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Division II
State of Washington
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NO. 49894-4-II
Cowlitz Co. Cause NO. 08-1-00735-6

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

RAYMOND MAYFIELD WILLIAMS,

Petitioner.

AMENDED BRIEF OF RESPONDENT IN
RESPONSE TO PERSONAL RESTRAINT
PETITION

RYAN JURVAKANINEN
Prosecuting Attorney
TOM LADOUCEUR/ #19963
Chief Criminal Deputy Prosecuting Attorney
Attorney for Respondent

Hall of Justice
312 S. W. First Avenue
Kelso, WA 98626
Telephone: 360/577-3080

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I. ANSWER TO PETITION

The restraint of the petitioner Raymond Williams Jr. is lawful.

II. AUTHORITY FOR RESTRAINT OF PETITIONER

Williams is being restrained pursuant to the judgment and sentence entered on October 15, 2008 in Cowlitz County Superior Court Cause No. 08-1-00735-6. In this case he was sentenced to life without the possibility of parole under the Persistent Offender Accountability Act (POAA), upon conviction of assault in the second degree.

III. PROCEDURAL BACKGROUND

On October 15, 2008, in Cowlitz County Superior Court, Williams entered a guilty plea to an amended information charging one count of assault in the second degree. During the colloquy with the court Williams acknowledged that he had two prior strike convictions, and was aware that the court would be required to sentence him to life without the possibility of parole. The court stated: "the standard sentencing range is life in prison without the possibility of parole. If I accept your guilty plea, that's the only sentence that I can impose. And you will spend the rest of your life in the institution. Do you understand that?" The defendant replied: "yes, I do." RP 3.¹ The court also stated: "you agree that you have a prior conviction for

¹ Verbatim report of proceedings, October 15, 2008

burglary in the first degree out of Thurston County in 1997 and another for burglary in the first degree out of King County in 2004?" The defendant replied: "yes." RP 8. Further, the judgment and sentence which he signed outlined his entire criminal history (paragraph 2.2) which included a burglary 1 from 1997, and a burglary 1 from 2004. In addition, the judgment and sentence indicated that "the following prior offenses require that the defendant be sentenced as a persistent offender: Burg 1 1997 and Burg 1 2004." Judgment and sentence, page 3. Defendant signed the judgment and sentence. CP 28.

The court imposed a life sentence without the possibility of parole. RP 11.

Williams never filed a direct appeal from either the 1997 conviction, the 2004 conviction for burglary 1, or the 2008 conviction for assault 2. He filed the instant personal restraint petition in November of 2016. The Thurston County prosecuting attorney responded to the petition. Williams submitted a reply brief, filed on June 19, 2017. On November 15, 2017, the Court of Appeals issued an order directing supplemental briefing on whether the prior 1997 conviction can be collaterally attacked and the reasons therefor, as well as the standards of review that should be applied. The Thurston County prosecuting attorney submitted a supplemental brief in response to the court's order, dated November 21, 2017, and Williams submitted his

supplemental brief in response to the order, filed on November 29, 2017. The Thurston County prosecuting attorney next, on December 1, 2017, moved to continue or strike oral argument and to substitute Cowlitz County as a proper party. By Order, filed on December 1, 2017, the Court granted Respondent Thurston County's motion to continue oral argument and served Cowlitz County with notice of the petition and sought a response.

IV. ARGUMENT

1. **THE PETITION WAS NOT BROUGHT WITHIN ONE YEAR OF THE SENTENCE IN 2008. THE 2008 COURT DID NOT EXCEED ITS JURISDICTION WHEN IT SENTENCED HIM TO LIFE UNDER THE POAA. THE PETITION IS THEREFORE TIME BARRED.**
2. **BY AGREEING AND ACKNOWLEDGING HIS TWO PRIOR STRIKES AT SENTENCING IN 2008 WILLIAMS WAIVED ANY ISSUES REGARDING THE SUFFICIENCY OF THE CRIMINAL HISTORY THE COURT USED IN SENTENCING HIM.**

The threshold question is whether this petition is time barred. Personal restraint petitions generally are prohibited if not filed within one year after the judgment and sentence becomes final. RCW 10.73.090(1). No petition or motion for collateral attack on a judgment and sentence in a 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. RCW 10.73.090(1). The time limit specified in RCW 10.73.090 does not apply to a petition or motion that is

based solely on one or more of the following grounds:... (5) The sentence imposed was in excess of the court's jurisdiction. RCW 10.73.100. The petitioner bears the burden of proving that an exception to the RCW 10.73.090 statute of limitation applies. *State v. Schwab*, 141 Wash.App. 85, 90, 167 P.3d 1225 (2007).

In petitioner's reply brief, filed June 19, 2017, he focused on the jurisdiction of the juvenile court in 1997, writing, "to avoid the one-year time limit outlined in RCW 10.73.090, Williams is only required to prove that the juvenile court lacked jurisdiction." Petitioner's reply brief, page 2. Next, in response to this court's November 15, 2017 order directing supplemental briefing on the question of whether the 1997 conviction can be collaterally attacked, petitioner filed a supplemental brief, dated November 29, 2017. In this supplemental brief petitioner clarified that his attack was actually against the Cowlitz County Superior Court's sentencing, in 2008, where the court counted the 1997 burglary 1 conviction as a strike. In petitioner's supplemental brief, he states "the PRP in the present case attacks the October 5, 2008 sentencing order. While it may seem that the PRP in effect attacks the 1997 conviction, it is more correctly to be viewed as an attack on the 2008 court's improper use of the 1997 conviction."

Since petitioner is arguing that the Cowlitz County Superior Court improperly sentenced him in October, 2008, he had until October, 2009, one

year later, in which to file a collateral attack. He filed his petition on November 28, 2016, over seven years past the one-year time period for a collateral attack. Therefore the petitioner bears the burden of proving that an exception to the RCW 10.73.090 statute of limitation applies. In his supplemental brief (filed November 29, 2017) petitioner does not argue any exception to the one-year time period for a collateral attack. However, in his reply brief, filed on June 19, 2017, petitioner argues he is not time barred because he has met his burden of proving that the 2008 Sentencing Court *exceeded its jurisdiction* in sentencing him to a third strike. Petitioner's reply brief, page 1. ²

The crux of petitioner's argument is that at the 2008 plea and sentencing hearing, the state did not offer evidence of (1) defendant's waiver of juvenile court jurisdiction in 1997 and (2) the 1997 court's order declining jurisdiction. Therefore, reasons Williams, the court erred in counting the 1997 burglary 1 as the first strike. The state argues that the 2008 Sentencing Court did not *exceed its jurisdiction* when it sentenced petitioner to a third strike under the POAA. Therefore petitioner cannot meet his burden of

² In his original PRP, filed in November of 2016, Williams makes a passing reference to a significant change in the substantive law as an exception to the one year time bar, page 1. However, Williams provides no analysis explaining how this exception applies in this case.

proving an exception to the RCW 10.73.090 statute of limitation applies. The following addresses this argument.

A sentence is not *jurisdictionally* defective merely because it is in violation of a statute or is based on a misinterpretation of a statute. *In re Richey*, 162 Wash. 2d 865, 872, 175 P.3d 585, 588 (2008), citing RCW 10.73.100(5); *In re Pers. Restraint of Vehlewald*, 92 Wash.App. 197, 201–02, 963 P.2d 903 (1998). A trial court does not lose its authority because it commits a legal error, and most legal errors *must be addressed* on direct review *or in a timely personal restraint petition or not at all*. *In re Scott*, 173 Wash. 2d 911, 916, 271 P.3d 218, 221 (2012). (Emphasis added).

For example, making a mistake in calculating an offender score does not deprive a court of *jurisdiction*. *In re Banks*, 149 Wash. App. 513, 518, 204 P.3d 260, 263 (2009) citing *In re Pers. Restraint of Richey*, 162 Wash.2d 865, 872, 175 P.3d 585 (2008), and *In re Pers. Restraint of Vehlewald*, 92 Wash.App. 197, 200–01, 963 P.2d 903 (1998) (rejecting argument that jurisdiction of trial court is implicated if erroneous finding of same criminal conduct finding produces an incorrect offender score). In *Vehlewald* defendant did not file his personal restraint petition within the one year time limit established in RCW 10.73.090(1), and because the jurisdictional exception, RCW 10.73.100(5), does not apply to an incorrect

finding of same criminal conduct, the court dismissed the petition. *Petition of Vehlewald*, 92 Wash. App. 197, 198–99, 963 P.2d 903, 904 (1998).

Doctrine of waiver

Williams agreed to and acknowledged his criminal history at the sentencing hearing in 2008. He could have challenged the use of the 1997 burglary 1 conviction as a first strike, as he does now, by arguing that the state did not adequately show it counted as a strike. However, by agreeing and acknowledging the criminal history he waived those issues.³ In *In re Goodwin*, 146 Wash. 2d 861, 874, 50 P.3d 618, 625 (2002) the court discussed the doctrine of waiver as it relates to the timeliness of PRP's. The Goodwin court held that although in general a defendant cannot waive a challenge to a miscalculated offender score, there are limitations on this holding. While waiver does not apply where the alleged sentencing error is a legal error leading to an excessive sentence, waiver can be found where the alleged error involves an *agreement to facts*, later disputed, or where the alleged error involves a matter of trial court discretion. *State v. Hickman*, 116 Wash. App. 902, 906, 68 P.3d 1156, 1157 (2003). (Emphasis added).

³ The State's burden to prove prior convictions is relieved if the defendant *affirmatively* acknowledges the alleged criminal history. *State v. Hunley*, 175 Wash. 2d 901, 917, 287 P.3d 584, 593 (2012)

The Superior Court in 2008 did not exceed its jurisdiction in sentencing petitioner. Williams acknowledged and agreed to the criminal history that resulted in a third strike sentence. By agreeing to the underlying factual criminal history he waived any error in allowing the court to consider the 1997 conviction as the first strike. Under these circumstances error, if any, did not deprive the court of jurisdiction to impose its sentence.

Williams has clarified that his attack is actually against the 2008 Cowlitz County sentencing. In his supplemental brief dated November 29, 2017, with respect to the standard of review, he addresses only the issue of the 2008 sentencing. (Petitioners supplemental brief, page 10). In addition, in the conclusion section, he asks this court to conclude that the "2008 Sentencing Court's use of the 1997 conviction was improper" and requests the 2008 sentence be reversed. However, in this supplemental brief, he nevertheless discusses the adequacy of the juvenile court decline in 1997. Thus it is unclear if he has abandoned the issues surrounding the propriety of the 1997 decline. Nevertheless, the state provides the following briefing on the 1997 decline issue.

3. THE PETITION WAS NOT BROUGHT WITHIN ONE YEAR OF THE JUVENILE COURT DECLINE IN 1997 AND IS THEREFORE TIME BARRED.

As previously stated, because Williams' petition is past the one-year time period, he has the burden of proving an exception to the RCW

10.73.090 statute of limitation applies. He argues that pursuant to RCW 10.73.100(5) the adult court did not have jurisdiction because the transfer from juvenile court was improper.

Williams argues that the Superior Court in 1997 was without jurisdiction because the juvenile court improperly declined jurisdiction for two reasons – (1) there was insufficient evidence in the record to show that Williams knowingly and intelligently waived his right to a decline hearing, and (2) there were neither written findings that the transfer was in the best interests of the juvenile or the public nor how the court analyzed the Kent factors. Because he raises these challenges over 20 years after the events happened, he has the burden of proving his claims by a preponderance of the evidence. After establishing the appropriateness of collateral review, a petitioner will be entitled to relief only if he can meet his ultimate burden of proof, which, on collateral review, requires that he establish error by a preponderance of the evidence. *Matter of Cook*, 114 Wash. 2d 802, 814, 792 P.2d 506, 512 (1990).

The states position is that Williams has not met his burden of proving that the juvenile court improperly transferred jurisdiction in 1997. The following addresses this argument.

Because the audio recordings of petitioner's court proceedings have been lawfully destroyed,⁴ we are left with the following record: (1) a written "notice of hearing" which scheduled a "decline hearing" for May 19, 1997 at 10:00 AM (appendix D)⁵; (2) the Order to Decline Raymond Williams to Adult Court Jurisdiction, dated May 19, 1997 (appendix E), stating in part that Williams waives his right to a decline hearing, he shall be transferred to Superior Court, and pursuant to State v. Holland adopting U.S. v. Kent, the court finds that respondent shall be declined to adult Superior Court; (3) the declaration of Raymond Williams (appendix H), asserting he "wanted out of Thurston County juvenile detention Center," and he "pushed to get through the process and waived" his right to the hearing; and (4) the declaration of Christen Peters (appendix A), asserting she was the deputy prosecuting attorney at the Thurston County prosecuting attorney's office in 1997 working on juvenile cases including the prosecution of Williams, although unable to recall the specific details of Williams case, it was the standard practice at the time for courts to meaningfully consider the Kent factors, and to ensure that defendants had intelligently waived their rights to be tried as a juvenile.

⁴ See appendix G of personal restraint petition, declaration of Jan Griffin regarding destruction of juvenile court proceedings in 1997.

⁵ For ease of reference the state assigns the same appendix designations to documents as petitioner and respondent Thurston County.

From this record, the court is to determine whether petitioner has met his burden of proving the decline from juvenile to adult court in 1997 was improper. Relief by way of a collateral challenge to a judgment and sentence is extraordinary. Generally, a personal restraint petition filed within one year after the judgment and sentence is final may challenge the conviction on any grounds, but must meet a high standard. The petitioner must show with a preponderance of the evidence that he or she was actually and substantially prejudiced by a violation of constitutional rights, or that his or her trial suffered from a nonconstitutional defect that inherently resulted in a complete miscarriage of justice. *In re Mines*, 190 Wash. App. 554, 562, 364 P.3d 121, 124 (2015).

Williams likens this case to *State v. Knippling*, 166 Wash. 2d 93, 100, 206 P.3d 332, 335 (2009), but that case is distinguishable. In *Knippling* (1) the defendant timely objected to the use of a prior conviction as a strike, and (2) there was no record whatsoever indicating that the juvenile court had declined jurisdiction. At his 2005 sentencing hearing, *Knippling* did not acknowledge and agree that the 1999 robbery in the second degree conviction counted as a strike. Rather, he specifically objected, arguing the 1999 conviction should not count as a strike because there was nothing in the record to indicate that the juvenile court had declined jurisdiction. At the sentencing hearing it was the state's burden to prove that the 1999

conviction counted as a strike. Knippling did not relieve the state of this burden by acknowledging that the earlier conviction counted against him as a strike. There, the state could not meet their burden because there was *nothing in the record* to indicate that the juvenile court had declined jurisdiction.

Here, on the other hand, (1) Williams did not raise a timely objection to the use of the prior 1997 conviction, (2) at the sentencing in 2008 he waived any objection to the use of the 1997 conviction by acknowledging that it was a prior strike, and (3) there is a record, although incomplete, regarding the 1997 Juvenile Court decline. Had Williams challenged the 2008 sentencing within the one-year period for a collateral attack, the court could have remanded for a resentencing hearing if it felt that was necessary in light of defendant's acknowledgment. If a resentencing was ordered, the state would have had the opportunity to supplement the record in order to meet its burden of showing the 1997 conviction should properly be counted as a strike. Unlike the complete absence of a record indicating that juvenile court had declined jurisdiction in Knippling, here there is an Order summarizing the court's findings.

Analogizing this case to Knippling (insofar as there was no hearing in that case), Williams argues that because there is no record of a declination hearing, one did not occur (petitioner supplemental brief filed November

29, 2017, page 6.) The state responds that because there was a notice for a decline hearing scheduling it for May 19, 1997, and there was an Order entered on that same date, it is reasonable to conclude that a hearing, albeit not a contested one, occurred. These circumstances distinguish the case at bar from Knippling.

Petitioner also discusses *State v. Saenz*, 175 Wash. 2d 167, 171, 283 P.3d 1094, 1096 (2012). Like Knippling, Saenz is distinguishable because (1) he objected to the use of the prior juvenile decline-based strike conviction in a timely manner – at the sentencing hearing for his third strike, and (2) there was no juvenile court decline hearing.⁶

Because Williams failed to timely challenge the 1997 decline as well as the 2008 sentencing, he assumed not only the burden of proving his claim, but also the risk that records shedding light on the 1997 proceedings would be unavailable. Williams asserts that although he "wanted out of the juvenile facility," and "pushed to get through the process and waived" his

⁶ At his "three strikes" hearing, Saenz argued that his 2001 conviction could not be used as a strike. He argued that there were two defects in the transfer of his case from juvenile to adult court precluding the conviction from being used against him under the POAA: (1) there was no decline hearing and he did not knowingly and intelligently waive his decline hearing *or* juvenile court jurisdiction and (2) the juvenile court did not enter findings that declining juvenile jurisdiction was in the best interest of Saenz or the public as required by former RCW 13.40.110(2) and (3) (1997).

right to the hearing, his waiver was not made knowingly and intelligently.⁷ Countering his assertion is that of deputy prosecuting attorney Christen Peters that it was the standard practice at that time for courts to meaningfully consider the Kent factors, and to ensure that defendants had intelligently waived their rights to be tried as a juvenile. The language in the decline Order that the court considered the Kent factors provides further support for the proposition that the transfer from juvenile to adult court was proper.

Williams has not met his burden of proving the adult court in 1997 did not have proper jurisdiction. His disputed assertions do not outweigh the other indications that the juvenile decline was proper. Further, the detriment caused by the unavailability of transcriptions of the 1997 proceedings should be allocated to Williams, not the state, because the recordings were lost due to the lawful retention schedule, and Williams failed to timely challenge both the 1997 decline and the 2008 sentencing.

⁷ See declaration of Raymond Williams (appendix H).

V. CONCLUSION

Based on the preceding argument, respondent requests the Court deny the petition.

Respectfully submitted this 30 day of January, 2018.

By  _____

Tom Ladouceur, WSBA #19963

Chief Criminal Deputy Prosecuting Attorney

APPENDIX A

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

In re Personal Restraint of:

RAYMOND MAYFIELD WILLIAMS, JR.

COA DIV II NO. 49894-4

DECLARATION OF CHRISTEN ANTON
PETERS

I, Christen Anton Peters, duly solemnly swear and affirm that the following is true and correct:

1. I am the Chief of Staff for the Thurston County Prosecuting Attorney’s Office.
2. In 1997, I was employed as a Deputy Prosecuting Attorney at the Thurston County Prosecuting Attorney’s Office and assigned to the Juvenile Team, where I worked on juvenile cases, including the prosecution of Raymond Williams.
3. I am unable to recall specific details of Raymond Williams’ prosecution, however, during decline hearings, it was standard practice at the time for courts to meaningfully consider the *Kent* factors, and to ensure that defendants had intelligently waived their rights to be tried as a juvenile.

1 I do solemnly swear and affirm, under the penalty of perjury under the laws of the State
2 of Washington, that the above is true and correct.

3 Signed this 19th day of April, 2017, in Olympia, Washington.

4 

5 Christen Anton Peters, WSBA# 23559
6 Senior Deputy Prosecuting Attorney
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APPENDIX B

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF COWLITZ

STATE OF WASHINGTON,)	
)	
Plaintiff,)	
)	
vs.)	No. 08-1-00735-6
)	
RAYMOND WILLIAMS, JR.,)	VERBATIM REPORT OF
)	PROCEEDINGS
Defendant.)	October 15, 2008
)	

BE IT REMEMBERED that on the 15th day of October, 2008, commencing at 9:27 a.m. of said day, the above-entitled matter came on for hearing before the Honorable STEPHEN M. WARNING, Judge of the Superior Court of the State of Washington, at the Cowlitz County Hall of Justice, Kelso, Washington.

The plaintiff, State of Washington, was represented by James Smith.

The defendant, Raymond Williams, Jr., was present, representing himself, assisted by Kevin G. Blondin.

COPY

Tami Kern
 Archer Associates, Inc.
 P.O. Box 1092
 Longview, Washington 98632
 (360) 423-2195

1 PROCEEDINGS

2 THE COURT: Number 8. Raymond Williams.

3 MR. SMITH: Your Honor, Mr. Williams, my
4 understanding is he's going to be pleading guilty as a pro se
5 defendant to the amended information charging assault in the
6 second degree.

7 THE COURT: Is that accurate, Mr. Williams? You want
8 to plead guilty to the amended charge of assault in the second
9 degree?

10 THE DEFENDANT: Yes.

11 THE COURT: Do we have a plea form?

12 MR. BLONDIN: We do. And I provided Mr. Williams a
13 copy of this previously. He's reviewed it as well.

14 THE COURT: All right. Mr. Williams, the amended
15 information charges you with assault in the second degree. To
16 convict you, the prosecutor would have to prove that somewhere
17 around July fifth of this year you intentionally assaulted Chad
18 Gainey, thereby recklessly inflicting substantial bodily harm,
19 in this case by means of a gunshot wound to his leg, and that
20 happened here in this state. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: If you plead guilty, that means there
23 will be no trial. There will be no witnesses. There will be
24 no appeal. The only thing that's left for me to do is to
25 sentence you. You're giving up your right to a trial by a

1 jury, your right to remain silent, your right to hear the
2 witnesses and have them cross-examined either by yourself or by
3 an attorney. You're giving up your right to bring up witnesses
4 at no expense to you to testify. You're giving up the
5 presumption of innocence and you're giving up your right to
6 appeal. Do you understand that?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: The standard sentence range is life in
9 prison without the possibility of parole. If I accept your
10 guilty plea, that's the only sentence that I can impose. And
11 you will spend the rest of your life in the institution. Do
12 you understand that?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: You're going to have to repay the county
15 about \$1,500 in court costs and pay any restitution owed to the
16 victim of this offense. The prosecutor's recommending that you
17 receive a sentence commensurate with the law, which is life
18 without the possibility of parole. And if at some point in
19 time in the future the Legislature would remove assault in the
20 second degree from the strike list and that were to be done
21 retroactively, which would be very unusual, you're agreeing to
22 a 120-month sentence. Is that right?

23 THE DEFENDANT: Yes.

24 THE COURT: Okay. Do you understand, though, that's
25 not something that you should be counting on?

1 THE DEFENDANT: Okay.

2 THE COURT: And it's something that nobody in this
3 room has any control over. If I accept your guilty plea, as I
4 said, the only sentence that I can impose is life without the
5 possibility of parole. Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: You'll be prohibited from voting. Be
8 prohibited from owning or possessing a firearm.

9 All right. How do you plead to the charge of assault
10 in the second degree?

11 THE DEFENDANT: Guilty.

12 THE COURT: Are you making that plea freely and
13 voluntarily?

14 THE DEFENDANT: Yes.

15 THE COURT: Has anybody made threats or promises to
16 you to cause you to enter that plea?

17 THE DEFENDANT: No.

18 THE COURT: Have you had a chance to discuss any
19 legal issues that you might have with Mr. Blondin?

20 THE DEFENDANT: Yes.

21 THE COURT: And even though you were representing
22 yourself, you feel that you fully understand your rights in
23 this proceeding?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: You understand the State's case against

1 you?

2 THE DEFENDANT: Yes.

3 THE COURT: You think that pleading guilty to this
4 charge is in your best interest?

5 THE DEFENDANT: I do.

6 THE COURT: All right. Can I get a statement from
7 you?

8 MR. SMITH: Yes, Your Honor. On the fifth of July,
9 2008, a gentleman by the name of Chad Gaynor was at his
10 residence at 207 Northwest Seventh Avenue in the city of Kelso,
11 Cowlitz County, state of Washington. Mr. Gaynor was inside
12 that residence along with two females, a Tasha (inaudible) and
13 a Chantelle Aho. And at that time in the early morning hours,
14 a masked man knocked at the door, demanded entry and brandished
15 a firearm. The man was wearing a ski mask along with black
16 clothing. He forced his way into the residence. He had a
17 small firearm, semi-automatic pistol in his hand, and began
18 demanding money as well as valuable property from Mr. Gaynor
19 and the other individuals in the residence. He backed the
20 individuals into a bedroom. Mr. Gaynor and the other two women
21 then began a discussion of what they should do. They began the
22 discussion of whether the masked man would actually shoot them.
23 Mr. Gaynor apparently believed that perhaps that this masked
24 man would not shoot them, began making a motion the masked man
25 viewed as being dangerous. The man fired one round from the

1 .25 caliber pistol into Mr. Gaynor's lower leg. The individual
2 fled the residence, at which point the police were called. The
3 police responded, found Mr. Gaynor in pain from the gunshot
4 wound to his leg, found a spent shell casing as well as later
5 recovered a slug in the bedding underneath the area where Mr.
6 Gaynor had been shot. Mr. Gaynor was transported to St. John's
7 Medical Center, where he underwent medical treatment for the
8 gunshot wound to his leg. Between the infection and the pain,
9 the use of his bodily part, his leg, was substantially
10 impaired. Although not permanently, it was impaired for a
11 substantial period of time. Subsequent to that, investigation
12 revealed that the defendant, Raymond Williams, was likely to be
13 the person who had done this and shot Mr. Gaynor. A SWAT team
14 arranged a ruse in which Mr. Williams was lured to a location
15 and then arrested. Subsequent to arrest, Mr. Williams was
16 advised of Miranda warnings, waived his warnings and agreed to
17 speak to the police. He stated that he had a history. Mr.
18 Williams stated at that time that he owed various debts to
19 various people for various reasons and that he was in need of
20 money. He then concocted a plan to rob Mr. Gaynor, who he
21 believed to have some valuable property. Went to the residence
22 and confessed that he shot Mr. Gaynor in the leg with the
23 pistol. Said pistol was recovered. It was a Raven .25 caliber
24 semi-automatic handgun. Mr. Gaynor -- sorry. Mr. Williams --

25 THE COURT: Recovered from where?

1 MR. SMITH: It was recovered from his girlfriend's
2 residence, Your Honor. She stated that defendant brought it
3 there, told her that he had shot a guy and that he needed to
4 hide the gun for a time. She was displeased with this idea and
5 --

6 THE DEFENDANT: I'm sorry. Fabricated. Half of that
7 stuff is not even close to the truth.

8 THE COURT: Mr. Williams, hang on.

9 THE DEFENDANT: Slanderous.

10 THE COURT: Hang on.

11 THE DEFENDANT: Robbery. The guy's a child molester
12 and I shot him because he fucking deserved it.

13 THE COURT: Hang on. You'll get a chance to speak.

14 MR. SMITH: Nonetheless, Your Honor, the
15 investigation did result in the recovery of the firearm. And
16 as Mr. Williams sits today, he did admit to the police that he
17 shot Mr. Gaynor. In the -- in his taped interview with the
18 police, he stated that he did shoot the gentleman. He did
19 state to the police some belief that Mr. Gaynor was a child
20 molester. But he did indicate that he shot him in the leg,
21 fled the residence. And he also told the police that he had
22 two prior convictions of burglary in the first degree, and that
23 he understood that he was likely to receive the sentence he's
24 going to receive today.

25 THE COURT: All right. Mr. Williams, you understand

1 that if this went to trial, that's the evidence that the
2 prosecutor would present? Not that you agree with it, but that
3 based on that, you could be convicted of this or a more serious
4 crime. Is that right?

5 THE DEFENDANT: Yes.

6 THE COURT: You want to plead guilty here today to
7 the charge of assault in the second degree? Is that right?

8 THE DEFENDANT: Yes.

9 THE COURT: You agree that you have a prior
10 conviction for burglary in the first degree out of Thurston
11 County in 1997 and another for burglary in the first degree out
12 of King County in 2004?

13 THE DEFENDANT: Yes.

14 THE COURT: And you understand if I accept your plea,
15 that means that you are looking at the only possible sentence
16 being life without the possibility of parole?

17 THE DEFENDANT: Yeah.

18 THE COURT: Knowing all that, do you have any
19 question about your rights? Are you still happy or satisfied,
20 comfortable with representing yourself in this proceeding?

21 THE DEFENDANT: Yeah, I am.

22 THE COURT: And do you want me to accept your guilty
23 plea on the charge of assault in the second degree?

24 THE DEFENDANT: Yes, I do.

25 THE COURT: All right. I'll accept this guilty plea.

1 MR. SMITH: Your Honor, I ask the Court to impose the
2 sentence that's mandated by law. There's not a lot to be said
3 in that regard. He shot a man in the leg. He has these two
4 prior convictions. He's never disputed that. In fact, he's
5 never really disputed the fact the shooting occurred. He may
6 well have some other things he'd like to tell Your Honor about
7 that. I don't know what those might be. We'd just ask the
8 Court to impose that sentence.

9 There is an agreement that if the Legislature somehow
10 later retroactively removes this and allowing for it, Mr.
11 Williams is going to receive the statutory maximum. I don't
12 think that's particularly likely to occur. And we just ask the
13 Court to impose the life without sentence as required in this
14 case.

15 THE COURT: Mr. Williams, is there anything you wish
16 to say?

17 THE DEFENDANT: Yeah, I do. Instead of being
18 sentenced to life in prison without the possibility of parole
19 as a persistent offender, I believe this is a gross error in
20 the reasons why this law was created in relation to the deeds
21 that led me here.

22 At age 16 I witnessed a family leave their home on a
23 camping trip. Later that day, knowing nobody was home, I broke
24 into the home. Inside of the home I stumbled upon numerous
25 rifles. Knowing I could sell them to support myself, as I was

1 homeless, I bundled them up and sold them. For this I was
2 sentenced to burglary in the first degree in court. That was
3 my first strike.

4 At age 23 I went over to a friend's house and
5 discovered to my great shock that my girlfriend was in bed with
6 another man. I was told to leave. A fight broke out between
7 me and this other man, and once again I was arrested for
8 various crimes including first degree burglary. And that was
9 strike two.

10 And here I stand at age 28 with assault in the second
11 degree as strike three. This Court has deemed me as persistent
12 in my offenses. I don't believe there to be any persistence in
13 my criminal behavior that would warrant me as unfit for my
14 society for the rest of my days on earth. I will point out
15 that as an adult, saying after the age 18, I only have one
16 single felony conviction on my record other than the one that I
17 stand here for today. It is my hope that in our struggle for
18 the perfection of justice, my history will one day be viewed as
19 a misappropriation of the reasons why our persistent offender
20 act is so stringent. It is my hope that people present today
21 will bear in mind this perversion of justice that is brought
22 about by imperfection in our laws, seek out a reformation of
23 these laws to better serve society and better serve right and
24 wrong.

25 In closing, I would like to say that many people

1 believe it was a very righteous act to have harmed a
2 50-year-old man who I witnessed deal drugs to and have sexual
3 relations with a 15-year-old girl. And while I still believe
4 it was righteous, I now also believe it was stupid. I should
5 have done things different. That's all I got to say.

6 THE COURT: All right. Thank you. As indicated, the
7 only possible sentence is that of life without the possibility
8 of parole. I will impose that sentence.

9 MR. SMITH: Your Honor, we have the judgment. I
10 don't know if it's going out yet.

11 THE COURT: I've already signed it.

12 MR. SMITH: Did the Court impose a no contact order?

13 THE COURT: Yes.

14 MR. SMITH: And, Your Honor, there is still the
15 formality of restitution. I don't know. I suggest we set a
16 review date for that and then we can address it at that point.

17 THE COURT: I'm just going to leave that open, since
18 Mr. Williams doesn't have to be here. If and when the
19 prosecutor chooses to pursue it, I'll set a hearing. All
20 right.

21 THE DEFENDANT: So what's going to be happening with
22 restitution?

23 THE COURT: If the prosecutor decides they want to
24 pursue any kind of restitution, you'll be brought back here to
25 address it. All right. That's it.

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(The proceedings were concluded at this time, 9:39
a.m., October 15, 2008.)

APPENDIX D

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON
IN JUVENILE COURT

STATE OF WASHINGTON

NO. 97-8-00601-4

vs.

BY DEPUTY

NOTICE OF HEARING

Raymond Williams
RESPONDENT

To: Respondent, Attorney

YOU ARE NOTIFIED that:

A hearing is scheduled for the purpose of:

- Pre-trial Conference
- Trial (Fact Finding Hearing)
- Probation Violation
- Other Decline hearing

The Juvenile Offender is:

- Detained
- Not Detained

A juvenile hearing has been scheduled for May 19, 1997
(Date)
10:00 m., at Thurston County Juvenile Department/Youth Service
(Time)
Service Center, 1520 Irving Street S.W., Tumwater, Washington.

FAILURE OF THE JUVENILE OFFENDER TO APPEAR FOR THE SCHEDULED HEARING MAY RESULT IN ISSUANCE OF A BENCH WARRANT.

BETTY J. GOULD, County Clerk

Elaine Moreno
Juvenile Court Clerk

Please contact your attorney at the earliest possible date for an appointment.

Your attorney is:

MARTIN D. MEYER
Attorney at Law
#12 U.S. Bank Bldg.
402 Capitol Way S.
Olympia, WA 98501
(206) 357-6335

CC: Respondent/Parents
Defense Attorney
Deputy Prosecuting Attorney
Probation Counselor

Date Information Filed 5-5-97

Arrestment Date _____

Probation Counselor Tom Nove

THURCOU0010000022004155010000039005

APPENDIX E

THURSTON COUNTY SUPERIOR COURT 15501000039003

THURSTON COUNTY SUPERIOR COURT

97 MAY 19 AM 11: 57

BETTY J. SOULD, CLERK

[Signature]
DEPUTY

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

STATE OF WASHINGTON,

Plaintiff,

vs.

Raymond Williams

Defendant.

NO. 978601-4

ORDER

to Decline Raymond Williams
to Adult Court Jurisdiction

IT IS HEREBY ORDERED that the Respondent having been charged with Burglary in the First Degree 9A.52.020(1)(a) and two counts of Theft of a Firearm RCW 9A.56.300, hereby waives his right to a decline hearing pursuant to RCW 13.40.110, and jurisdiction for the above named Respondent shall be transferred to Superior Court.

Probable Cause has been established for the above enumerated charges.

Pursuant to State v. Holland adopting U.S. v. Kent 383 U.S. 541 (1966), court finds that Respondent shall be Declined to Adult Superior Court. Respondent to be held in Adult Thurston County Jail. for further proceedings on this matter.

DATED: 5/19/97

PRESENTED BY:

[Signature] #25721
Deputy Prosecuting Attorney

[Signature]
JUDGE *[Signature]*

APPROVED BY:

[Signature]
Attorney for Defendant

[Signature]

BERNARDEAN BROADOUS
THURSTON COUNTY PROSECUTING ATTORNEY
2000 LAKERIDGE DRIVE SW
OLYMPIA, WASHINGTON 98502
(360) 786-5510 FAX (360) 786-5511

ORDER

COPIES TO
P.O.
PROS. ATTY.
DEF. ATTY.

MICROFILMED

APPENDIX G

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON
IN JUVENILE COURT

STATE OF WASHINGTON,

Plaintiff,

vs.

RAYMOND MAYFIELD WILLIAMS JR.,

Respondent.

NO. 97-8-00601-4

DECLARATION OF JAN GRIFFIN,
JUDICIAL SERVICES MANAGER FOR
THE THURSTON COUNTY SUPERIOR
COURT FAMILY AND JUVENILE
COURT CLERK'S OFFICE

I, Jan Griffin, declare as follows:

1. I am the Judicial Services Manager for the Thurston County Superior Court Family and Juvenile Court Clerk's Office.
2. On August 19, 2016, Attorney Corey Evan Parker requested the audio recording of Raymond Mayfield Williams Jr.'s court proceeding held on May 19, 1997. The related case number is 97-8-00601-4.
3. On October 10, 2016, after a thorough search by Thurston County Superior Court Chief Deputy Clerk Tawni Sharp, I informed Mr. Parker that we were unable to locate the audio from the above-mentioned proceeding.
4. It is my understanding that the tapes have been destroyed and there is no possible way of obtaining the record from that proceeding if such a record existed.

DECLARATION OF JAN GRIFFIN - 1

LAW OFFICE OF COREY EVAN PARKER
1275 12th Ave NW, Suite 113
Issaquah, WA 98027
[PH] 425.221.2195 [FX] 1.877.802.8580
corey@parkerlawseattle.com

1
2 I declare under penalty of perjury and the laws of the State of Washington that the foregoing is
3 true and correct.
4

5
6
7 Dated this 18th day of October, 2016 at Tumwater, Washington.

8
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11 Jan Griffin
12 Judicial Services Manager
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DECLARATION OF JAN GRIFFIN - 2

LAW OFFICE OF COREY EVAN PARKER
1275 12th Ave NW, Suite 1B
Issaquah, WA 98027
[PH] 425.221.2195 [FX] 1.877.802.8580
corey@parkrlawseattle.com

APPENDIX H

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STATE OF WASHINGTON, Plaintiff, vs. RAYMOND MAYFIELD WILLIAMS JR. Respondent.	CAUSE NO. 97-8-00601-4 DECLARATION OF RAYMOND MAYFIELD WILLIAMS JR
---	--

I, Raymond M. Williams Jr., the petitioner in this matter, declare as follows:

1. In 1997, during the process of my declination of juvenile jurisdiction, I was not in the right frame of mind to make a rational decision about my future. I was emotionally unstable and had a long history up to that point struggling with mental illness, trauma, and drug addiction.
2. Three times in my teenage years prior to the declination of juvenile jurisdiction I was put into lockdown mental health facilities.
3. The first time was in 1993, as an alternative sentence by Thurston County Juvenile Court. I was sentenced to spend three months at Pacific Gateway in Portland, Oregon and I served my time there.
4. The second time, I was sent to Kitsap County Mental Health, as requested by Clark County Juvenile Court. If memory serves me correctly, this placement was done instead of detention time for a probation violation. This was approximately in 1994 or 1995.

- 1 5. The third time I was put into a lockdown mental health facility I was placed again in
2 Kitsap County Mental Health in 1995. This was a placement done as a hospital transfer
3 after a suspected suicide attempt, where I had overdosed on prescription pills. In this
4 instance, I had needed to be brought back to life with a resuscitator machine.
5
6 6. My youth, much to my demise, was filled with confused and self-destructive behavior. I
7 was hospitalized at least two other times for attempted suicide. Even while attending
8 elementary school, it was clear to my teachers that for various reasons I would do better
9 in school by attending special education classes.
10
11 7. My upbringing was very hostile and unsupportive. My first attempt of running away
12 from home was at the age of nine. By my early teens, Child Protective Services had
13 already played a major role in my life, and I had seen several foster homes and group
14 homes.
15
16 8. My inability to trust my well-being to adults or authority figures, I believe, played a
17 large role in my desire to be left to my own devices as a teen. This meant that my life
18 was spent homelessly wandering the streets. In those streets I turned to crime for
19 survival. This was a stupid decision, and as such it made sense to me at that age.
20
21 9. Looking back to those years, I even have trouble today understanding what was wrong
22 with me. Though several explanations could be made, one thing remains clear to me as
23 pertains to this case: something was wrong with me in particular, that put me at a
24 distinct disadvantage to be able to make such an important decision in knowing and
25 intelligent manner.
26

- 1 10. Knowing was one of my biggest problems, as I thought I knew everything at that age.
2 And intelligence was several years away at best, as everything in the world was viewed
3 through an emotional, rather than a logical lens by me as a teen. While this mental and
4 emotional state is common in most teens, I believe I was at a greater disadvantage,
5 considering my mental and emotional make-up, than a normal teenager to make such a
6 decision. I was several years in mental and emotional maturity behind my peers at that
7 point in my life.
- 8
- 9 11. I truly needed to have my best interest represented through the process of my
10 declination. I needed more than most, the protections offered through the Juvenile
11 Justice Act, as I was wholly incapable of understanding what the decision I was pushing
12 for would mean to my life, or what the difference was between the adult justice system
13 and juvenile one.
- 14
- 15 12. What I distinctly remember was that I wanted out of Thurston County Juvenile
16 Detention Center. I had spent many months there throughout the years of my teens.
17 During these years I had suffered abuse at the hands of certain staff members.
- 18
- 19 13. I had, for example, spent several weeks before in a cell where I had to use a small hole
20 covered by a grate in the middle of the floor for bodily functions. Cell A-15, as I recall,
21 and forever will, the place where I had to mush my own feces through the grate with
22 little squares of toilet paper, being careful to not get any on my hands as there was no
23 access to a sink with which to wash.
- 24
- 25 14. I just wanted out of the juvenile facility. It was my understanding that if I was declined,
26 I would be transferred immediately. Being completely incapable of comprehending a

1 future past the next day, I pushed to get through the process and waived my right to the
2 hearing. At no point did my attorney or the Court discuss any of the potential
3 consequences with me.

4
5 15. My crime was not horrendous. It was a crime to be punished for, undoubtedly. Please
6 don't mistake my statement, as I don't mean to make light of my actions. I do take
7 personal responsibility. I did steal several items from the home in question including
8 firearms which were discovered in the residence, entering after watching the residents
9 of the house leave for a camping trip. This was a dishonest crime, and I have no pride in
10 it (or any other crime) whatsoever. But that crime might have found justice in the
11 Juvenile Division of our courts, had the law been applied properly to my case.

12
13 16. Had the courts took the time to consider and review my case through the declination
14 process, these issues of my mental health, and what might have been in both societies
15 and my own best interest could have been considered. I could have been tried in
16 Juvenile Court, and placed into a facility that could have given me the opportunity to
17 develop tools for life, which in turn could have prevented me from the continuance of
18 my criminal behavior. Would it all have happened that way will forever be a mystery,
19 but what is not a mystery is that there should have been the option.

20
21 17. I sit here today, serving life without parole as a persistent offender. This sentence has
22 been both the worst and the best thing to happen to me.

23
24 18. Many people who receive such sentences lose themselves completely to the prison
25 system, becoming involved with gangs, and a myriad of other negativities that prevail
26 within these walls and fences. I have instead found myself and I am today a completely

1 different person than the one who was incarcerated in 2008. A good person, maybe for
2 the first time since early adolescence.

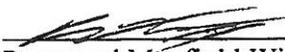
3
4 19. My record in the prison system reflects this boast, as I am renowned for staying out of
5 trouble, for being a good role model to other inmates and mentoring them to shed their
6 criminal thought processes, as well as for being an outspoken proponent of violence
7 prevention. My D.O.C. record shows that I have been involved with sustainability
8 efforts in which I am credited for having saved the state tens of thousands of dollars. I
9 even played a major role in stopping the attempted murder of Corrections Officer
10 Breedlove at Clallam Bay Corrections Center on January 25, 2016.

11 20. I am ready to be a productive member of society. I am ready to be a father to my son, a
12 good neighbor, and someone who gives to the community around him.

13 21. As I write these things in this declaration, I don't know that they have any bearing
14 whatsoever on the legal process of my case. I would imagine that they do not. But I
15 can't help the feeling that I must declare not just what or where or how, but also who
16 brings forth this petition to the Court. Both who I was then, which prevented me from
17 understanding the ramifications of the events taking place around me at that age. And
18 who I am now, with so much to offer the world, but as a consequence of the previous,
19 prevented from doing so.
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1 I declare, under penalty of perjury under the laws of the State of Washington, that the foregoing
2 is true and correct.

3
4 Dated this 13th day of November, 2016 at Monroe, Washington.

5
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7 
8 Raymond Mayfield Williams Jr.
9 Petitioner
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CERTIFICATE OF SERVICE

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

Corey Evan Parker
Law Office of Corey Evan Parker
1275 12th Ave NW, Suite 1B
Issaquah, WA 98027
corey@coreyevanparkerlaw.com

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

Signed at Kelso, Washington on FEB 6th, 2018.



Michelle Sasser

COWLITZ COUNTY PROSECUTING ATTORNEY'S OFFICE

February 06, 2018 - 12:59 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 49894-4
Appellate Court Case Title: Personal Restraint Petition of Raymond Mayfield Williams, Jr.
Superior Court Case Number: 97-8-00060-1

The following documents have been uploaded:

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A copy of the uploaded files will be sent to:

- corey@coreyevanparkerlaw.com

Comments:

AMENDED BRIEF OF RESPONDENT IN REPOSENSE TO PERSONAL RESTRAINT PETITION WITH CERT OF SERVICE

Sender Name: Michelle Sasser - Email: sasserm@co.cowlitz.wa.us

Filing on Behalf of: Thomas A. Ladouceur - Email: Tom.ladouceur@co.cowlitz.wa.us (Alternate Email: appeals@co.cowlitz.wa.us)

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