17 and substantial prejudice. *In re Personal Restraint of Haverty*, 101 Wn.2d 498, 504, 681
18 P.2d 835 (1984). The rule that constitutional errors must be shown to be harmless beyond
19 a reasonable doubt has no application in the context of personal restraint petitions. *In re*
20 *Personal Restraint of Mercer*, 108 Wn.2d 714, 718-721, 741 P.2d 559 (1987); *In re*
21 *Personal Restraint of Hagler*, 97 Wn.2d at 825. Mere assertions are insufficient in a
22 collateral action to demonstrate actual prejudice. Inferences, if any, must be drawn in
23 favor of the validity of the judgment and sentence and not against it. *In re Hagler*, 97
24 Wn.2d at 825-26.

25 Reviewing courts have three options in evaluating personal restraint petitions:

1. If a petitioner fails to meet the threshold burden of showing actual
prejudice arising from constitutional error or a fundamental defect
resulting in a miscarriage of justice, the petition must be dismissed;

- 1
- 2 2. If a petitioner makes at least a prima facie showing of actual prejudice, but
- 3 the merits of the contentions cannot be determined solely on the record, the
- 4 court should remand the petition for a full hearing on the merits or for a
- 5 reference hearing pursuant to RAP 16.11(a) and RAP 16.12;
- 6
- 7 3. If the court is convinced a petitioner has proven actual prejudicial error, the
- 8 court should grant the personal restraint petition without remanding the
- 9 cause for further hearing.

10 *In re Personal Restraint of Hews*, 99 Wn.2d 80, 88, 660 P.2d 263 (1983).

11 Petitioner claims one ground for relief in his petition; that his plea was not made

12 knowingly, intelligently, and voluntarily because he not informed of independently

13 obtained forensic evidence acquired after his plea was entered. PRP 5.

14 Petitioner's claim fails as his statement on plea of guilty as well as the transcript

15 reveal that his plea was made knowingly, intelligently and voluntarily. Due process

16 requires that a defendant's guilty plea be knowing, voluntary, and intelligent. *U.S. Const.*

17 *amend. XIV; Boykin v. Alabama*, 395 U.S. 238, 242, 89 S. Ct. 1709, 23 L. Ed. 2d 274

18 (1969); *In re Personal Restraint of Stoudmire*, 145 Wn.2d 258, 266, 36 P.3d 1005 (2001);

19 *Wood v. Morris*, 87 Wn.2d 501, 505, 554 P.2d 1032 (1976). Whether a plea is knowing,

20 voluntary, and intelligent is determined from a totality of the circumstances. *Wood*, 87

21 Wn.2d at 506; *State v. Branch*, 129 Wn.2d 635, 919 P.2d 1228 (1996). If a defendant has

22 received the information and pleads guilty pursuant to a plea agreement, there is a

23 presumption that the plea is knowing, voluntary, and intelligent. *In re Personal Restraint*

24 *of Ness*, 70 Wn. App. 817, 821, 855 P.2d 1191, *review denied*, 123 Wn.2d 1009, 869 P.2d

25 1085 (1994). "A defendant's signature on the plea form is strong evidence of a plea's

voluntariness." *State v. Branch*, 129 Wn.2d at 642; *State v. Stephan*, 35 Wn. App. 889,

893, 671 P.2d 780 (1983) (quoting *State v. Perez*, 33 Wn. App. 258, 261-262, 654 P.2d

708 (1982) (citing *In re Personal Restraint of Keene*, 95 Wn.2d 203, 206-207, 622 P.2d

13 (1981)). If the trial court orally inquires into a matter that is on that plea form, the

1 presumption that the defendant understands this matter becomes “well nigh irrefutable.”
2 **Branch**, 129 Wn.2d at 642 n.2; **State v. Stephan**, 35 Wn. App. at 893. After a defendant
3 has orally confirmed statements in this written plea form, that defendant “will not now be
4 heard to deny these facts.” **In re Keene**, 95 Wn.2d 203, 207, 622 P.2d 13 (1981).

5 For a court to conclude that a guilty plea is made knowingly, voluntarily, and
6 intelligently, it must have facts sufficient to satisfy three tests. First, the defendant must
7 understand “the direct consequences of [the] guilty plea,” and the record of the plea
8 hearing “must show on its face that the plea was entered voluntarily and intelligently.”
9 **Wood v. Morris**, 87 Wn.2d 501; **State v. Ross**, 129 Wn.2d 279, 284, 916 P.2d 405 (1996)
10 (citing **State v. Barton**, 93 Wn.2d 301, 305, 609 P.2d 1353 (1980)). The defendant must
11 “understand the sentencing consequences” of his plea. **State v. Miller**, 110 Wn.2d 528,
12 531, 756 P.2d 122 (1988); **State v. Turley**, 149 Wn.2d 395, 398-99, 69 P.3d 338 (2003).
13 He must also understand that he is waiving certain constitutional rights, including the
14 privilege against compulsory self-incrimination, the right to trial by jury, and the right to
15 confront one’s accusers. **Boykin v. Alabama**, 395 U.S. at 243. Second, a defendant must
16 “be informed of the requisite elements of the crime charged, [and]... understand that his
17 conduct satisfies those elements.” **In re Personal Restraint of Hews**, 99 Wn.2d 80, 87, 88,
18 660 P.2d 263 (1983); **McCarthy v. United States**, 394 U.S. 459, 466, 89 S. Ct. 1166, 22 L.
19 Ed. 2d 418 (1969); *See also* **United States v. Johnson**, 612 F.2d 305, 309 (7th Cir. 1980).
20 Third, the court must be “satisfied that there is a factual basis for the plea.” CrR 4.2(d).

21 A review of the statement on plea of guilty and transcript in this case reflect that
22 petitioner’s plea was knowingly, intelligently and voluntarily entered. Petitioner signed
23 the statement on plea of guilty not only at the conclusion of the document, but also just
24 below section 11 which contains defendant’s statement about what makes him guilty of the
25 crimes. Appendix B at 9 (Statement of Defendant on Plea of Guilty). Two boxes were

1 checked on the next page which indicated that the petitioner and his lawyer had previously
2 read the document and “the defendant understood it in full.” Appendix B at 10. The
3 defense attorney and the petitioner also orally confirmed this on the record. RP at 8
4 (Transcript).

5 The court also took care to ensure the petitioner’s plea was being entered freely and
6 voluntarily during the following colloquy with the petitioner:

7 THE COURT: are you making your guilty pleas today freely and voluntarily?

8 THE COURT: Yes, ma’am.

9 THE COURT: Did anyone force you?

10 THE COURT: No, ma’am.

11 THE COURT: Other than what’s been worked out as the plea agreement, have any
12 promises been made to you in exchange for a guilty plea?

13 THE COURT: No, ma’am.

14 THE COURT: I’m satisfied that your guilty pleas are being made freely,
15 voluntarily, and intelligently, that you understand the rights you’re giving up and
the consequences of your pleas.

16 RP at 21-22.

17 At the conclusion of that colloquy, the court stated “I’m satisfied that your guilty
18 pleas are being made freely, voluntarily, and intelligently, that you understand the rights
19 you’re giving up and the consequences of your pleas.” RP at 10.

20 Petitioner confirmed to the court repeatedly that his decision was being knowingly,
21 voluntarily and intelligently entered. Thus, the plea form and transcript reveal that
22 petitioner’s plea was knowingly, voluntarily, or intelligently entered and is therefore also
23 meritless even when reviewed.

24
25

1 a. Petitioner's valid guilty plea bars collateral attack based on newly
2 discovered evidence.

3 Generally, any valid guilty plea bars collateral attack based on newly discovered
4 evidence, just as a guilty plea bars other attacks on the facts or evidence supporting
5 conviction. *In re Reise*, 146 Wn. App. 772, 785, 192 P.3d 949 (2008). "A petitioner who
6 pleaded guilty and who subsequently seeks relief from personal restraint, on the basis of
7 newly discovered evidence, must show that his plea was coerced or obtained in violation of
8 due process. In other words, the petitioner must show a manifest injustice warranting
9 withdrawal of his guilty plea." *Id.* citing *State v. Ice*, 138 Wn. App. 745, 748, 158 P.3d
10 1228 (2007).

11 Newly discovered evidence is not a per se manifest injustice requiring withdrawal
12 of a guilty plea. *Id.* A defendant or petitioner may only withdraw a guilty plea based on
13 newly discovered evidence by demonstrating an *obvious* and *directly observable* injustice.
14 *Id. see also State v. Taylor*, 82 Wn. 2d, 596, 521 P.2d 699 (1974) (emphasis added). These
15 cases are extremely limited, such as DNA evidence demonstrating innocence or victim's
16 recantation that eliminates the entire factual basis for the guilty plea. *Id. see also State v.*
17 *Taylor*, 82 Wn. 2d, 596, 521 P.2d 699 (1974). The court has declined to find a manifest
18 injustice when the defendant admitted guilt, the new evidence is not a recantation, or when
19 additional evidence still provides a factual basis for the guilty plea. *In re Reise*, 146 Wn.
20 App. 772 at 784.

21 Petitioner's claim that "newly discovered" evidence warrants withdrawal of his
22 guilty plea is barred under the general rule. He claims that his plea is invalid because of
23 "newly discovered evidence" obtained by his own defense investigator after his plea was
24 entered. PRP at 5. Specifically, the "new evidence" allegedly tends to show that injuries
25 were caused by a single blow by defendant's fist to the victim's head, as opposed to

1 stomping, which is apparently more consistent with the petitioner's description of events to
2 his defense team. PRP at 3. However, petitioner's claim fails as this evidence is neither an
3 *obvious* nor *directly observable* injustice warranting withdrawal of his guilty plea. The
4 evidence is not a recantation and does not eliminate the factual basis for his plea. Further,
5 petitioner admitted guilt by pleading guilty, stating that his conduct satisfied the elements
6 of murder in the second degree. Appendix B. Thus, the evidence does not amount to a
7 manifest injustice warranting withdrawal of his guilty plea.

8
9 D. CONCLUSION:

10 The State respectfully requests this Court dismiss this personal restraint petition as
11 petitioner has failed to meet his threshold burden of showing actual prejudice arising from
12 a constitutional error or a fundamental defect resulting in the miscarriage of justice.

13 DATED: September 8th 2017

14 MARK LINDQUIST
15 Pierce County
16 Prosecuting Attorney

17 
18 ROBIN SAND
19 Deputy Prosecuting Attorney
20 WSB # 47838

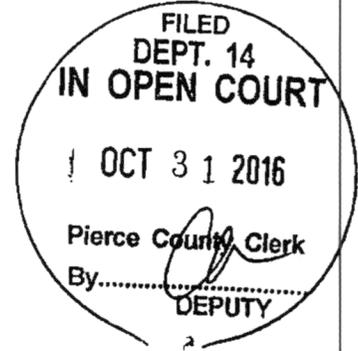
21 Certificate of Service:

22 The undersigned certifies that on this day she delivered by U.S. mail or
23 ABC-LMI delivery to the petitioner true and correct copies of the document to
24 which this certificate is attached. This statement is certified to be true and
25 correct under penalty of perjury of the laws of the State of Washington. Signed
at Tacoma, Washington, on the date below.

26 9.8.17 Heer
Date Signature

APPENDIX “A”

Judgment and Sentence



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 15-1-02431-2

vs.

JONATHAN DANIEL HARRIS,

Defendant.

WARRANT OF COMMITMENT

- 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).

0095
1456R
11/2/2016

[] 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: 10/31/2016



By Susan M. Mules
By direction of the Honorable

JUDGE
KEVIN STOCK

CLERK

By: Linda Fowler
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

Date NOV 01 2016 By Linda Fowler

STATE OF WASHINGTON

ss:

County of Pierce

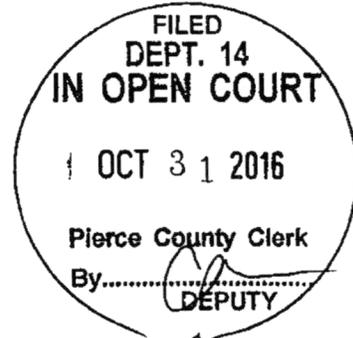
I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

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

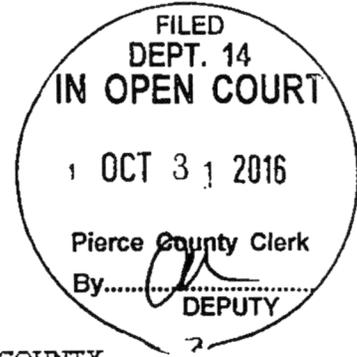
KEVIN STOCK, Clerk

By: _____ Deputy

dc



10096
11/2/2016 14565



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff, CAUSE NO. 15-1-02431-2

vs.

JONATHAN DANIEL HARRIS

Defendant

SID: WA23980556
 DOB: 04/24/1986

JUDGMENT AND SENTENCE (FJS)

- Prison
- RCW 9.94A.712/9.94A.507 Prison Confinement
- Jail One Year or Less
- First-Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative
- Alternative to Confinement (ATC)
- Clerk's Action Required, para 4.5 (SDOSA), 4.7 and 4.8 (SSOSA) 4.15.2, 5.3, 5.6 and 5.8
- Juvenile Decline Mandatory Discretionary

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 07/27/16 by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	MURDER IN THE SECOND DEGREE (D4)	9A.32.050(1)(a)	NONE	06/07/15	PCSD 151590605
II	ASSAULT IN THE SECOND DEGREE (E53)	9A.36.021	NONE	06/06/15	PCSD 151590605
III	ASSAULT IN THE THIRD DEGREE (E36)	9A.36.031(1)(f)	NONE	06/05/15	PCSD 151590605

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

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

16-9-09083-5

0097
 1456511
 11/21/2016

24 [] EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence:
 [] within [] below the standard range for Count(s) _____
 [] above the standard range for Count(s) _____
 [] The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence further and is consistent with the interests of justice and the purposes of the sentencing reform act.
 [] Aggravating factors were [] stipulated by the defendant, [] found by the court after the defendant waived jury trial, [] found by jury by special interrogatory.
 Findings of fact and conclusions of law are attached in Appendix 2.4. [] July's special interrogatory is attached. The Prosecuting Attorney [] did [] did not recommend a similar sentence.

NA

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	7	XIV	216-316 MONTHS	NONE	216-316 MONTHS	LIFE/30K
II	7	IV	43-57 MONTHS	NONE	43-57 MONTHS	10YRS/20K
III	4	III	12+16 MONTHS	NONE	12+16 MONTHS	5YRS/10K

23 SENTENCING DATA:

[] The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT	CRIME	ADULT OR JUV	TYPE OF CRIME
ASLT 2	10/22/09	PIERCE, WA	PIERCE, WA	A	A
ASLT 2	10/22/09	PIERCE, WA	PIERCE, WA	A	A
CRIM TRS 2	12/17/08	KENT, WA	KENT, WA	A	A
CRIM TRS 2	12/17/08	KENT, WA	KENT, WA	A	A
CRIM TRS 3	12/07/08	KENT, WA	KENT, WA	A	A
DUI	01/28/11	KING, WA	KING, WA	A	A
DUI	07/25/11	PIERCE, WA	PIERCE, WA	A	A
DUI	07/25/11	PIERCE, WA	PIERCE, WA	A	A
MAL MISCH 3	07/25/11	PIERCE, WA	PIERCE, WA	A	A
ASLT 3	06/07/15	PIERCE, WA	PIERCE, WA	A	NA
ASLT 3	06/07/15	PIERCE, WA	PIERCE, WA	A	NA

22 CRIMINAL HISTORY (RCW 9.94A.525):

[] 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):

as charged in the SECOND AMENDED Information

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

11/2/2016 11:14:565

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

2.6 **FELONY FIREARM OFFENDER REGISTRATION.** The defendant committed a felony firearm offense as defined in RCW 9.41.010.

The court considered the following factors:

the defendant's criminal history.

whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

evidence of the defendant's propensity for violence that would likely endanger persons.

other: _____

The court decided the defendant should should not register as a felony firearm offender.

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

RTNRJN \$5,844.43 Restitution to: Crime Victims Compensation

\$ _____ 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 \$ _____ Court-Appointed Attorney Fees and Defense Costs

FRC \$ 200.00 Criminal Filing Fee

FCM \$ _____ Fine

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 3 of 11

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____

\$6,644.43 TOTAL

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

shall be set by the prosecutor.

is scheduled for _____

RESTITUTION. Order Attached

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

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

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

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

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

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

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

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

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

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

4.3 **NO CONTACT**

The defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

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

11/2/2016 11:14:56 AM

1
2 4.4 OTHER: Property may have been taken into custody in conjunction with this case. Property may be
3 returned to the rightful owner. Any claim for return of such property must be made within 90 days. After
4 90 days, if you do not make a claim, property may be disposed of according to law.

5
6
7
8

9 4.4a Property may have been taken into custody in conjunction with this case. Property may be returned to the
10 rightful owner. Any claim for return of such property must be made within 90 days unless forfeited by
11 agreement in which case no claim may be made. After 90 days, if you do not make a claim, property may
12 be disposed of according to law.

13 4.4b BOND IS HEREBY EXONERATED

14 4.5 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

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

17 316 months on Count I _____ months on Count _____
18 57 months on Count II _____ months on Count _____
19 16 months on Count III _____ months on Count _____

20 Actual number of months of total confinement ordered is: 316 Months

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

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

24 CONSECUTIVE/CONCURRENT SENTENCES. RCW 9.94A.589. All counts shall be served
25 concurrently, except for the portion of those counts for which there is a special finding of a firearm, other
26 deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with
27 juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served
28 consecutively: _____

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

Confinement shall commence immediately unless otherwise set forth here: _____

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 196 days per DOC.

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

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

COMMUNITY CUSTODY (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

The defendant shall be on community custody for:

Count(s) I 36 months for Serious Violent Offenses

Count(s) II 18 months for Violent Offenses

Count(s) _____ 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)

Note: combined term of confinement and community custody for any particular offense cannot exceed the statutory maximum. RCW 9.94A.701.

(B) While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) 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; (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706 and (10) for sex offenses, submit to electronic monitoring if imposed by DOC. The defendant's residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

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

[] consume no alcohol.

have no contact with: Family of the victim (Nicole White)

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

[] 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:

[] For sentences imposed under RCW 9.94A.702, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

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.

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

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

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

V. NOTICES AND SIGNATURES

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

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

1104
11/2/2016
114565

9.94A.505. The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

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

5.4 **RESTITUTION HEARING.**

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

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

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

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

N/A

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

//

//

//

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

5.10 OTHER: _____

DONE in Open Court and in the presence of the defendant this date October 31, 2016.

JUDGE

Print name

Susan Serko

Tim Lewis

Deputy Prosecuting Attorney

Print name: Tim Lewis

WSB # 33767

John H. Hill

Attorney for Defendant

Print name: John H. Hill

WSB # 5667

x Jonathan D Harris

Defendant - copy rec'd.

Print name: Jonathan Daniel Harris

FILED
DEPT. 14
IN OPEN COURT
OCT 31 2016
Pierce County Clerk
DEPUTY

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 DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must 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:

Jonathan D Harris

10108
11
11

114565
11
11

11/12/2016
11
11

1111
1111

1111
1111

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: 15-1-02431-2

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

Lucre Adebayo
Court Reporter

FILED
DEPT. 14
IN OPEN COURT
OCT 31 2016
Pierce County Clerk
By: [Signature] DEPUTY

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: _____
- _____ (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: _____

10107

114505

11/2/2016

11

1111

1111

1111

IDENTIFICATION OF DEFENDANT

FILED
DEPT. 14
IN OPEN COURT
OCT 31 2016
Pierce County Clerk
By: *[Signature]*
DEPUTY

SID No. WA23980556
(If no SID take fingerprint card for State Patrol)

Date of Birth 04/24/1986

FBI No. 822152RC8

Local ID No. 20082462040

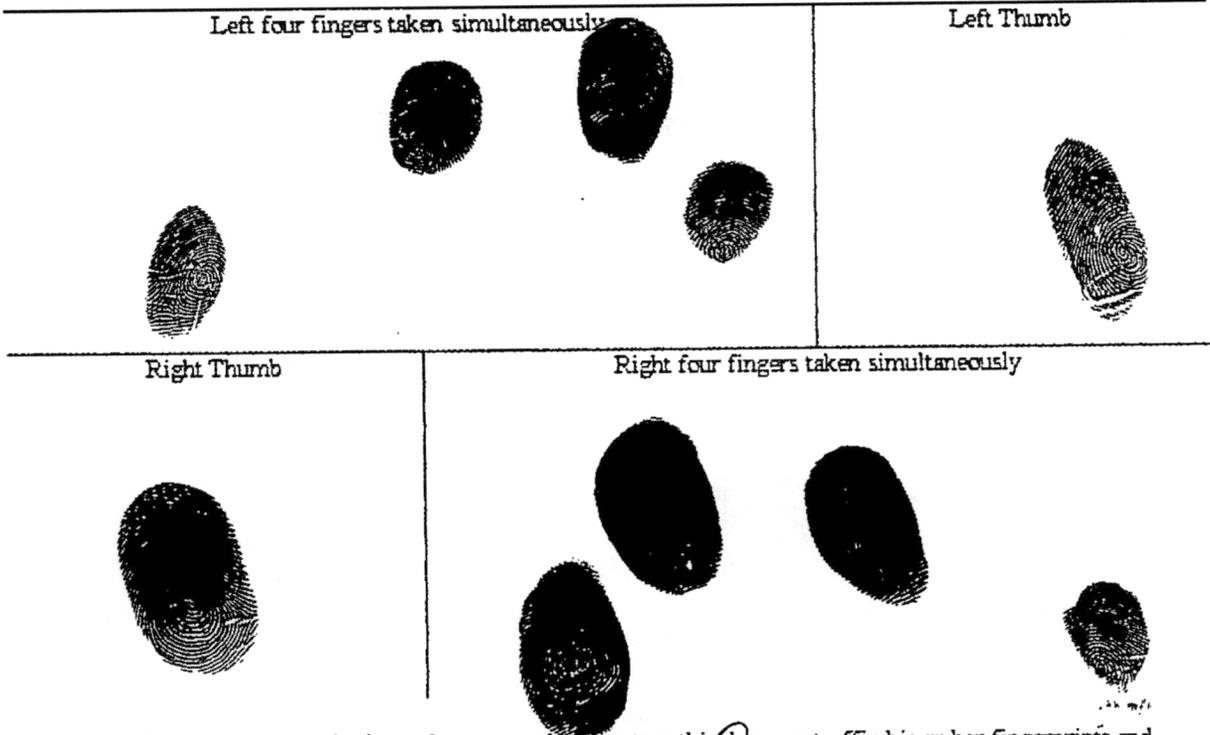
PCN No. 541412786

Other

Alias name, SSN, DOB:

Race:	<input type="checkbox"/> Asian/Pacific Islander	<input type="checkbox"/> Black/African-American	<input checked="" 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"/> Female	

FINGERPRINTS



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, C. [Signature] Dated: 10/31/16

DEFENDANT'S SIGNATURE: Jonathan D Harris

DEFENDANT'S ADDRESS: _____

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

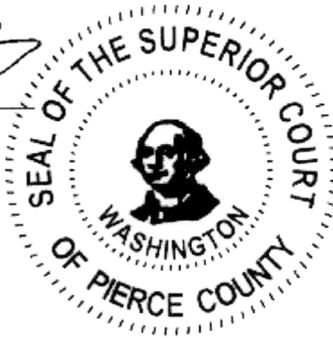
State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 08 day of September, 2017



Kevin Stock, Pierce County Clerk

By /S/Linda Fowler, Deputy.

Dated: Sep 8, 2017 2:50 PM



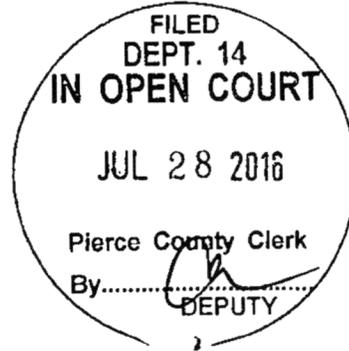
Instructions to recipient: If you wish to verify the authenticity of the certified document that was transmitted by the Court, sign on to:

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter **SerialID: AE79D0DE-0429-4C39-876CB84A02642BDF**.

This document contains 14 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”

Statement



0098
13204
8/1/2016

Superior Court of Washington For Pierce County	
<u>State of Washington</u>	Plaintiff
vs.	
<u>Jonathan Daniel Harris</u>	Defendant

No. 15-1-02431-2

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

1. My true name is: Jonathan Daniel Harris

2. My age is: 30 Years

3. The last level of education I completed was 12th

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: Mark Quigley & Dave Katayama

(b) I am charged with the crime(s) of: Murder in the Second Degree (Count I), Assault in the Second Degree (Count II), Assault in the Third Degree (Count III)

as set out in the second amended Information, dated July 25, 2016, a copy of which I hereby acknowledge previously receiving and reviewing with my lawyer. [Signature]
(Defendant's initials)

The elements of this crime these crimes are as set out in the second amended Information, dated July 25, 2016, a copy of which I hereby acknowledge previously receiving and reviewing with my lawyer. [Signature]
(Defendant's initials)

 Additional counts are addressed in Attachment "B"

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

0099

13204

8/1/2016

[Handwritten signature]

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial as well as other pretrial motions such as time for 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.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY RANGE (Only applicable for crimes committed on or after July 1, 2000. For crimes committed prior to July 1, 2000, see paragraph 6(f).)	MAXIMUM TERM AND FINE
1	7	216-316 Months	N/A	36 Months	Life/\$50,000
2	7	43-57 Months	N/A	18 Months	10 Years/\$20,000
3	4	12+-16 Months	N/A	N/A	5 Years/\$10,000

*The sentencing enhancement codes are: (RPh) Robbery of a pharmacy, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude. The following enhancements will run consecutively to all other parts of my entire sentence, including other enhancements and other counts: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (JP) Juvenile present, (VH) Vehicular Homicide, see RCW 46.61.520, (SM) Sexual Motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (P16) Passenger(s) under age 16.

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.
- (c) The prosecuting attorney's statement of my criminal history is attached to this statement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If the prosecutor and I disagree about the computation of the offender score, I understand that this dispute will be resolved by the court at sentencing. I waive any right to challenge the acceptance of my guilty plea on the grounds that my offender score or standard range is lower than what is listed in paragraph 6(a). 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.

0100
13204
8/1/2016

- (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 on 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 and any mandatory fines or penalties that apply to my case. 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 custody if the total period of confinement ordered is not more than 12 months. If the total period of confinement is more than 12 months, and 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 custody. 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 custody. The actual period of community custody may be longer than my earned early release period. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.~~

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the term established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses as defined by RCW 9.94A.030(45)	36 months
Violent Offenses as defined by RCW 9.94A.030(54)	18 months

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

Certain sentencing alternatives may also include community custody.

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

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

(g) The prosecuting attorney will make the following recommendation to the judge:

The prosecutor will recommend as stated in the plea agreement, which is incorporated 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 unless the judge finds substantial and compelling reasons not to do so. I understand the following regarding exceptional sentences:

- (i) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.
- (ii) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.
- (iii) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing

0101
13204
8/1/2016

0102

13204

8/1/2016

Reform Act.

- (iv) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

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

- (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 may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition**, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.
- (k) **Loss of voting rights –Acknowledgment, RCW 10.64.140:** After conviction of a felony, or entry of a plea of guilty to a felony, your right to vote is immediately revoked and any existing voter registration is cancelled. Pursuant to RCW 29A.08.520, after you have completed all periods of incarceration imposed as a sentence, and after all community custody is completed and you are discharged by the Department of Corrections, your voting rights are automatically restored on a provisional basis. You must then reregister to be permitted to vote.

Failure to pay legal financial obligations, or comply with an agreed upon payment plan for those obligations, can result in your provisional voting right being revoked by the court.

Your right to vote may be fully restored by (i) a certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637; (ii) a court order issued by the sentencing court restoring the right, as provided in RCA 9.92.066; (iii) a final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or (iv) a certificate of restoration issued by the governor, as provided in RCW 9.96.020.

Voting before the right is either provisionally or fully restored is a class C felony under RCW 29A.84.660.

- (l) **Government assistance may be suspended** during any period of confinement.
- (m) **I will be required to have a biological sample collected** for purposes of DNA identification analysis. I will be required to pay a \$100.00 DNA collection fee.

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

shall initial all paragraphs that DO APPLY.

- 0103
13204
8/1/2016
- (n) 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.
- (o) ~~The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph (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.~~
- (p) ~~The judge may sentence me under the Parenting Sentencing Alternative if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.~~
- (q) ~~If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment. These requirements may change at a later date. I am responsible for learning about any changes in registration requirements and for complying with the new requirements.~~
- (r) ~~If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to \$100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~
- (s) ~~If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.~~
- (t) ~~The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment based alternative.~~
- ~~If the judge imposes the prison-based alternative, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will~~

0104
13204
8/1/2016

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

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

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

 (u)

If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

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

~~(w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.~~



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

~~(y) 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(14).~~

0105
13204
8/1/2016

- _____ (z) ~~If I am pleading guilty to felony driving under the influence of intoxicating liquor or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of \$20 per month.~~
- _____ (aa) ~~For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.~~
- _____ (bb) ~~For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to \$2,500 per incident.~~
- _____ (cc) ~~The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[n].~~
- _____ (dd) ~~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.~~
- _____ (ee) ~~The offense(s) I am pleading guilty to include(s) a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.~~
- _____ (ff) ~~The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.~~
- _____ (gg) ~~I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve the sentences for these crimes consecutively to one another. If I am pleading guilty to unlawful possession of more than one firearm, I must serve each of the sentences for unlawful possession consecutively to each other.~~

0106

13204

8/1/2016

~~_____ (hh) I may be required to register as a felony firearm offender under RCW 9.41.330 and RCW 9.41.333. The specific registration requirements are in the "Felony Firearm Offender Registration" Attachment.~~

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

~~_____ (jj) The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty six months, I cannot currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I cannot have a current or prior conviction for a sex or violent offense. RCW 9.94A.690~~

7. I plead guilty to count(s) I, II, & III as charged in the second amended Information, dated July 25, 2016. I have received a copy of that Information and reviewed it with my lawyer.

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

As to Count I, Murder in the Second Degree, in the early morning hours of June 7, 2015, at my residence in Pierce County, Washington State, with intent to cause her death, I severely beat Nicole White, a human being, and thereby caused her death. As to Counts II and III, please see the addendum to this plea form for In re Barr pleas.



~~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 and the "Offender Registration" and/or "Felony Firearm Offender Registration" Attachment, if applicable. I understand and acknowledge 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.

Jonathan D Morris
Defendant

0107
13204
8/1/2016

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



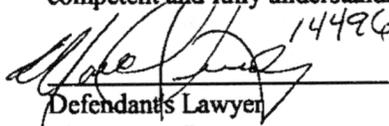
Prosecuting Attorney

Tim Lewis

Print Name

33767

WSBA No.

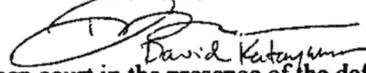


Defendants Lawyer

Mark Quigley

Print Name

WSBA No.



33758

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

- (a) The defendant had previously read the entire statement above and that the defendant understood it in full;
- (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. The Interpreter's Declaration is included below.

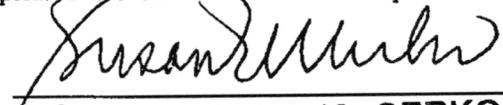
Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have translated and interpreted this document for the defendant from English into that language. I have no reason to believe that the defendant does not fully understand both the interpretation 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.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter Print Name

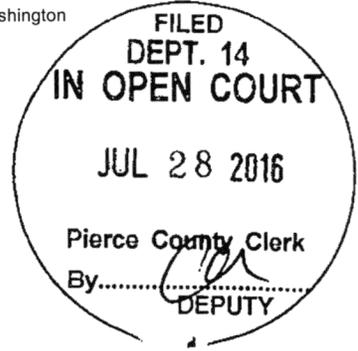
I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 7/28/2016



Judge SUSAN K. SERKO

FILED
DEPT. 14
IN OPEN COURT
JUL 28 2016
Pierce County Clerk
DEPUTY



0108
13204
8/1/2016

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

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 15-1-02431-2

vs.

JONATHAN DANIEL HARRIS,
D.O.B.: 04/24/1986

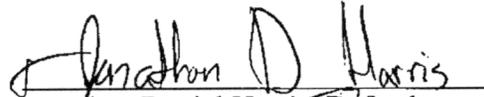
Defendant.

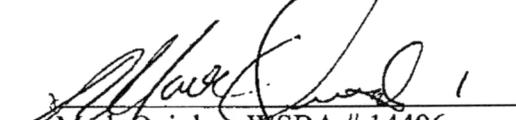
ADDENDUM TO PLEA FORM FOR *IN RE BARR* PLEAS AS TO COUNTS II AND III OF THE SECOND AMENDED INFORMATION

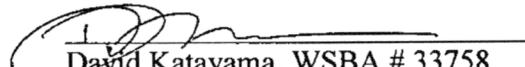
***In re Barr*, 102 Wn.2d 265 (1984):** As stated in my Statement of Defendant on Plea of Guilty, there is a factual basis to support the charge of Murder in the Second Degree as charged in the original Information filed in this case. The evidence available to the State in this case is sufficient to prove my guilt beyond a reasonable doubt for Murder in the Second Degree as charged in the original Information. In addition to my factual admissions in the plea form as to Count I of the second amended Information, Murder in the Second Degree, I recognize that I am also entering pleas of guilty to crimes that I in fact did not commit; namely Assault in the Second Degree, as charged in Count II of the second amended Information, and Assault in the Third Degree, as charged in Count III of the second amended Information. My attorney has discussed with me all of the elements of the original charge and the elements of the amended charges, and I understand them all. There is a factual basis for the original charge. I understand that the prosecution would be unable to prove the amended charges in Counts II and III at trial, but I see pleading guilty to the amended charges as being beneficial to me because it will allow me to avoid the risk of conviction on the greater charges I would face at trial. Based upon a review of the alternatives before me, I have decided to plead guilty to crimes I did not commit in order to take advantage of the State's pretrial offer. I understand the consequences of this plea agreement and I am making a voluntary and informed choice to enter into it.

1 I understand that the court must find a factual basis for the original charge and I agree
2 that the court may consider my statement in the Defendant's Statement on Plea of Guilty, the
3 declaration for determination of probable cause, and any other information presented by the
4 prosecutor at the time of this plea to support the factual basis for the original charge.

5 DATED this 27th day of July, 2016.

6 
7 Jonathan Daniel Harris, Defendant

8 
9 Mark Quigley, WSBA # 14496
10 Attorney for Defendant

11 
12 David Katayama, WSBA # 33758
13 Attorney for Defendant

0109

13204

8/1/2016

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 08 day of September, 2017



Kevin Stock, Pierce County Clerk

By /S/Linda Fowler, Deputy.

Dated: Sep 8, 2017 2:50 PM



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: 27C32969-38B2-4C78-8C42B8E803D590BA**.

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.

PIERCE COUNTY PROSECUTING ATTORNEY

September 08, 2017 - 3:30 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49641-1
Appellate Court Case Title: State of Washington, Respondent v. Jonathan D. Harris, Appellant
Superior Court Case Number: 15-1-02431-2

The following documents have been uploaded:

- 7-496411_Personal_Restraint_Petition_20170908152856D2811615_6447.pdf
This File Contains:
Personal Restraint Petition - Reply to Response to PRP/PSP
The Original File Name was Harris PRP.pdf

A copy of the uploaded files will be sent to:

- JHHill3@comcast.net
- SCCAttorney@yahoo.com
- cunninghamsc@msn.com

Comments:

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

Filing on Behalf of: Robin Khou Sand - Email: rsand@co.pierce.wa.us (Alternate Email: PCpatcecf@co.pierce.wa.us)

Address:
930 Tacoma Ave S, Rm 946
Tacoma, WA, 98402
Phone: (253) 798-7400

Note: The Filing Id is 20170908152856D2811615