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DIVISION II

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STATE OF WASHINGTON

BY
IN THE COURT OF APPEALS OF WASHINGTON STATE
DIVISION TWO

STATE OF WASHINGTON,
RESPONDENT,

COA No. 50354-9-11
SUPERIOR COURT, No. 08-100727-1

v.

JD JONES BARTON,
APPELLANT

APPELLANT'S STATEMENT
OF ADDITIONAL GROUNDS -
MEMORANDUM (RAP 10.10)

COMES NOW, JD JONES BARTON, defendant pro se, whom brings forth the ABOVE-ENTITLED ACTION AS A MEANS to guide this court with supporting authority of LAW REGARDING DEFENDANT'S UNDERLYING ISSUE of PRESENTENCE CREDIT DEPRIVATION FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013, DUE TO THE ABUSE OF DISCRETION BY DOC.

THIS MEMORANDUM OF LAW WILL BE ADDRESSING THE FOLLOWING VIOLATIONS BY DOC: (I) SEPARATION OF POWERS DOCTRINE, (II) DOUBLE JEOPARDY CLAUSE; (III) EQUAL PROTECTION CLAUSE; (IV) DUE PROCESS CLAUSE; (V) STATE LAW AND (VI) DOC POLICY.

I. SEPARATION OF POWERS VIOLATION

THE FIFTH AND FOURTEENTH AMENDMENT TO THE FEDERAL CONSTITUTION, AND ARTICLE IV, SECTIONS 1, 6 AND 23; ARTICLE II, SECTION 1; AND ARTICLE III, SECTION 1 OF OUR STATE CONSTITUTION PROVIDES A CHECKS

MEMORANDUM-1 (SAG)

AND BALANCE PROHIBITING ONE BRANCH FROM ENCRUACHING UPON THE OTHER.

THE SEPARATION OF POWERS DOCTRINE IS ONE OF THE CARDINAL AND FUNDAMENTAL PRINCIPLES OF THE AMERICAN CONSTITUTIONAL SYSTEM AND FORMS THE BASIS OF THE STATE GOVERNMENT. UNDER WASHINGTON CONSTITUTION, GOVERNMENT AUTHORITY IS DIVIDED INTO THREE BRANCHES - LEGISLATIVE, EXECUTIVE, AND JUDICIAL - AND EACH BRANCH OF GOVERNMENT WEILDS ONLY THE POWER IT IS GIVEN. WASHINGTON CONSTITUTION ARTICLE II CREATES THE LEGISLATIVE DEPARTMENT TO WEILD LEGISLATIVE AUTHORITY; WASHINGTON CONSTITUTION ARTICLE III CREATES THE EXECUTIVE BRANCH TO WEILD EXECUTIVE POWER; AND WASHINGTON CONSTITUTION ARTICLE IV CREATES THE JUDICIARY TO WEILD JUDICIAL POWER. THE BRANCHES ARE NOT HERMETICALLY SEALED, BUT THE FUNDAMENTAL FUNCTIONS OF EACH BRANCH REMAIN INVIOLETE, AND A MULTIPLICITY OF CHECKS AND BALANCES MUST BE MAINTAINED. THE CONSTITUTIONAL DIVISION OF GOVERNMENT IS FOR THE PROTECTION OF INDIVIDUALS AGAINST CENTRALIZED AUTHORITY AND ABUSE OF POWER. STATE V. RICE, 174 WU.2D 884, 900-01, 279 P.3D 849 (2012) (AND CASES CITED THEREIN)

WHILE THE WASHINGTON STATE CONSTITUTION DOES NOT CONTAIN A FORMAL SEPARATION OF POWERS CLAUSE, THE VERY DIVISION OF THE STATES GOVERNMENT INTO DIFFERENT BRANCHES HAS BEEN PRESUMED THROUGHOUT THE STATE'S HISTORY TO GIVE RISE TO A VITAL SEPARATION OF POWERS DOCTRINE. STATE V. BARBER, 170 WU.2D 854, 871-72, 248 P.3D 494 (2011) (OVERTURNING CASELAW THAT "THREATENS SEPARATION OF POWERS")

OUR SYSTEM OF CHECKS AND BALANCES INCORPORATES THE IMPORTANT CONCEPT OF THE SEPARATION OF POWERS. HALE V.

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Wellpoint Sch. Dist. No. 49, 165 Wn.2d 494, 503, 506, 198 P.3d 1021 (2009). The doctrine "PRESERVES THE CONSTITUTIONAL DIVISION BETWEEN THE THREE BRANCHES OF GOVERNMENT ENSURING THAT THE ACTIVITY OF ONE DOES NOT THREATEN OR INVADE THE PREROGATIVES OF ANOTHER." STATE V. ELMORE, 154 Wn. App. 885, 905, 228 P.3d 760 (2010). THE LEGISLATURE VIOLATES SEPARATION OF POWERS PRINCIPLES WHEN IT INFRINGES ON A JUDICIAL FUNCTION. HABERMAN V. WASH. PUB POWER SUPPLY SYS., 109 Wn.2d 107, 143, 744 P.2d 1032, 750 P.2d 254 (1987). THE FUNCTION OF THE JUDICIARY IS TO SAY WHAT THE LAW IS, WHEREAS THE LEGISLATURE'S FUNCTION IS TO SET POLICY AND DRAFT AND ENACT LAW. HALE, 165 Wn.2d AT 506. IT IS IMPORTANT TO NOTE THAT ALTHOUGH THE SEPARATE AND COEQUAL BRANCHES FILL DIFFERENT ROLES, THE BRANCHES "MUST REMAIN PARTIALLY INTERTWINED TO MAINTAIN AN EFFECTIVE SYSTEM OF CHECKS AND BALANCES. THE ART OF GOOD GOVERNMENT REQUIRES COOPERATION AND FLEXIBILITY AMONG THE BRANCHES." *Id.* AT 507. THE EXECUTIVE FUNCTION OF THE DEPARTMENT OF CORRECTIONS (DOC) BEARS FULL RESPONSIBILITY FOR EXECUTING THE JUDGMENT AND SENTENCE PURSUANT TO STATUTES CONSTITUTIONALLY ENACTED. JANUARY V. PORTER, 75 Wn.2d 768, 773, 453 P.2d 876 (1969) "THE COURTS HAVE LONG RECOGNIZED THIS DIVISION OF POWER AND TRANSFER OF JURISDICTION OVER A 'FINALLY CONVICTED FELON' FROM THE JUDICIAL TO THE EXECUTIVE BRANCH OF GOVERNMENT." *Id.* AT 773-74 (ITALICS MINE, EMPHASIS ADDED). SEE ALSO JURE POSTSENTENCE REVIEW OF CAGE, 181 Wn. App. 588, 593, 326 P.3d 805 (2014) (CITING PORTER, 75 Wn.2d AT 773-74).

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The test for deciding whether "one branch of government [is] aggrandizing itself or encroaching upon the 'fundamental function of another' is not whether two branches of government engage in coinciding activities, but rather whether the activity of one branch threatens the independence or integrity or invades the prerogatives of another." *CARRICK V. LOCKE*, 125 Wn.2d 129, 135, 882 P.2d 173 (1994).

A COURT COMMISSIONERS POWERS AS GOVERNED UNDER RCW 2.24.010 AND .040(15) AS AUTHORIZED BY ARTICLE IV, SECTION 23 OF THE WASHINGTON STATE CONSTITUTION TO ACCEPT, ENTER AND EVEN VACATE PLEAS OF GUILTY BY ADULT DEFENDANTS IN ACCORDANCE WITH CR 4.2.

DEFENDANT'S OCTOBER 31, 2008, GUILTY PLEAS WERE WITHDRAWN BY THE SUPERIOR COURT ON DECEMBER 20, 2012, DUE TO THE 2012 APPELLATE COURT MANDATE. *STATE V. BARTON*, 169 Wn. App. 1019 (unpublished opinion). THE WITHDRAWAL OF BARTON'S 2008, GUILTY PLEAS IMMEDIATELY CLASSIFIED HIM AS A PRETRIAL DETAINEE. IN THE MATTER OF DARNELL, 68 Wn.2d 666, 414 P.2d 782 (1966) (WITHDRAW OF PLEA AND RE-ARRAIGNED); *STATE V. WRIGHT*, 165 Wn.2d 783, 789, 203 P.3d 1027 (2009) (PRETRIAL PERMITTED WHERE CONVICTION VACATED FOR REASONS OTHER THAN INSUFFICIENT EVIDENCE); AND *STATE V. RAMOS*, 149 Wn. App. 266, 276, 202 P.3d 383 (2009).

AS SOON AS BARTON WITHDREW THE 2008, GUILTY PLEAS UNDER CR 4.2(f) IT IMMEDIATELY RENDERED THE: (1) OCTOBER 31, 2008, PLEA AGREEMENT AND FINDING OF GUILT; (2) OCTOBER 31,

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2008, Judgment And sentence; And (3) APRIL 20, 2011, Judgment And sentence (Resentence) null and void. STATE V. TURNER, 169 W.U.2d 448, 465, 238 P.3d 461 (2010) "VACATED CONVICTIONS MUST BE VACATED IN A MANNER THAT RENDERS THEM PRESENTLY INEFFECTIVE FOR ANY PURPOSE." Id

ON OCTOBER 21, 2013, DEFENDANT KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY RE-ENTERED GUILTY PLEAS UNDER THE 2008 CAUSE MATTER. IN RE PERS. RESTRAINT ISADORE, 151 W.U.2d 294, 297, 88 P.3d 390 (2004). SEE ALSO CRR 4.2(d), AND STATE V. SLEDGE, 133 W.U.2d 828, 838, 947 P.2d 1199 (1997). CLEARLY THE 2013 PLEA AGREEMENT BECAME A NEW CONTRACT BETWEEN THE STATE, DEFENDANT AND COURT.

RCW 9.94A.030(9) "CONVICTION" MEANS AN ADJUDICATION OF GUILT PURSUANT TO TITLE 10 OR 13 RCW AND INCLUDES A VERDICT OF GUILTY, AND "ACCEPTANCE OF A PLEA OF GUILTY." IN RE PERS. RESTRAINT ADOLPH, 170 W.U.2d 556, 568, 243 P.3d 540 (2010). CLEARLY BARTOLI'S OCTOBER 21, 2013, PLEA AGREEMENT, AND THE NOVEMBER 7, 2013, JUDGMENT AND SENTENCE BEING A NEW CONVICTION AND SENTENCE; AND IS NOT A RESENTENCE ON THE PREVIOUS 2008, CONVICTION. NORTH CAROLINA V. PEARCE, 395 U.S. 711, 718-19, 89 S.Ct. 2078, 23 L.Ed.2d 656 (1969).

UNFORTUNATELY, DOC CONTINUES TO IMPAIR THE INTEGRITY OF THE SUPERIOR COURTS FOLLOWING RULINGS: (1) DECEMBER 20, 2012, ORDER WITHDRAWING 2008, GUILTY PLEAS - CRR 4.2(f); (2) OCTOBER 21, 2013, ACCEPTANCE OF GUILTY PLEAS - CRR 4.2; AND (3) NOVEMBER 7, 2013, JUDGMENT AND SENTENCE - CRR 7.2.

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A PLEA AGREEMENT IS CONSIDERED A BINDING DOCUMENT, SUBJECT TO THE TRIAL COURTS APPROVAL. WASHINGTON COURTS HAVE RECOGNIZED THAT A PLEA AGREEMENT IS IN THE NATURE OF A CONTRACT. E.g., STATE V. HALL, 104 W.U.2d 486, 490, 706 P.2d 1074 (1985), THE COURT HAS REFERRED TO THE PLEA AGREEMENT AS A "BINDING AGREEMENT BETWEEN THE DEFENDANT AND THE STATE" ONCE A PLEA IS ACCEPTED BY THE TRIAL COURT. STATE V. MILLER, 110 W.U.2d 528, 536, 756 P.2d 122 (1988), OVERRULED ON OTHER GROUNDS BY STATE V. BARBER, 170 W.U.2d 854, 248 P.3d 494 (2011); SEE ALSO STATE V. TOURTELLIOTTE, 88 W.U.2d 579, 584, 564 P.2d 799 (1977).

FURTHERMORE, "THE JUDGMENT AND SENTENCE IS MERELY EVIDENCE OF A CONVICTION. CONSEQUENTLY, A CERTIFIED COPY OF THE JUDGMENT AND SENTENCE IS NOT REQUIRED TO PROVE THE EXISTENCE OF A CONVICTION." ADOLPH, 170 W.U.2d AT 568; CLARK COUNTY SHERIFF V. DEPT. OF SOC. & HEALTH SERVS., 95 W.U.2d 445, 448, 626, P.2d 6 (1988) "UPON ENTRY OF A JUDGMENT OF GUILTY AND A SENTENCE OF IMPRISONMENT, LEGAL AUTHORITY OVER AND RESPONSIBILITY FOR A 'CONVICTED FELON' PASSES TO THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES." *Id.* (ITALICS MINE).

DOC MISCONSTRUCTION; ABUSE OF POWER AND DISCRETION HAS RESULTED IN THE TREATMENT OF BARTON'S 2013 JUDGMENT AND SENTENCE AS A "RESENTENCE" INSTEAD OF AS A NEW CONVICTION AND SENTENCE AS SO ORDERED BY THE SUPERIOR COURT. THE CONTINUED ENCROACHMENT BY DOC IMPAIRS THE INTEGRITY OF: (1) JUDICIAL AUTHORITY AS GOVERNED BY ARTICLE IV, SECTIONS 1, 6 AND 23 OF OUR STATES CONSTITUTION; AND (2) LEGISLATIVE

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Authority as governed by Article II, section 1 of our states constitution, especially as Doc has no lawful vested authority to validate the VOID October 31, 2008, conviction.

II. DOUBLE JEOPARDY VIOLATION

The fifth amendment to the federal constitution and Article I, section 9 of our state constitution provides a prohibition against double jeopardy that protects a defendant from multiple punishments for the same offense.

Fundamental notions of fair play as well as the double jeopardy clause requires that Barton receive credit for pre-commitment incarceration from December 29, 2012 - November 8, 2013. *Reavie v. Smith*, 83 Wn.2d 342, 349, 517 P.2d 949 (1974). "Failure to allow credit [for time served] violates... the prohibition against multiple punishment." *State v. Cook*, 37 Wn. App. 269, 271, 679 P.2d 413 (1984). "If credit is not allowed to those unable to obtain release pending trial may serve longer sentences than those who are released.

Additionally, the total of the [presentence] detention time plus the imposed sentencing might exceed the statutory maximum penalty if credit is not allowed." *Id.* at 271 (citing *Reavie v. Smith*, 83 Wn.2d 342, 517 P.2d 949 (1974), *and* *In re Trambitas*, 96 Wn.2d 329, 635 P.2d 122 (1981) *and* *State v. Phelan*, 100 Wn.2d 508, 515-17, 671 P.2d 1212 (1983)). SEE ALSO WAC 137-30-060(f).

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whether a defendant is entitled to credit for time served is a question of law, and is therefore reviewed de novo. STATE V. SWIGER, 159 WU.2D 224, 227, 149 P.3D 372 (2006). To determine whether a government [DOC] action is sufficiently punitive to trigger the double jeopardy protections, our supreme court employs a two-part test to determine whether a government action is punitive. STATE V. CATLETT, 133 WU.2D 355, 366, 945 P.2D 700 (1997). We first look to the expression or implied intent of the government sanction. Id. at 365. If its intent is not punitive, then the analysis turns on whether the sanction's purpose or effect nevertheless is so punitive as to negate that intent. Id. See also STATE V. MCCLENDON, 131 WU.2D 853, 870, 935 P.2D 1334 (1997) (Talmadge, J., concurring) ("the present case rises and falls on a single question: is the [DOC] action punishment? If it is punishment, jeopardy attaches"); and STATE V. TURNER, 169 WU.2D 448, 454-55, 465-66, 238 P.3D 461 (2010) (double jeopardy principles apply due to multiple punishment).

Further, our Washington courts look to other "indicia of legislative intent... to determine whether a defendant is receiving multiple punishment for the same offense." STATE V. CALLE, 125 WU.2D 769, 778, 888 P.2D 155 (1999) (emphasis added).

A sentence does not begin to run until the 'convicted person' [10-21-13] is in the custody following entry of the judgment and sentence [11-7-13], the constitutional concepts of... the prohibition against multiple punishments

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REQUIRE THAT THE ACCUSED PERSON'S DETENTION 'PRIOR TO CONVICTION,' RESULTING FROM HIS INABILITY TO POST BAIL OR OTHERWISE PROCURE HIS RELEASE PRIOR TO AND DURING TRIAL AND ANY APPEAL THEREOF BE CREDITED AGAINST THE MAXIMUM AND MANDATORY MINIMUM SENTENCE ESTABLISHED BY STATUTE.

REAVIER, 83 W.V.2D AT 346 (ITALICS MINE)

Doc. must AWARD defendant JAIL TIME CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013, AGAINST HIS SECOND CONVICTION SENTENCE BECAUSE BARTON WAS A PRE-TRIAL DETAINEE DUE TO THE PREVIOUS OCTOBER 31, 2008, CONVICTION BEING VACATED. "[T]HE CONSTITUTIONAL GUARANTEE AGAINST MULTIPLE PUNISHMENTS FOR THE SAME OFFENSE ABSOLUTELY REQUIRES THAT PUNISHMENT ALREADY EXACTED MUST BE FULLY 'CREDITED' IN IMPOSING A SENTENCE UPON A NEW CONVICTION FOR THE SAME OFFENSE." (FOOTNOTE OMITTED, ITALICS MINE). PEARCE, 395 U.S. AT 718-19.

THEREFORE, DOC FAILURE TO AWARD BARTON PRESENTENCE CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013, HAS SUBJECTED THE DEFENDANT TO AN ILLEGAL AND UNWARRANTED ENHANCED SENTENCE STRUCTURE THAT EXCEEDS THE STATUTORILY IMPOSED SENTENCE, WHICH HAS BECOME SO PUNITIVE AS TO TRIGGER DOUBLE JEOPARDY PRINCIPLES. MCCLENDON, 131 W.V.2D AT 870; TURNER, 169 W.V.2D AT 454-55; AND COOK, 37 W.V. APP. 271. "...IF CREDIT IS NOT ALLOWED TO THOSE UNABLE TO OBTAIN RELEASE PENDING TRIAL MAY SERVE LONGER SENTENCES THAN THOSE WHO ARE RELEASED. ADDITIONALLY, THE TOTAL OF THE [PRESENTENCE]

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detention time plus the imposed sentencing might exceed the statutory maximum penalty if credit is not allowed." SEE ALSO REAPER, 83 W.P.2d At 350-51 "... It is all-time spent in confinement and, if not credited against a maximum or mandatory minimum sentence, has the ultimate effect of enlarging the time of potential confinement dictated by the maximum or mandatory minimum sentence." SEE ALSO WAC 137-30-060C1).

"... upon transfer, the department reduces the prisoners sentence for both day-for-day (straight-time) credit and good-time credit earned at the county jail before sentencing." IN RE PERS. RESTRAINT FOGLE, 128 W.U.2d 56, 60, 904 P.2d 722 (1995); IN RE PERS. RESTRAINT WALDON-RAMSEY, 189 W.U. APP. 1014, P.3d (2015) (citing RCW 9.94A.729(3)(e)); IN RE PERS. RESTRAINT WILLIAMS, 121 W.U.2d 655, 658-59, 853 P.2d 444 (1993) (citing RCW 9.92.151). SEE ALSO SECOND ENCLOSED SUBSTITUTE SENATE BILL 5892, WAC 137-30-040 AND DOC 350.100, AND WAC 137-30-060C1).

III. EQUAL PROTECTION VIOLATION

The Fourteenth Amendment to the federal constitution and Article I, section 12 of our state constitution provides equal protection principles. In the present matter, once the court vacated defendant's previous October 31, 2008, conviction under CR 4.2(f) on December 20, 2012, Barton immediately became a pretrial detainee. In the matter of Darvell, 68 W.U.2d 666, 414 P.2d 782 (1966) (withdrawal of a plea and re-arraigned); State v. Wright, 165 W.U.2d 783, 789, 203 P.3d (2009) (pretrial permitted where conviction vacated for reasons

other than insufficient evidence).

ONCE THE COURT VACATED THE PREVIOUS 2008, CONVICTION, IT IMMEDIATELY RENDERED: (1) OCTOBER 31, 2008, PLEA AGREEMENT/CONVICTION; (2) OCTOBER 31, 2009, JUDGMENT AND SENTENCE; AND (3) APRIL 29, 2011, JUDGMENT AND SENTENCE (RESENTENCE) NULL AND VOID. STATE V. TURNER, 169 W.U. 2d 448, 465, 238 P.3d 461 (2010). "VACATED CONVICTIONS MUST BE VACATED IN A MANNER THAT RENDERS THEM PRESENTLY INEFFECTIVE FOR ANY PURPOSE." *Id* (EMPHASIS ADDED); AND IN RE PERS. RESTRAINT BRUNO, C.O.A #68487-6-1 (2013) "... THE LATER ORDER SUPERSEDES THE EARLIER ONE AND THE AUGUST 2010 ORDER SHOULD BE STRICKEN..." *Id* (EMPHASIS ADDED).

THEREFORE, DOC IS BOUND BY THE COURTS: (1) DECEMBER 20, 2012, ORDER; (2) OCTOBER 21, 2013, PLEA AGREEMENT/CONVICTION; (3) NOVEMBER 7, 2013, JUDGMENT AND SENTENCE; AND (4) MAY 3, 2017, AMENDED JUDGMENT AND SENTENCE (RESENTENCE). CLEARLY THE 2013 JUDGMENT AND SENTENCE IS NOT A "RESENTENCE" AS THE DEFENDANT WAS NOT RESENTENCED ON THE PREVIOUS VACATED 2008 CONVICTION AS DOC CONTINUES TO ASSERT. THE PLAIN LANGUAGE WITHIN THE COURT'S DOCUMENTS DOES NOT LIMIT ITS APPLICATION AND NOTHING SUGGESTS THAT THE NOTATION CARRIES LESS THAN THE FULL WEIGHT OF THE TRIAL COURT'S SENTENCING AUTHORITY. STATE V. PHELPS, 113 W.U. APP. 347, 356-57, 57 P.3d 624 (2002); AND DRESS V. DEP'T OF CORR., 168 W.U. APP. 319, 327-28, 279 P.3d 875 (2010) "... THE RELEVANT CASE LAW IS CLEAR THAT DOC HAS NO AUTHORITY TO CORRECT OR IGNORE A FINAL JUDGMENT AND SENTENCE..." DOC MISREADS THE JUDGMENT AND SENTENCE IN AN ATTEMPT TO BUTRESS HIS ARGUMENT." *Id* AT 328. SEE ALSO RCW 72-02.015.

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THE EQUAL PROTECTION PRINCIPLES ARE TRIGGERED BECAUSE

DOC ADAMANTLY REFUSES TO AWARD BARTON PRESENTENCE CREDIT FROM DECEMBER 29, 2012 - NOVEMBER 8, 2013, AND DOC CONTINUED TREATMENT OF THE 2013 JUDGMENT AND SENTENCE AS A "PRESENTENCE." THEREFORE, DOC FAILURE TO PROVIDE PRESENTENCE CREDIT VIOLATES EQUAL PROTECTION. IN RE MOTA, 114 W.V.2D 465, 473, 477, 788 P.2D 538 (1990); IN RE PERS. RESTRAINT TALLEY, 172 W.V.2D 642, 648, 260 P.3D 868 (2011) (CITING IN RE PERS. RESTRAINT FOGLE, 128 W.V.2D 56, 60, 904 P.2D 722 (1993)) "A PRISONER DENIED OR UNABLE TO PAY BAIL WILL SPEND PRESENTENCE DETENTION IN A COUNTY JAIL AND THEN TRANSFER TO A [DEPARTMENT] FACILITY UPON SENTENCING... UPON TRANSFER, THE DEPARTMENT REDUCES THE PRISONER'S SENTENCE FOR BOTH DAY-FOR-DAY (STRAIGHT TIME) CREDIT AND GOOD TIME EARNED AT THE COUNTY." FOGLE, SUPRA AT 60; REAMER V. SMITH, 83 W.V.2D 342, 346, 517 P.2D 949 (1974); HARMON V. MCWITT, 91 W.V.2D 126, 130, 587 P.2D 537 (1978) "PERSONS SIMILARLY SITUATED WITH RESPECT TO THE LEGITIMATE PURPOSE OF THE LAW RECEIVE LIKE TREATMENT." ID AT 130. SEE ALSO STATE V. HARVER, 153 W.V.2D 228, 235-36, 103 P.3D 738 (2004), WHETHER A DEFENDANT IS ENTITLED TO CREDIT FOR TIME SERVED IS A QUESTION OF LAW, AND IS THEREFORE REVIEWED DE NOVO. STATE V. SWIGER, 159 W.V.2D 224, 227, 149 P.3D 372 (2006).

DOC FAILURE TO CREDIT BARTON WITH PRESENTENCE CREDIT FROM DECEMBER 29, 2012 - NOVEMBER 8, 2013, AND DOC UNLAWFUL TREATMENT OF THE 2013 JUDGMENT AND SENTENCE AS A "PRESENTENCE" INSTEAD OF AS A NEW CONVICTION AND SENTENCE TRIGGERS THE COURT TO APPLY THE INTERMEDIATE LEVEL OF SCRUTINY TO LAWS THAT BURDEN BOTH "AN IMPORTANT RIGHT AND A SEMI-SUSPECT CLASS NOT ACCOUNTABLE FOR ITS STATUS." STATE V. HIRSCHFELDER, 170 W.V.2D 536, 550, 242 P.3D 876 (2010)

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(INTERNAL QUOTATION MARKS OMITTED) (QUOTING AM. LEGION POST 149 U. DEPT OF HEALTH, 164 W.U.2D 570, 609, 192 P.3D 306 (2008) (QUOTING MADISON U. STATE, 161 W.U.2D 85, 103, 163 P.3D 757 (2007)); SEE ALSO ERFFIN U. ELLER, 130 W.U.2D 58, 65, 922 P.2D 788 (1996) (CITING IN RE PERS. RESTRAINT RUMYAN, 121 W.U.2D 432, 448, 853 P.2D 424 (1994); WESTERMAN U. CARY, 125 W.U.2D 277, 294, 892 P.2D 1067 (1994); AND STATE U. SCHAFF, 109 W.U.2D 1, 17-19, 743 P.2D 240 (1987).

THE STATUTES [RCW 9.92.151, RCW 9.94A.729(D)(b), WAC 137-30-040, SECOND ENCLOSED SUBSTITUTE SENATE BILL 5892 (ZESSB 5892) AND DOC 350.100] REQUIRES DOC TO "ALLOW AN OFFENDER TO EARN EARLY RELEASE TIME FOR PRESENTENCE INCARCERATION," DOC FAILS TO COMPLY WITH THE LEGISLATIVE AND JUDICIAL MANDATES BY TAKING ADVANTAGE OF THE GRAY AREA BY MISCHARACTERIZING THE "... APPARENT OR MANIFEST ERROR OF LAW STANDARD" TO DISREGARD THE 2013 AND 2017 THURSTON COUNTY JAIL CERTIFICATION IN ITS ENTIRETY. IN RE PERS. RESTRAINT WILLIAMS, 121 W.U.2D 655, 664-65, 853 P.2D 444 (1993); AND IN RE PERS. RESTRAINT ERICKSON, 146 W.U. APP. 576, 585, 191 P.3D 917 (2008) (CITING IN RE PERS. RESTRAINT WILLIAMS, 121 W.U.2D 655, 664-65).

IN WILLIAMS, THE COURT CAUTIONED THAT BY "ALLOWING THE DEPARTMENT TO GIVE LEGAL FORCE TO A CERTIFICATION WHICH IS BASED ON AN ERROR OF LAW WOULD MAGNIFY RATHER THAN ALLEVIATE DISPARITIES IN TREATMENT... WE ARE SENSITIVE, HOWEVER, TO THE PROBLEMS DEPARTMENT OVERSIGHT TO THE COUNTY JAILS WOULD CREATE..." WILLIAMS, 121 W.U.2D AT 666

DOC IS ABUSING ITS DESIGNATED ADMINISTRATIVE

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Authority to disregard the 2013 and 2017 Jail Certification in its entirety by asserting Barton's 2013 Judgment and Sentence being a "resentence," when in law and in fact it is a new conviction and sentence, which DOC must treat as such. The law further mandates DOC to award Barton presentence credit from December 20, 2012 - November 8, 2013.

Clearly there is "no apparent or manifest error of law" that renders the 2013 and 2017 Jail Certification ineffective with no legal force. Williams, supra at 663-64 (citing *in re Schupp*, 66 W.L. App. 45, 51, 831 P.2d 156 (1992)) "...if its certification meets the legal requirements of the statute, the Department is therefore entitled to accord that certification legal effect." Id at 665.

The apparent or manifest error of law assessment by DOC is not only misplaced on many levels, but also being contrary to the language of RCW 9.92.151, RCW 9.94A.729, RCW 72.02.015, WAC 137-30-040, ZESSB 5892 and DOC 350.100, which unanimously supports the defendant's position that: (1) 2013 Judgment and Sentence is a new conviction and sentence as he was not resentenced on the previous 2008 conviction; and (2) DOC must award presentence credit from December 20, 2012 - November 8, 2013, as the defendant was a pretrial detainee.

The law as expressed by the Williams court has resulted in DOC to unlawfully infringe and "burden both an important right and semi-suspect class not accountable for his status."

Hirschfelder, supra at 550, Williams, supra at 665-66 (citing *Bell v. Wolfish*, 441 U.S. 520, 534, 60 L.Ed.2d 447, 99 S.Ct. 1861 (1979));

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U.S. v. HAZZARD, 598 F.Supp. 1442, 1452-53, 75 A.L.R. Fed. 783 (N.D. Ill. 1984); AND STATE v. PHELAU, 100 W.V.2d 508, 513-14, 671 P.2d 1212 (1983).

IV. DUE PROCESS VIOLATION.

The fifth and fourteenth Amendment to the Federal Constitution and Article I, section 3 of our state constitution provides due process protection against the deprivation of life, liberty, or property.

IN ASSESSING whether a right to a due process exists, the court examines whether the person has been deprived of a liberty interest, and further examines the process by which that liberty was denied. *In re Pers. Restraint McCarthy*, 161 W.V.2d 234, 240-41, 164 P.3d 1283 (2007) (citing *Wilkinson v. Austin*, 545 U.S. 209, 221, 125 S.Ct. 2384, 162 L.Ed.2d 174 (2005)). We initially consider whether the individual is being deprived of an interest that arises from "the constitution," from "guarantees implicit in the word 'liberty'" or "from an expectation or interest created by state laws or policies." *Id.* (quoting *Wilkinson*, 545 U.S. at 221). Once we have determined that an individual has been deprived of a liberty interest, our test for the degree of due process required in a particular case follows the federal standard in balancing three factors; (1) the private interest to be protected, (2) the risk of erroneous deprivation of that interest by the government's procedures, and (3) the government's interest in maintaining the procedures. *Morris v. Baker*, 118 W.V.2d 133, 144-45, 821 P.2d 482.

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(1992) (Citing MATTHEWS V. ELDRIDGE, 424 U.S. 319, 335, 96 S.Ct. 895, 47 L.Ed.2d 18 (1976)).

CONSTITUTIONAL ISSUES ARE REVIEWED DE NOVO. STATE V. SIEYES, 168 W.V.2d 276, 281, 225 P.3d 995 (2010) (Citing STATE V. CHAVEZ, 163 W.V.2d 262, 267, 180 P.3d 1250 (2008)).

WHERE THE DEPRIVATION OF LIBERTY IS DUE TO DEFENDANT'S INDIGENCY, AS IS THE CASE WHEN THERE IS A DENIAL OF CREDIT FOR PRESENTENCE DETENTION DUE TO AN INABILITY TO MAKE BAIL, THE APPLICATION OF SOME ENHANCED STANDARD OF REVIEW SEEMS EVEN MORE CLEAR. STATE V. PHELAN, 100 W.V.2d AT 514 ("THE POOR, WHILE NOT A SUSPECT CLASS, CANNOT BE SAID TO BE FULLY ACCOUNTABLE FOR THEIR STATUS"). GOOD TIME CREDIT IS A RECOGNIZED LIBERTY INTEREST AND THEREFORE AN IMPORTANT, THOUGH NOT A FUNDAMENTAL RIGHT. WOLFF V. MCDONNELL, 418 U.S. 539, 557, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974) (STATE HAVING CREATED THE RIGHT TO GOOD-TIME, THE PRISONER'S INTERESTS HAS A REAL SUBSTANCE AND IS A LIBERTY INTEREST UNDER THE FOURTEENTH AMENDMENT); IN RE ANDERSON, 112 W.V.2d 546, 548, 772 P.2d 510 (1989) (STATUTORY RIGHT TO GOOD TIME CREDIT CONSTITUTES A LIBERTY INTEREST); IN RE PIERCY, 101 W.V.2d 490, 495, 681 P.2d 223 (1984) (INTERMEDIATE OFFENDER HAS FOURTEENTH AMENDMENT LIBERTY INTEREST IN GOOD TIME CREDIT); IN RE PERS. RESTRAINT CROWDER, 97 W.V. APP. 598, 600, 985 P.2d 944 (1999) (CITING IN RE PERS. RESTRAINT FOGLE, 128 W.V. APP. 56, 65-66, 904 P.2d 722 (1995)). THE STATUTORY RIGHT TO EARNED EARLY RELEASE CREDIT CREATES A LIMITED LIBERTY INTEREST REQUIRING MINIMUM DUE PROCESS. *Id.*

BARTON'S INTEREST TO HIS PRESENTENCE DETENTION CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013 FALLS WITHIN THE NARROW RANGE OF A PROTECTED LIBERTY INTEREST THAT ARISE FROM THE

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constitution, Washington state law and DOC policy, due to "the necessary withdrawal or limitation of many privileges and rights" that results from lawful incarceration. PRICE V. JOHNSTON, 334 U.S. 266, 285, 68 S.Ct. 1049, 92 L.Ed.2d 1356 (1948); protected interests that arise purely from the due process clause are restricted to "the most basic liberty interests in prisoner's." HEWITT V. HELMS, 459 U.S. 460, 467, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983), overruled in part on other grounds by SAUDIN V. O'CONNOR, 515 U.S. 472, 115 S.Ct. 2293, 132 L.Ed.2d 418 (1995); IN RE PERS. RESTRAINT CASHAW, 123 Wn.2d 138, 143, 866 P.2d 8 (1994) "An inmate interest in his earned early release credit is a limited, but protected liberty interest. Likewise, the department's compliance with requirements of a statute affecting his release is a protected liberty interest." Id at 143 and 148-49.

Due process means that life, liberty, and property are held under general rules that govern society; STATE V. STRASBURG, 60 WASH. 106, 110 P. 1020 (1910). When a prisoner is refused any earned early release time for time spent in jail violates due process of law. IN RE PERS. RESTRAINT Atwood, 136 Wn. App. 23, 26, 146 P.3d 1232 (2006); IN RE PERS. RESTRAINT Dutcher, 114 Wn. App. 755, 758, 764, 60 P.3d 635 (2002) (citing Crowder, 97 Wn. App. At 600); IN RE PERS. RESTRAINT, ADAMS, 132 Wn. App. 640, 650, 134 P.3d 1176 (2006) (inmate has a statutory right to earned early release credits); IN RE PERS. RESTRAINT Liptrap, 127 Wn. App. 463, 469, 111 P.3d 1227 (2005)

In the present matter, DOC has abused its own discretion as governed by IN RE PERS. RESTRAINT Williams, 121 Wn.2d

MEMORANDUM-17 (SAG)

655, 664-65, 666, 853 P.2d 444 (1993), by blatantly disregarding the facts. *IN RE PERS. RESTRAINT ADDERMAN*, 151 Wn.2d 769, 776-77, 92 P.3d 221 (2004). DOC ABUSES ITS DISCRETION WHEN IT FAILS TO FOLLOW ITS OWN PROCEDURES OR ACTS IN DISREGARD OF THE JUDICIAL PROCESS AND THE LEGISLATIVE GUIDELINES BY NOT BEING IN COMPLIANCE WITH RCW 72.02.015, RCW 9.92.151, RCW 9.94A.729, WAC 137-30-040 STATUTORY GUIDELINES AND DOC 350.100 POLICY DIRECTIVES. "... WE ARE SENSITIVE, HOWEVER, TO THE PROBLEMS DEPARTMENT OVERSIGHT TO THE COUNTY JAILS WOULD CREATE." WILLIAMS, SUPRA AT 666.

DOC REFUSES TO AWARD BARTON PRESENTENCE CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013, AS DOC MAINTAINS THAT BARTON'S 2013 JUDGMENT AND SENTENCE IS A "PRESENTENCE ON THE PREVIOUS OCTOBER 31, 2008, CONVICTION." CLEARLY, THIS ASSERTION BY DOC IS ENTIRELY MISPLACED AND REMAINS WITHOUT ANY LAWFUL MERIT.

"STATE INTERFERENCE WITH A FUNDAMENTAL RIGHT IS SUBJECT TO STRICT SCRUTINY." *AMOURD V. Bd. of APPEALS*, 158 Wn.2d 208, 220, 143 P.3d 571 (2006). IN ORDER TO PASS STRICT SCRUTINY, A LAW INFRINGING ON A FUNDAMENTAL RIGHT MUST BE NARROWLY TAILORED TO SERVE A COMPELLING STATE INTEREST." *Id* (CITING *WASHINGTON V. GLUCKSBERG*, 521 U.S. 703, 721, 117 S.Ct. 2258, 117 S.Ct. 2302, 138 L.Ed.2d 772 (1997)).

THE WILLIAMS DECISION SHOULD BE SUBJECT TO REVIEW AS IT HAS PROVIDED DOC THE PLATFORM TO REJECT THE COUNTY JAIL CERTIFICATION WHICH HAS NOW BECOME A FLAGRANT ABUSE OF DISCRETION, ESPECIALLY IN THIS VERY CASE WHEN A CONVICTION HAS BEEN VACATED IN WHICH A DEFENDANT BECOMES RETRIED AND CONVICTED UNDER THE EXACT SAME CAUSE MATTER. DOC SHOULD NOT BE ALLOWED TO ASSERT

MEMORANDUM-18 (SAG)

ON HIS OWN ACCORD THAT THE NEW CONVICTION AND SENTENCE IS A "RESENTENCE". THIS POSITION AND ASSERTION BY DOC IMPAIRS BOTH THE JUDICIAL AND LEGISLATIVE AUTHORITY ON ALL LEVELS AND HAS BECOME A COMPLETE MISARRANGE OF JUSTICE.

V. STATE LAW VIOLATIONS

OUR STATE CONSTITUTION PROVIDES THE LEGISLATIVE BRANCH TO CREATE, ENACT, AMEND, REPEAL LAWS UNDER ARTICLE II, SECTION 1, THIS VESTED AUTHORITY INCLUDES THE REVISED CODE OF WASHINGTON (RCW), WASHINGTON ADMINISTRATIVE CODE (WAC), AND EVEN CRIMINAL COURT RULES (CR).

THE SUPERIOR COURT THROUGH ITS INHERITED POWER AND AUTHORITY UNDER ARTICLE IV, SECTIONS 1, 6, 23; RCW'S 2.24.010 AND .40(15); 10.40.180 AND CR 4.2(F) VACATED DEFENDANT'S PREVIOUS OCTOBER 31, 2008, GUILTY PLEAS ON DECEMBER 20, 2012. UNFORTUNATELY, DOC CONTINUES TO DISREGARD AND IMPAIR THE DECEMBER 20, 2012, COURT ORDER WHICH VIOLATES NOT JUST THE SEPARATION OF POWERS DOCTRINE AS OUTLINED HEREABOVE IN PART I, BUT ALSO BEING A BLATANT VIOLATION OF RCW'S 72.02.015 AND 7.21.010(D)(b).

ON OCTOBER 21, 2013, THE COURT THROUGH ITS INHERITED POWER AND AUTHORITY ACCEPTS DEFENDANT'S GUILTY PLEA VIA THE 5TH AMENDED INFORMATION. RCW'S 9.94A.421(2), 9.94A.431, 10.40.170, 9.94A.030(9); AND CR 4.2(D)(e). UNFORTUNATELY, DOC CONTINUES TO DISREGARD AND IMPAIR THE COURT'S OCTOBER 21, 2013

findings of guilt which further violates RCW's 72.02.015 AND 7.21.010(D)(b).

ON NOVEMBER 7, 2013, THE COURT SENTENCES THE DEFENDANT BASED ON THE NEW CONVICTION IN ACCORDANCE TO THE SENTENCING REFORM ACT (SRA), RCW 10.64 AND CR 7.2. UNFORTUNATELY, DOC CONTINUES TO DISREGARD AND IMPAIR THE 2013 JUDGMENT AND SENTENCE BY TREATING SAID JUDGMENT AS A "RESENTENCE" WHICH VIOLATES RCW'S 72.02.015 AND 7.21.010(D)(b). SEE ALSO RCW 40.16.020 AND 40.16.030.

ON NOVEMBER 8, 2013 AND MAY 4, 2017, THE THURSTON COUNTY JAIL CERTIFIED THAT DEFENDANT SERVED FROM OCTOBER 12, 2012 - NOVEMBER 8, 2013 IN THEIR JAIL IN ACCORDANCE TO RCW 9.92.151. HOWEVER, DEFENDANT IS ENTITLED TO PRESENTENCE CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013, DUE TO THE COURT VACATING THE PREVIOUS OCTOBER 31, 2008 CONVICTION ON DECEMBER 20, 2012. THEREFORE, DOC IS BOTH CONSTITUTIONALLY AND STATUTORALLY MANDATED TO AWARD DEFENDANT PRESENTENCE CAUSE CREDITS AND GOOD-TIME CREDITS IN FULL FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013 PURSUANT TO WAC 137-30-040(5) AND RCW'S 9.92.151 AND 9.94A-729(D)(b) "... SHALL ALLOW AN OFFENDER TO EARN EARLY RELEASE CREDITS FOR PRESENTENCE INCARCERATION..." SEE ALSO IN RE PERS. RESTRAINT JENSEN, C.O.A #29900-7-111 (CITING RCW 9.94A-729(D)(b)), AND WAC 137-30-060(D).

INSTEAD DOC REFUSES TO AWARD DEFENDANT PRESENTENCE CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8,

MANDAMUS-20 (SAG)

2013, AS DESIGNATED UNDER RCW 9.94A.729 AND
ZESSB 5892. HOWEVER, THIS IS A CLEAR ABUSE OF
DISCRETION BY DOC WHILE IMPAIRING DEFENDANT'S 2013
JUDGMENT AND SENTENCE AS A "RESENTENCE ON A PREVIOUS
(10-31-08) CONVICTION" WAC 137-30-040(S), WHICH
DEFENDANT'S 2013 JUDGMENT IS NOT.

DOC IS CONSTITUTIONALLY AND STATUTORALLY
BOUND TO ADHERE TO THE TRIAL COURTS: (1) DECEMBER 20,
2012 ORDER; (2) OCTOBER 21, 2013 GUILTY FINDINGS; (3)
NOVEMBER 7, 2013 JUDGMENT AND SENTENCE; AND (4) MAY
3, 2017 RESENTENCE. THE INTRINSIC COURT RECORD IS
BINDING AND CONCLUSIVE UPON DOC.

UNFORTUNATELY, DOC IMPAIRMENT NOT ONLY
UNLAWFULLY DEPRIVES DEFENDANT PRESENTENCE CAUSE
CREDITS AND GOOD-TIME CREDITS, BUT FURTHER VIOLATES
RCW'S 9.94A.729(2) AND 9.94A.533(3)(b).

DOC HAS NO AUTHORITY TO CONTINUE RUNNING
DEFENDANT'S FIREARM ENHANCEMENT TIME WHILE HE
WAS CLEARLY A PRE-TRIAL DETAINEE FROM DECEMBER
20, 2012 - NOVEMBER 8, 2013. ONCE THE COURT FOUND
DEFENDANT GUILTY (10-21-13) AND IMPOSED SENTENCE
(11-7-13) WHICH INCLUDED THE IMPOSITION OF TWO 36
MONTH FIREARM ENHANCEMENTS, DOC SHALL HAVE
RECOMMENCED THE ENHANCEMENTS AFTER OBTAINING
LAWFUL JURISDICTION OF DEFENDANT AFTER THE
NOVEMBER 7, 2013 NEW CONVICTION AND SENTENCE. RCW

MEMORANDUM-
MANDAMUS-21 (SAG)

9.94A.533(3)(b) "...By statute, A MANDATORY THREE-YEAR term must BE ADDED when there has BEEN A "CONVICTION FOR ASSAULT WITH A FIREARM." SEE ALSO STATE V. KAYSER, C.O. A # 71518-G-I (2015) (CITING RCW 9.94A.533(3)(b)).

INSTEAD, DOC CONTINUES TO DISREGARD AND IMPAIR THE COURTS AUTHORITY IN FULL BY GIVING UNLAWFUL FORCE AND EFFECT TO THE NULL AND VOID OCTOBER 31, 2008 PREVIOUS CONVICTION:

WHEN INTERPRETING THE WORDS OF THE STATUTE(S) THAT DOC IS VIOLATING, THIS COURT MUST DETERMINE THE LEGISLATIVE INTENT. STATE V. JACOBS, 154 WJ.2D 596, 600, 115 P3D 281 (2005). IF THE PLAIN LANGUAGE IS CLEAR AND UNAMBIGUOUS, THE LEGISLATIVE INTENT IS CLEAR. STATE V. DELGADO, 148 WJ.2D 723, 727, 63 P3D 792 (2003). THE MEANING OF A STATUTORY PROVISION IS ALSO HARMONIZED WITH THE OTHER PROVISION IN THE STATUTE AND THE STATUTORY SCHEME AS A WHOLE. JACOBS, 154 WJ.2D AT 600.

IN THE CASE HEREIN, THE COURT ACTED WITHIN ITS AUTHORITY TO: (1) VACATE DEFENDANT'S PREVIOUS (10-31-08) CONVICTION ON DECEMBER 20, 2012; (2) FINDING DEFENDANT GUILTY ON OCTOBER 21, 2013 UNDER THE 5TH AMEND INFORMATION; AND (3) SENTENCING DEFENDANT ON NOVEMBER 7, 2013. THE 2013 JUDGMENT AND SENTENCE IS A NEW CONVICTION AND SENTENCE AND NOT A RESENTENCE AS DOC UNLAWFULLY ASSERTS. DEFENDANT'S PRESENTENCE DETENTION TIME FROM DECEMBER 20, 2012 - NOVEMBER 8,

MEMORANDUM
MANDAMUS 22 (SAG)

2013, must be fully credited in whole by DOC. It is evident that DOC has unlawfully misconstrued and violated the plain statutory language and its intent. "Courts should assume the legislature means exactly what it says". BERGER V. SOWELAND, 144 Wn.2d 91, 105, 26 P.3d 257 (2001).

The court is vested to interpret statutes DE NOVO, AS A QUESTION OF LAW. DEPT OF ECOLOGY V. CAMPBELL & GWINN, LLC, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). WHEN INTERPRETING STATUTES, THE FUNDAMENTAL PURPOSE IS TO ASCERTAIN AND CARRY OUT THE INTENT OF THE LEGISLATURE. IN RE MARRIAGE OF SCHNEIDER, 173 Wn.2d 353, 363, 268 P.3d 215 (2011). IF A STATUTE'S MEANING IS PLAIN ON ITS FACE, "THEN THE COURT MUST GIVE EFFECT TO THE PLAIN LANGUAGE AND MEANING AS AN EXPRESSION OF LEGISLATIVE INTENT". CAMPBELL V. GWINN, 146 Wn.2d AT 9-10.

VI. DOC POLICY VIOLATION

DOC Authority is derived from the EXECUTIVE BRANCH of our state constitution ART. III. DOC IS BOUND TO PROCURE THAT THEIR ADMINISTRATIVE PROCEDURES AND POLICIES COMPORT WITH BOTH STATE AND FEDERAL LAWS. DOC IS ALSO BOUND TO ACT WITHIN THE VERY SCOPE OF THE LEGISLATIVE LANGUAGE AND INTENT.

UNDER WASHINGTON STATE LAW, "[I]nterpretation of... Policies is a question of LAW, in which the policy

IS CONSTRUED AS A WHOLE AND EACH CLAUSE IS GIVEN FORCE AND EFFECT." OVERTON U. CONSOL INS. CO., 145 W.N.2D 417, 424, 38 P.3D 322 (2001). THE COURT GIVES POLICY TERMS A "FAIR, REASONABLE, AND SENSIBLE CONSTRUCTION AS WOULD BE GIVEN TO THE CONTRACT BY THE AVERAGE PERSON..." ID (CITATIONS OMITTED). ANY AMBIGUITY IN POLICY LANGUAGE ARE TO BE STRICTLY CONSTRUED AGAINST... AMERICAN BEST FOODS INC. U. ALEA LONDON LTD., 168 W.N.2D 398, 407, 229 P.3D 693 (2010); QUEEN CITY FARMS INC., U. CENTRAL NAT'L INS. CO. OF OMAHA, 882 P.2D 703, 720, 126 W.N.2D 50, 65, 81 (1994). HOWEVER, IF THE POLICY LANGUAGE IS CLEAR AND UNAMBIGUOUS, THE COURT MUST ENFORCE IT AS WRITTEN AND MAY NOT CREATE AMBIGUITY WHERE NONE EXISTS. QUADRANT CORP. U. AMERICAN STATES INS. CO., 154 W.N.2D 165, 171, 110 P.3D 733 (2005). IN INTERPRETING POLICIES, COURTS ARE BOUND BY THE DEFINITIONS PROVIDED THEREIN. OVERTON, 145 W.N.2D AT 427.

DOC IS ATTEMPTING TO CREATE AMBIGUITY WITH DOC POLICY 350.100 U.I.A, WHERE NONE EXISTS. IN AN ATTEMPT TO BUTRESS ITS POSITION IN CONTINUING TO TREAT DEFENDANT'S 2013 JUDGMENT AND SENTENCE AS A "RESENTENCE". DOC CONTINUES TO ASSERT THAT DEFENDANT'S 2013 JUDGMENT AND SENTENCE IS A RESENTENCE BASED ON THE PREVIOUS OCTOBER 31, 2008 CONVICTION. THIS ASSERTION AS THOROUGHLY ARGUED IS AN INCORRECT APPLICATION AND INTERPRETATION BY DOC.

DOC POLICY 350.100 U.I.A, DERIVES FROM WAC

MEMORANDUM-
MANDAMUS 24 (SAG)

137-30-040(S) which reads as follows:

"offenders who are 'resentenced on a previous conviction' are entitled to receive credit for the original jail time, original jail earned ~~release~~ time, department time served, and ERT on the department time served. All time the offender served for the conviction offense..."

DOC Policy 350.100 V.I.A reads as:

"offenders who are 'resentenced on a previous conviction' are entitled to receive credit for all the original jail time, original jail ERT, department time served, and ERT on the department time served. All time the offender served for the conviction offense..."

Statutory interpretations are reviewed de novo.

State v. Conover, 183 Wn.2d 706, 711, 355 P.3d 1093 (2015). Our "fundamental objective... is to ascertain and carry out the legislature's intent". Lake v. Woodcreek Homeowners Ass'n, 169 Wn.2d 516, 526, 243 P.3d 1283 (2010) (quoting Arborwood Idaho, LLC v. City of Kennewick, 151 Wn.2d 359, 367, 89 P.3d 217 (2004)). In interpreting statutes, "we presume the legislature did not intend absurd results," and thus

MEMORANDUM
MADDAMOS-25 (SAG)

Avoid them where possible. STATE V. EATON, 168 W.V.2d 476, 480, 229 P.3d 704 (2006) (Citing STATE V. J.P., 149 W.V.2d 444, 450, 69 P.3d 318 (2003)); STATE V. KINTZ, 169 W.V.2d 537, 547-48, 238 P.3d 470 (2010). While we typically ascertain plain meaning from standard English dictionaries, it is helpful to examine legal dictionaries when words are used in a legal context. Lynott v. Nat'l. Union Fire Ins. Co. of Pittsburgh, 123 W.V.2d 678, 691-92, 871 P.2d 146 (1994). Here below the Black's Law and Merriam-Webster dictionaries provide a useful definition to "resentenced" or a "previous conviction" in the context of legislative and deliberative bodies:

RESENTENCE: n. (1878). the act or an instance of imposing a new or revised criminal sentence. BLACK'S LAW DICTIONARY (10th ed. 2009).

PREVIOUS: Adj. going before, earlier, former. MERRIAM-WEBSTER DICTIONARY (11th ed. 2016).

CONVICTION: n. 1. the act or process of judicially finding someone guilty of a crime, the state having been proved guilty. 2. the judgment that a person is guilty of a crime. BLACK'S LAW DICTIONARY (10th ed. 2009).

The record and the legislative language supports defendant's position that the 2013 judgment and sentence

MEMORANDUM
MADDAUS 26 (SAG)

IS NOT A RESENTENCE ON THE PREVIOUS OCTOBER 31, 2008 CONVICTION. RATHER THE 2013 JUDGMENT AND SENTENCE IS A NEW SENTENCE BASED ON THE NEW OCTOBER 21, 2013 CONVICTION.

THE PURPOSE OF STATUTORY CONSTRUCTION IS OF COURSE TO GIVE CONTENT AND FORCE TO THE INTENT OF THE LEGISLATURE. STATE V. JOHNSON, 119 WU.2D 167, 172, 829 P.2D 1082 (1992). WHEN POSSIBLE, THAT INTENT IS TO BE DERIVED INITIALLY FROM THE LANGUAGE OF THE STATUTE ITSELF. COSSEL V. SKAGIT CO., 119 WU.2D 434, 436, 834 P.2D 609 (1992); STATE V. PADING, 119 WU.2D 685, 690, 835 P.2D 1019 (1992).

READING OF THE STATUTE IS IMPLICIT IN THE LANGUAGE OF THE STATUTE ITSELF. IT IS THE GENERAL RULE THAT STATUTES ARE CONSTRUED TO AVOID CONSTITUTIONAL DIFFICULTIES WHEN SUCH CONSTRUCTION IS CONSISTENT WITH THE PURPOSES OF THE STATUTE. SEE EX REL. FAULK V. CSGI, JOB CTR., 117 WU.2D 493, 500, 816 P.2D 725 (1991); IN RE CHORNEY, 64 WU.APP. 469, 477, 825 P.2D 336 (1992). AS RAISED IN THE MOTA CASE, SIGNIFICANT EQUAL PROTECTION CONCERNS ARE RAISED BY THE DIFFERENTIAL TREATMENT THAT MAY BE ACCORDED THE INDIGENT AS A RESULT OF HIS INABILITY TO POST BAIL BEFORE TRIAL. MOTA, 114 WU.2D AT 469-70.

DEFENDANT IS ENTITLED TO PRESENTENCE CREDIT FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013 AS THE PREVIOUS OCTOBER 31, 2008 CONVICTION WAS VACATED BY THE TRIAL COURT. DEFENDANT WAS THEREFORE A PRETRIAL

MEMORANDUM
MANDATUS - 27 (SAG)

detainee and DOC must finally award defendant with the full amount of jail cause credits and jail good time credits from December 20, 2012 - November 8, 2013 as DOC 350.100 V.I.A specifically mandates DOC to do. See *In re Pers. Restraint Talley*, 172 W.U.2d 642, 648, 260 P.3d 868 (2011) (quoting *In re Pers. Restraint Fogle*, 128 W.U.2d 56, 60, 904 P.2d 722 (1993)).

DOC must exercise its "delegated authority under the restraints of the statutes delegating the authority." *State v. Brown*, 142 W.U.2d 57, 62, 11 P.3d 218 (2000). See also *McGuire v. State*, 58 W.U. App. 195, 198, 791 P.2d 929 (1991) ("the power and authority of an administrative agency is limited to that which is expressly granted by statute or necessarily implied therein"). *In re Pers. Restraint Cashaw*, 123 W.U.2d 138, 143, 148, 866 P.2d 8 (1994) "... the department's compliance with requirement of a statute affecting his release is a protected liberty interest." *Id.* DOC "must ensure all offenders receive credit for their 'presentence detention' and for their earned early release credits earned therein." See *Mota*, 114 W.U.2d 465; and *State v. Pappas*, 54 W.U. App. 583, 584-85, 794 P.2d 557 (1989).

If by chance DOC convinces this court that their policy 350.100 V.I.A, has another interpretation contrary to the defendant's position, this court must apply the meaning that favors the defendant under the rule of lenity. If the language is unambiguous,

MEMORANDUM
MANDAMUS-28(SAG)

WE GIVE EFFECT TO THAT LANGUAGE BECAUSE WE PRESUME
THE LEGISLATURE SAYS WHAT IT MEANS AND MEANS WHAT
IT SAYS. STATE V. COSTICH, 152 WU.2D 463, 470, 98 P.3D
795 (2004). IF A STATUTE IS SUBJECT TO MORE THAN ONE
INTERPRETATION, THE STATUTE IS AMBIGUOUS AND THE RULE
OF LEVITY APPLIES. STATE V. JACOBS, 154 WU.2D 596, 600-01,
115 P.3D 281 (2005). HOWEVER, "COURTS MUST BE
CAREFUL, [WHEN INTERPRETING POLICIES] NOT TO DISREGARD THE
'CLEAR IMPORT AND INTENT...' " SEE AM. GUAR. & CAB INS.
CO., V. FAULK (SEP. 27, 2011) US DIST. (EXIS 109747.

THIS MEMORANDUM OF LAW IS BASED ON THE
^{ORDER}
~~MOTION~~ TO CLARIFY PRESENCE CREDIT AND DEFENDANT'S
DECLARATION,

SUBMITTED ON THIS 26th DAY OF SEPTEMBER, 2017.

JD JONES BARTON

JD JONES BARTON #867165

DEFENDANT PRO SE.

MEMORANDUM -
MANDAMUS - 29 (SAE)

FILED
COURT OF APPEALS
DIVISION II

2018 APR -5 PM 1:43

STATE OF WASHINGTON

BY _____
DEPUTY

IN THE COURT OF APPEALS OF WASHINGTON STATE
DIVISION TWO

STATE OF WASHINGTON,
RESPONDENT

C.O.A. No. S0354-9-11
SUPERIOR COURT No. 08-1-00727-1

v.

JD JONES BARTON,
APPELLANT

ORDER CLARIFYING
PRESENTENCE CREDIT

THIS MATTER having come on regularly before the undersigned Judge of the
above Court, upon motion of the defendant, and the Court being fully advised,

IT IS HEREBY ORDERED that the DEPARTMENT of CORRECTIONS
shall no longer treat defendant's 2013 judgment and sentence as a
resentence as the previous October 31, 2002, conviction was vacated on
DECEMBER 29, 2012. Therefore, the time from 12-20-12 through 11-8-13
that defendant served at the Thurston County Jail shall be treated as
presentence time for purposes of calculation of both cause credits and
good-time credits. Further, the previous presentence time from
4-21-02 through 10-31-02, shall also be fully credited both cause credits
and good time credits due to DOC concession to the DESS LANGUAGE.

DONE IN OPEN COURT this ____ day of _____, 2018.

JUDGE/COMMISSIONER

FILED
COURT OF APPEALS
DIVISION II

2018 APR -5 PM 1:44

STATE OF WASHINGTON

BY _____
DEPUTY

IN THE COURT OF APPEALS OF WASHINGTON STATE
DIVISION TWO

STATE OF WASHINGTON,
RESPONDENT

v.

JD JONES BARTON,
APPELLANT

C.O.A No. 50354-9-11
SUPERIOR COURT No. 08-1-00727-1

~~ADDITIONAL~~ ~~ATTACHED~~ SAG ISSUE
IN SUPPORT OF SAG -
MEMORANDUM (RAP 10.10)

COMES NOW, JD JONES BARTON, defendant prose whom
brings forth the above-entitled action.

I. PROCEDURAL FACTS

ON OCTOBER 31, 2008, DEFENDANT PLED GUILTY TO THE THIRD
AMENDED INFORMATION, SENTENCED AND ALSO TRANSFERRED INTO THE FULL
JURISDICTION OF THE DEPARTMENT OF CORRECTIONS (DOC). DOC ALSO IMMEDIATELY
BEGAN THE COMMENCEMENT OF DEFENDANT'S 72 MONTH FIREARM
ENHANCEMENT. SEE DECLARATION OF DEFENDANT (EX. 2 AND EX. 4, P. 2-3).

ON DECEMBER 20, 2012, THE TRIAL COURT VACATED THE
PREVIOUS 2008 CONVICTION AND PROCEEDED WITH THE REARRANGEMENT
OF THE DEFENDANT UNDER THE SAME ABOVE CAPTIONED CAUSE MATTER.
SEE DECLARATION OF DEFENDANT (APPX. B AND EX 3)

ON OCTOBER 21, 2013, DEFENDANT PLED GUILTY TO THE
FIFTH AMENDED INFORMATION, THIS BEING A NEW CONVICTION DATE.
SEE DEFENDANT'S DECLARATION (APPX. C).

AMENDED SAG ISSUE-1

ON NOVEMBER 7, 2013, THE TRIAL COURT SENTENCED THE DEFENDANT BASED ON THE NEW CONVICTION. THE 2013 JUDGMENT AND SENTENCE IS A NEW CONVICTION AND SENTENCE. SEE DECLARATION OF DEFENDANT (APPX.D AND EX.3).

ON NOVEMBER 8, 2013, DEFENDANT WAS TRANSFERRED BACK INTO DOC CUSTODY WHOM IMMEDIATELY TREATED THE 2013 JUDGMENT AND SENTENCE AS A "RESENTENCE ON THE PREVIOUS 2008 CONVICTION." SEE DECLARATION OF DEFENDANT (EX.2 AND EX.8).

DOC ALSO CONTINUED TO RUN THE FIREARM ENHANCEMENT TIME WHILE DEFENDANT WAS CLEARLY A PRETRIAL DETAINEE FROM DECEMBER 20, 2012 - NOVEMBER 8, 2013. SEE DECLARATION OF DEFENDANT (EX.2, P.1-2; EX.4, P.2-3; AND EX.8, P.).

DOC CONTINUES TO ASSERT THAT THE 72 MONTH FIREARM ENHANCEMENT TIME BECAME COMPLETED ON OCTOBER 30, 2014. SEE DECLARATION OF DEFENDANT (EX.2, P.1-2; AND EX.4, P.2-3).

BOTH THE DEFENDANT AND PLAINTIFF'S COUNSEL, JOSEPH F. WHEELER, WSBA #16936 HAVE ATTEMPTED TO CONVEY TO DOC IN GOOD FAITH THAT THE 2013 JUDGMENT AND SENTENCE IS NOT A RESENTENCE. SEE DECLARATION OF DEFENDANT (EX.3, EX.4, P.1, EX.5, P.1, AND EX.8, P.).

II. ARGUMENT

DEFENDANT IS NOW ENTITLED TO THE EXPECTATION OF FINALITY REGARDING THE OCTOBER 30, 2014, 72 MONTH FIREARM ENHANCEMENT COMPLETION DATE, ESPECIALLY AS DOC HAS DISREGARDED AND IMPAIRED THE TRIAL COURT'S FOLLOWING ORDERS: (1) 12-20-12 ORDER VACATING 2008 CONVICTION/PLEA; (2) 10-21-13 FINDINGS OF GUILT; (3) 11-7-13 JUDGMENT AND SENTENCE RCW 72.02.015.

AMENDED SAG ISSUE-2
~~NO TRIAL FEBRUARY 2~~

THIS ABUSE OF POWER AND DISCRETION HAS FURTHER RESULTED IN: (1) FAILURE TO AWARD DEFENDANT PRESENTENCE CREDIT FROM 12-20-12 - 11-8-13; AND (2) FAILURE TO STOP THE ENHANCEMENT TIME FROM 12-20-12, TO BE RECOMMENCED ON 11-8-13. SEE DEFENDANT'S MEMORANDUM OF LAW, (P. 21-23).

"what matters for purpose of double jeopardy is not the legality or illegality of the sentence... but the defendant's expectation of finality." STATE V. HARDESTY, 129 W.V.2D 303, 315, 215 P.2D 1080 (1996). A defendant's expectation of finality is influenced by many factors such as the completion of the sentence, the passage of time, *Id* at 311; AND IN RE PERS. RESTRAINT BOACH, 150 W.V.2D 29, 37, 74 P.3D 134 (2003) (CHAMBER, J., CONCURRING) "... A PRISONER RELEASED WITHOUT CONTRIBUTING FAULT, EITHER BECAUSE OF HIS IGNORANCE OR BECAUSE OF DILIGENCE IN CALLING THE GOVERNMENT'S MISTAKE TO THE ATTENTION OF THE RESPONSIBLE AUTHORITIES, SHOULD NOT BE EFFECTIVELY PENALIZED..." *Id* at 39.

THE COURT HAS CLARIFIED WHAT DOUBLE JEOPARDY REQUIRES WITH REGARD TO MULTIPLE PUNISHMENTS. THE COURTS HAVE RECOGNIZED THAT "IN THE MULTIPLE PUNISHMENT CONTEXT," THE INTEREST THE DOUBLE JEOPARDY CLAUSE SEEKS TO PROTECT IS "LIMITED TO ENSURING THAT THE TOTAL PUNISHMENT DID NOT EXCEED THAT AUTHORIZED BY THE LEGISLATURE." JONES V. THOMAS, 491 U.S. 376, 381, 109 S.Ct. 2522, 105 L.Ed.2d 322 (1989) (quoting U.S. V. HALPER, 490 U.S. 435, 450, 109 S.Ct. 1842, 104 L.Ed.2d 487 (1987), ABROGATED ON OTHER GROUNDS BY HUDSON V. U.S., 522 U.S. 93, 118 S.Ct. 488, 139 L.Ed.2d 450 (1997)). HOWEVER, EVEN IF THE SENTENCE IS WITHIN THE RANGE AUTHORIZED BY THE LEGISLATURE, DOUBLE JEOPARDY MAY STILL POSSE A BAR IF THE DEFENDANT HAS A LEGITIMATE EXPECTATION OF FINALITY IN HIS OR HER SENTENCE. SEE

PENNSYLVANIA v. GOLDHAMMER, 474 U.S. 28, 30-31, 101 S.Ct. 353, 88 L.Ed. 2d 183 (1995); Accord State v. Hardesty, 179 W.V.2d 303, 311, 915 P.2d 1080 (1996).

DOC HAS subjected defendant to PREJUDICE by imposing HARsher PENALTIES that were not AUTHORIZED by the TRIAL COURT, the CONSTITUTION NOR the LEGISLATIVE INTENT. DEFENDANT HAS THEREFORE BEEN: (i) PREJUDICED by DOC DELAY to COMPEt with the JUDICIAL, LEGISLATIVE, EXECUTIVE AND CONSTITUTIONAL AUTHORITY; (ii) DOC HAS NO STANDING to EXCUSE their BAD FAITH DELAY that DISREGARDED AND IMPAIRED the JUDICIAL PROCESS AND FUNCTION; AND (iii) DOC HAS NO LAWFUL INTEREST to JUSTIFY the PREJUDICE they CAUSED AND CREATED by OVERSTEPPING its OWN VESTED SCOPE AND AUTHORITY. STATE v. WARNER, 125 W.V.2d 876, 899, P.2d 479 (1995) (CITING STATE v. DIXON, 114 W.V.2d 857, 860, 792 P.2d 137 (1990) (CITING U.S. v. LOVASCO, 431 U.S. 783, 97 S.Ct. 2044, 52 L.Ed.2d 752 (1977)); STATE v. FRAZIER, 82 W.V. App. 516, 586, 918 P.2d 964 (1996).

III. CONCLUSION

DEFENDANT RESPECTFULLY REQUEST this COURT to GRANT this motion AND ADOPT the ORDER mandating that DOC IS PROHIBITED from modifying the 10-30-14 ENHANCEMENT completion date AS DEFENDANT IS entitled to the expectation of finality AS DEFENDANT did NOT contribute to the IMPAIRMENT.

SUBMITTED on this 5th day of October 2017.

JD JONES BARTON
JD JONES BARTON
DEFENDANT PRO SE

Amended SAG ISSUE-4
~~NOT FOR RECORD~~

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DIVISION II

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STATE OF WASHINGTON

BY TERRELL

IN THE COURT OF APPEAL OF WASHINGTON STATE
DIVISION TWO

STATE OF WASHINGTON,
RESPONDENT

C.O.A. No. S0354-9-11
SUPERIOR COURT No. 08-1-00727-1

v.

ORDER OF EXPECTATION OF
FINALITY ON THE FIREARM
ENHANCEMENTS

JD JONES BARTON,
APPELLANT

THIS MATTER HAVING COME ON REGULARLY BEFORE THE
undersigned Judge of the ABOVE court, upon motion of the DEFENDANT,
AND the court BEING fully advised,

IT IS HEREBY ORDERED that the DEPARTMENT of
CORRECTIONS (DOC) SHALL BE PROHIBITED from modifying the
completion date of OCTOBER 30, 2014, REGARDING DEFENDANT'S
72 month FIREARM ENHANCEMENT, DUE TO DEFENDANT'S
EXPECTATION OF FINALITY. FAULT LIES WITH DOC DUE TO
OVERSTEPPING THEIR OWN VESTED AUTHORITY.

DONE IN OPEN COURT this ___ day of ___, 2018.

Judge/Commissioner

ORDER OF EXPECTATION

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DIVISION II

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COURT OF APPEALS FOR THE STATE OF WASHINGTON

BY DIVISION TWO

STATE OF WASHINGTON,
RESPONDENT

C.O.A NO. 50354-9-11
SUPERIOR COURT NO. 08-1-00727-1

V.

JD JONES BARTON,
APPELLANT

DOC TIME BARRED TO
CONTEST THE 2008
PRESENTENCE CREDIT WHILE
IN SUPPORT OF OPENING BRIEF
AND APPELLANTS SAEI

I. IDENTITY

COMES NOW, APPELLANT PRO SE whom BRINGS the ABOVE CAPTIONED PLEADING while in support of the opening brief and APPELLANTS SAEI-MEMORANDUM.

II. STATEMENT OF FACTS

BARTON'S initial October 31, 2008 AND April 20, 2011 JUDGMENT AND SENTENCE(S) ARE null AND void due to the SUPERIOR COURT VACATING the PREVIOUS 2008 CONVICTION on DECEMBER 20, 2012. SEE SAEI, P. 4-5 (CITING STATE V. TURNER, 169 Wn.2d 448, 465, 238 P.3d 461 (2010)); AND DECLARATION of APPELLANT P. 1 (APPX.B).

DOC HAS CONCEDED BY NOT CONTESTING the APPELLANTS PRESENTENCE TIME (4-21-08-10-31-08) IN ACCORDANCE to RCW 9.94A.585(7) AND ALSO CONCEDED BY ASSERTING the "DRESS LANGUAGE". SEE DECLARATION of APPELLANT, P. 3 (EX. 5, P. 2-4) (EX. 4).

IN the PRESENT matter, DOC ABAUDONED its RIGHTS IN ACCORDANCE to RCW 9.94A.585(7) to CONTEST the MAY 3, 2017 AMENDED JUDGMENT AND SENTENCE. IN fact, DOC STATES "...UNLESS WE RECEIVE AN AMENDED ORDER FROM the COURT FOR ANY further CHANGES WE ARE CONSIDERING this MATTER addressed AND NO further ACTION will BE TAKEN." SEE DECLARATION of APPELLANT (EX. 5, P. 1).

DOC TIME BARRED-1

III. ARGUMENT

DOC neglected to petition the court of APPEALS for REVIEW of the MAY 3, 2017 AMENDED JUDGMENT AND SENTENCE WITHIN 90 DAYS. DRESS V. DEPT. OF CORR., 168 WU. APP. 319, 322, 279 P.3d 875 (2012).

TOWARD this END, the LEGISLATURE designed RCW 9.94A.585(7) to ALLEVIATE the DELIMMA PREVIOUSLY FACING DOC ENFORCING what it CONSIDERS to BE AN UNLAWFUL SENTENCE OR IGNORING the SENTENCE imposed BY the TRIAL COURTS. DRESS, 168 WU. APP. AT 326-27.

HERE, REGARDING the MAY 3, 2017 AMENDED JUDGMENT AND SENTENCE PRESENTENCE CREDIT NOTATION, DOC ABAUDOUED ALL RIGHTS to CONTEST. IF DOC WAS CONCERNED with the VALIDITY of the PRESENTENCE NOTATION it COULD HAVE FILED A NOTICE of APPEAL UNDER RCW 9.94A.585(7).

RCW 9.94A.585(7) DOES NOT OUTLINE ANY SUCH TIME BAR EXCEPTION that WHICH GOVERNS BOTH RCW 10.73.090 AND 10.73.100(G). IN FACT RCW 9.94A.585(7) EXPLICITLY STATES:

"THE DEPARTMENT MAY PETITION FOR REVIEW OF A SENTENCE COMMITTING AN OFFENDER TO THE CUSTODY OR JURISDICTION OF THE DEPARTMENT. THE REVIEW "SHALL" BE LIMITED TO ERRORS OF LAW. SUCH PETITION "SHALL" BE FILED WITH THE COURT OF APPEALS "NO LATER THAN NINETY DAYS" AFTER THE DEPARTMENT HAS ACTUAL KNOWLEDGE OF TERMS OF THE SENTENCE"... "ID.

SEE DRESS, 168 WU. APP. AT 327.

FOR REASONS THAT ARE UNEXPLAINED, DOC CHOSE TO IGNORE RCW 9.94A.585(7)'S EXPRESS STATUTORY MECHANISM FOR REVIEW OF ALLEGED ERRORS IN BARTON'S 2017 AMENDED JUDGMENT AND SENTENCE BY FAILING TO PETITION FOR REVIEW WITHIN 90 DAYS OF ITS JULY 2017 LETTER. SEE DECLARATION OF APPELLANT (EX. 5, P. 1. PARA. 4-5)

UNLIKE RCW'S 10.73.090 AND 10.73.100(G), THERE ARE NO EXCEPTIONS FOR DOC TO CURTAIL AROUND THE 90 DAY TIME BAR. SEE IN RE PERS. RESTRAINT OF ERHART, 183 WU. 2d 144, 351 P.3d 137 (2015); IN RE PERS. RESTRAINT OF ADAMS, 178 WU. 2d 417, 309 P.3d 451 (2013); AND IN RE PERS. RESTRAINT OF COATS, 173 WU. 2d 123, 267 P.3d 324 (2011).

ANY LAWFUL RIGHTS THAT DOC HAD TO CONTEST THE 2017 AMENDED JUDGMENT AND SENTENCE HAS NOW BEEN ABAUDOUED AND LOST BY VIRTUE DUE TO THE EXPIRATION OF THE 90 DAY TIME BAR. RCW 9.94A.585(7).

THEREFORE, DUE TO DOC FAILURE TO APPEAL IN A TIMELY MANNER REGARDING THE 2008 PRESENTENCE CREDIT AND THE NOTATION WITHIN THE 2017 AMENDED JUDGMENT AND SENTENCE, ALLOWS BARTON TO ASSERT HIS RIGHTS UNDER THE EXPECTATION OF FINALITY.

"WHAT MATTERS FOR PURPOSE OF DOUBLE JEOPARDY IS NOT THE LEGALITY OR ILLEGALITY OF THE SENTENCE... BUT THE DEFENDANT'S EXPECTATION OF FINALITY." STATE V. HARDESTY, 129 WU.2D 303, 315, 215 P.2D 680 (1996). A DEFENDANT'S EXPECTATION OF FINALITY IS INFLUENCED BY MANY FACTORS SUCH AS THE COMPLETION OF THE SENTENCE, THE PASSAGE OF TIME. ID AT 311. SEE ALSO IURE PERS. RESTRAINT OF ROACH. 150 WU.2D 29, 37, 74 P.3D 134 (2003) (CHAMBER J., CONCURRING) "... A PRISONER RELEASED WITHOUT CONTRIBUTING FAULT, EITHER BECAUSE OF HIS IGNORANCE OR BECAUSE OF DILIGENCE IN CALLING THE GOVERNMENT'S MISTAKE TO THE ATTENTION OF THE RESPONSIBLE AUTHORITIES, SHOULD NOT BE EFFECTIVELY PENALIZED..." ID AT 39.

IV. CONCLUSION

APPELLANT RESPECTFULLY REQUESTS THIS COURT TO ORDER THE DEPARTMENT OF CORRECTIONS TO COMPLY WITH THE TRIAL COURT'S VALID MAY 3, 2017 AMENDED JUDGMENT AND SENTENCE PRESENTENCE CREDIT NOTATION AS DOC IS TIME BARRED AND HAVE THUS LOST ALL RIGHTS TO CONTEST THE PRESENTENCE CREDIT.

SUBMITTED THIS 15TH DAY OF MARCH 2018

JD JONES BARTON

JD JONES BARTON # 867165
APPELLANT PRO SE
STAFFORD CREEK CORR. CTR.
191 CONSTITUTION WAY
ABERDEEN, WA 98520

FILED
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DIVISION II

2018 APR -5 PM 1:44

STATE OF WASHINGTON

BY _____
DEPUTY

IN THE COURT OF APPEALS OF WASHINGTON STATE
DIVISION TWO

STATE OF WASHINGTON,
RESPONDENT.

C.O.A No. 50354-9-11
SUPERIOR COURT NO. 08-1-00727-1

v.

JD JONES BARTON,
APPELLANT.

DECLARATION OF APPELLANT
IN SUPPORT OF STATEMENT
OF ADDITIONAL GROUNDS

I, JD JONES BARTON, certify that I am over the age of 18, of sound mind, am competent and willing to testify to the following facts of which I have first hand knowledge, observation, or have made reasonable inferences from my first hand knowledge. I declare and say:

1) SEPTEMBER 24, 2012, THE TRIAL COURT DIRECTS DOC TO BRING ME BACK TO THE THURSTON COUNTY JAIL SO THAT I CAN APPEAR FOR A RE-ARRANGEMENT HEARING. APPX. A

2) DECEMBER 20, 2012, THE TRIAL COURT VACATED THE 2008 GUILTY PLEAS. APPX. B

3) OCTOBER 21, 2013, THE TRIAL COURT ACCEPTED GUILTY PLEAS TO THE 5TH AMENDED INFORMATION. APPX. C

4) NOVEMBER 7, 2013, THE TRIAL COURT SENTENCED ME BASED ON THE 10-21-13 GUILTY PLEAS. APPX. D

5) NOVEMBER 8, 2013, THE THURSTON COUNTY JAIL CERTIFIES THAT I SPENT FROM 10-12-12 - 11-8-13 IN

THEIR JAIL. EX. 1

6). NOVEMBER 8, 2013 I WAS TRANSFERRED BACK INTO THE JURISDICTION OF DOC. DOC SHOULD HAVE CREDITED ME PRESENTENCE CREDIT FROM 12-20-12-11-8-13, & RECOMMENDED THE FIREARM ENHANCEMENTS FROM 11-8-13.

7). UPON MY ARRIVAL IN DOC, I QUICKLY DISCOVERED THAT DOC WAS REFUSING TO CREDIT ME PRESENTENCE CREDIT FROM 12-20-12-11-8-13 DUE TO TREATING THE 2013 JUDGMENT AND SENTENCE AS A "RESENTENCE". EX. 2, P. 1-2

8). FEBRUARY 22, 2017, I WAS TRANSFERRED TO THE THURSTON COUNTY JAIL TO APPEAR FOR A RESENTENCING HEARING.

9). WHILE IN THE COUNTY JAIL I PROVIDED PLAINTIFFS COUNSEL, JOSEPH F. WHEELER WSBA# 16936 AND STAND-BY-COUNSEL PATRICK O'CONNOR, WSBA# 38054 PROOF THAT DOC WAS TREATING THE 2013 JES AS A "RESENTENCE" AND DEPRIVING ME OF PRESENTENCE CREDIT FROM 12-20-12-11-8-13, AND DOC CONCESSION TO DRESS LANGUAGE, EX. 1, P. 3, & EX. 5, P. 2-4.

10). MAY 3, 2017, PLAINTIFF'S COUNSEL ADDRESSED THE COURT OF THE ISSUE REGARDING DOC REFUSING TO CREDIT ME PRESENTENCE CREDIT. RP 5-8

11). MAY 3, 2017, THE TRIAL COURT ADOPTED THE

stipulated language for presentence credit while imposing sentence. APPX.E

12). DOC RECORDS CONTACTS PLAINTIFF'S COUNSEL, WHOM INFORMS DOC THAT ONCE THE COURT WITHDREW THE PREVIOUS 2008 CONVICTION IN 2012, DOC NO LONGER HAD ANY SUCH JURISDICTION. EX.3

13). DOC PROVIDES ME NOTIFICATION THAT WITHOUT A COURT ORDER FROM THE COURT VACATING MY SENTENCE, DOC WILL NOT AWARD ME PRESENTENCE CREDIT FROM 12-20-12-

11-8-13. EX. 4 DOC HAS GIVEN ME PRESENTENCE CREDIT FROM 4-21-08-10-31-08, WITHOUT FILING A TIMELY APPEAL. EX 4 25. -RCW 9A.525(7)

14). ON OR ABOUT JUNE 28, 2017, PLAINTIFF'S COUNSEL PROVIDES DOC VIA E-MAIL: (1) 12-20-12 ORDER VACATING 2008 CONVICTION, AND (2) 10-21-13 FINDINGS OF GUILT.

15). DOC ASSERTS THAT THE WITHDRAWAL OF A GUILTY PLEA DOES NOT AFFECT OR ENTITLE ME TO CREDIT FOR TIME SERVED OR ALLOW ME TO HAVE ANY ADDITION TO PRESENTENCE CREDIT. EX.5

16). DOC STILL ASSERTING THAT I'VE BEEN RESENTENCED ON THE PREVIOUS 10-31-08 CONVICTION. EX.6

17). DOC IS VIOLATING POLICY 350.100 N.I.A. BY ASSERTING THE 2013 JUDGMENT AND SENTENCE IS A

SENTENCE ON THE PREVIOUS 2008 CONVICTION. EX. 7.

18). DOC WAS RUNNING MY FIREARM ENHANCEMENT TIME WHILE I WAS A PRETRIAL DETAINEE FROM 12-20-12-11-8-13. EX 2, P. 2-3; AND EX. 4, P. 2-3.

19). I'VE PROVIDED DOC PLENTY OF NOTICE THAT THEY HAVE NO AUTHORITY TO RUN MY FIREARM ENHANCEMENT TIME WHILE I WAS A PRETRIAL DETAINEE, AND THAT DOC HAS NO AUTHORITY TO IMPAIR THE TRIAL COURTS IMPOSED ORDERS. APPX. F, AND EX. 8.

20). THE WASHINGTON STATE PATROL ALSO PROVIDES DOC NOTIFICATION THAT THE 2013 JUDGMENT AND SENTENCE IS NOT A SENTENCE ON THE PREVIOUS 10-31-08 CONVICTION BUT RATHER THE 2008 CAUSE MATTER BEING A "NEW CONVICTION" WITH A 10-21-13 CONVICTION DATE. EX. 9.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT ALL THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SWORN THIS 12TH DAY OF OCTOBER, 2017

JD JONES BARTON
JD JONES BARTON
DEFENDANT PROSE

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THURSTON COUNTY, WA
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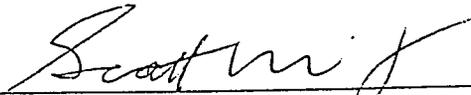
<i>IN THE SUPERIOR COURT OF WASHINGTON IN AND FOR THURSTON COUNTY</i>	
STATE OF WASHINGTON,	Plaintiff,
vs.	
JD JONES BARTON, <i>E</i>	Defendant.

NO. 08-1-00727-1
MOTION AND ORDER FOR TRANSPORT
OF DEFENDANT (STATE CUSTODY)
DOC # 867165

COMES NOW JON TUNHEIM, Prosecuting Attorney in and for Thurston County, State of Washington, by and through SCOTT M. JACKSON, Deputy Prosecuting Attorney, and moves the Court for an order directing the Department of Corrections to transport the above-named defendant to the Thurston County Jail by October 16, 2012 for RE-ARRAIGNMENT date at 10:00 am.

Signed and dated by me this 24th day of September, 2012, at Olympia, Washington.

JON TUNHEIM
Prosecuting Attorney


SCOTT M. JACKSON, WSBA# 26844
Deputy Prosecuting Attorney

08-1-00727-1

ORDER

This matter having come on upon the motion of SCOTT M. JACKSON, Deputy Prosecuting Attorney in and for Thurston County, State of Washington, for an order transporting the above-named defendant, and the Court having examined the files and records herein, and being fully advised in the premises, now makes the following order:

It is therefore, ORDERED that the Department of Corrections is hereby directed to transport the defendant from WASHINGTON STATE PENITENTIARY to the THURSTON COUNTY JAIL by October 16, 2012, for RE-ARRAIGNMENT at 10:00 am and shall be returned to WASHINGTON STATE PENITENTIARY, upon the completion of all court proceedings herein.

DATED this 24 day of September, 2012.

[Handwritten Signature]

JUDGE

BOOKING NO.: C0151697
CHARGE: **

STATE OF WASHINGTON
County of Thurston
I, Betty J. Gould, County Clerk and Ex-officio Clerk of the Superior Court of the State of Washington, for Thurston County holding session at Olympia, do hereby certify that the foregoing is a true and correct copy of the original as the same appears on file and of record in my office containing TWO pages. IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court.
DATED: 09-24-12

BETTY J. GOULD
County Clerk, Thurston County, State of Washington
by *[Handwritten Signature]* Deputy

867165

WASHINGTON CORRECTIONS CENTER
Shelton, Washington
Office of the Superintendent

This is to certify that I have personally checked the record and find that #867165 BARTON, JD J. (WSP-MAIN/RC) is scheduled for transfer from this institution in custody to: THURSTON COUNTY JAIL. He is to leave on the 12TH day of OCTOBER, 2012 at approximately WHEN READY.

By Order: THURSTON COUNTY SUPERIOR COURT
CSE # 08-1-00727-1

VIA: WCC TRANSPORTATION

OMNI RELEASE INFO:	County: THURSTON
	Move Type: OUT TO COURT
	Move Reason: COURT ORDER


Records Division

(COURT ORDER)

2 C14

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THURSTON COUNTY SUPERIOR COURT
STATE OF WASHINGTON

C14

STATE OF WASHINGTON,

Plaintiff,

vs.

J.D. JONES BARTON,

Defendant

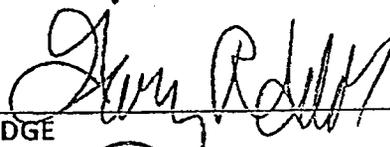
) Case No.: 08-1-00727-1

) ORDER WITHDRAWING DEFENDANT'S PLEA
) OF GUILTY ON OCTOBER 31, 2008

THIS MATTER having come before the undersigned Judge of the above-entitled Court on the Defendant's Motion to Withdraw Plea of Guilty, and the Court having reviewed the record of the above-entitled cause and being fully advised in the premises, and the Court having found that said withdrawal is authorized by the mandate of the Court of Appeals, Division II, Now, Therefore, It Is

IT IS HEREBY ORDERED that the Defendant's plea of guilty on October 31, 2008, is withdrawn and his pleas of not guilty to all counts are reinstated.

Dated this 20 day of December, 2012.



JUDGE

Sinclair & Strophy, P.S.
1226 State Avenue NE
Olympia, WA 98506
(360) 786-8787
ps@jsinclairlaw.com

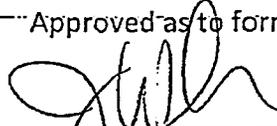
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Presented by:


Paul A. Strophy, WSBA #38004
Attorney for the Defendant

Approved as to form:


Joseph Wheeler, WSBA # 16936
Deputy Prosecuting Attorney

9

FILED
SUPERIOR COURT
THURSTON COUNTY, WA.

2013 OCT 21 PM 1:59

BETTY J. GOULD, CLERK

**Superior Court of Washington
For Thurston County**

State of Washington,

Plaintiff

vs.

JD JONES BARTON,

Defendant

No. 08-1-00727-1

**Statement of Defendant on Plea of
Guilty to Non-Sex Offense
(Felony)
(STTDFG)**

FN C14

1. My true name is: JD Jones Barton
2. My age is: 27
3. The last level of education I completed was HS diploma.
4. **I Have Been Informed and Fully Understand That**
 - (a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
 - (b) I am charged with: (Count 1) Assault in the 2nd Degree with Firearm; (Count 2) Assault in the 2nd Degree with Firearm; & (Count 3) Unlawful Possession of a Firearm in 1st Degree.

The elements are: (Count 1-2) to intentionally assault another with a deadly weapon in Washington, to wit a Firearm; (Count 3) to knowingly have a firearm in his possession or control after having been previously convicted of serious offense in Washington.
5. **I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:**
 - (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.

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	MAXIMUM TERM AND FINE
1	9+	63-84 months	36 months	36 months	10 years \$20,000
2	9+	63-84 months	36 months	36 months	10 years \$20,000
3	28	67-89 months 77 to 102	N/A	N/A	10 years \$20,000

JJB →

* Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude, (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 agreement. 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 I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding 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.~~

[x] ~~For offenses committed after July 1, 2000 but prior to July 26, 2009, the court may impose a community custody range as follows: for serious violent offenses, 24 to 36 months; for crimes against persons, 9 to 12 months; for offenses under 69.50 and 69.52, 9 to 12 months.~~

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	36 months
Violent Offenses	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:
Count 1 - 84 months in custody and 36 months on firearm enhancement (consecutive)
Count 2 - 84 months in custody (concurrent) and 36 months on firearm enhancement
(consecutive to other enhancement); Count 3 - 84 months in custody (concurrent); 36
months (or less) of community custody if Defendant serves less than 120 months in
custody; \$500.00 CVP; \$200 filing fee; \$100 DNA; no-contact with victims for 10 years;
and dismissal of all other counts in this cause, dismissal of all counts under 13-1-592-5, and
dismissal of assault 4th degree case in TCDC, C 33881TC.

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 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) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.
- (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.

- JB (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.
- _____ (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 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).~~
- _____ (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 the Department of Licensing 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 as 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, or vehicular assault 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.~~
- JB (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) ~~If 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.~~
- _____ (hh) ~~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.~~
- _____ (ii) ~~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.~~

7. I plead guilty to: Count 1 - Assault Second Degree with Firearm Enhancement, Count 2 - Assault Second Degree with Firearm Enhancement, and Count 3 - Unlawful Possession of Firearm in First Degree in the Fifth Amended Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

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

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

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

JB →

Alford plea

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.

6

FILED
SUPERIOR COURT
THURSTON COUNTY, WA

2013 OCT 21 PM 1:59

BETTY J. GOULD, CLERK

IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY

STATE OF WASHINGTON,
vs.
JD JONES BARTON,
Plaintiff,
Defendant.

NO. 08-1-00727-1

PROSECUTOR'S STATEMENT OF CRIMINAL HISTORY

There are no known convictions for SRA purposes.
The defendant's known criminal history:

CRIME					
UNLAWFUL POSSESSION OF A FIREARM	5/24/99	4/27/99	PIERCE CO. 99-8-1231-1	J	NV
HARASSMENT	12/10/01	12/18/01	THURSTON CO 01-8-1197-8	J	NV
ROBBERY IN THE FIRST DEGREE	1/28/02	12/18/01	THURSTON CO 02-8-0019-6	J	VIOLENT
ROBBERY IN THE FIRST DEGREE	1/28/02	12/21/01	THURSTON CO 02-8-0082-6	J	VIOLENT
ESCAPE 2	1/21/04	1/28/03	LEWIS CO. 03-1-984-3	A	NV
CUSTODIAL ASSAULT	8/24/05	1/31/05	LEWIS CO. 05-1-222-5	A	NV
MALICIOUS MISCHIEF 2	1/22/08	12/5/07	THURSTON CO 07-1-2094-6	A	NV

DATED this 21 day of October, 2013

JOSEPH F. WHEELER, WSBA#16936
DEPUTY PROSECUTING ATTORNEY

The defendant and the defendant's attorney hereby stipulate that the above is a correct statement of the defendant's criminal history relevant to the determination of the defendant's offender score in the above-entitled cause.

JD Jones Barton
JD JONES BARTON, DEFENDANT

PAUL STROPHY, WSBA#

PROSECUTOR'S STATEMENT OF CRIMINAL HISTORY-1

Jon Tunheim
Thurston County Prosecuting Attorney
2000 Lakeridge Drive S.W.
Olympia, WA 98502
360/786-5540 Fax 360/754-3358

867165

SUPERIOR COURT
THURSTON COUNTY, WA

2013 NOV -7 PM 3: 28

BETTY J. GOULD, CLERK

Re-sentenced
AC & AD

SUPERIOR COURT OF WASHINGTON
COUNTY OF THURSTON

STATE OF WASHINGTON, Plaintiff,

vs.

JD JONES BARTON, Defendant.

No. 08-1-00727-1

FELONY JUDGMENT AND SENTENCE (FJS)

Prison (non-sex offense)

SID: WA19566764
If no SID, use DOB: 02/20/1986
PCN: 766962211 BOOKING NO. C0151697

I. HEARING

1.1 A sentencing hearing was held on ~~October 21~~ ^{November 7,} 2013 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 October 21, 2013
by plea jury-verdict bench trial of

COUNT	CRIME	RCW	DATE OF CRIME
I	ASSAULT IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON - FIREARM	9A.36.021(1)(c)/9.94A.602/9.94A.533(3)	APRIL 20, 2008
II	ASSAULT IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON - FIREARM	9A.36.021(1)(c)/9.94A.602/9.94A.533(3)	APRIL 20, 2008
III	UNLAWFUL POSSESSION OF A FIREARM IN THE FIRST DEGREE	9.41.040(1)(a)	APRIL 21, 2008

as charged in the FIFTH AMENDED INFORMATION.

- Additional current offenses are attached in Appendix 2.1.
- The court finds that the defendant is subject to sentencing under RCW 9.94A.712.
- A special verdict/finding for use of firearm was returned on Count(s) 1 & 2. RCW 9.94A.602, 9.94A.533.
- A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the

2017 MAY -3 PM 2: 39

Linda Myhre Enlow
Thurston County Clerk

**Superior Court of Washington
County of Thurston**

STATE OF WASHINGTON,

Plaintiff,

vs.

JD JONES BARTON,

Defendant.

SID: WA19566764
DOB: 02/20/1986
PCN: 766962211
BOOKING NO. C0151697

No. 08-1-00727-1

AMENDED

Felony Judgment and Sentence -- Prison (FJS)

- Clerk's Action Required, para 2.1, 4.1, 4.3, 4.8 5.2, 5.3, 5.5, 5.7, and 5.8
- Defendant Used Motor Vehicle
- Juvenile Decline Mandatory Discretionary
- Defendant Shall Report to Thurston County Jail as ordered in Paragraph 4.1

I. Hearing

1.1 The court conducted a sentencing hearing on May 3, 2017 ; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon
 guilty plea on 10/21/2013 jury-verdict (date) _____ bench trial (date) _____:

Count	Crime	RCW	Date Of Crime
I	ASSAULT IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON - FIREARM	9A.36.021(1)(c); 9.94A.602; 9.94A.533(3)	04/20/2008
II	ASSAULT IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON - FIREARM	9A.36.021(1)(c); 9.94A.602; 9.94A.533(3)	04/20/2008
III	UNLAWFUL POSSESSION OF A FIREARM IN THE 1ST DEGREE	9.41.040(1)(a)	04/21/2008

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

- Additional current offenses are attached in Appendix 2.1a.
- The jury returned a special verdict or the court made a special finding with regard to the following:
 - For the crime(s) charged in Count _____, domestic violence was pled and proved. RCW 10.99.020.
 - The defendant used a **firearm** in the commission of the offense in Count 1 & 2. RCW 9.94A.825, 9.94A.533.

- The defendant used a deadly weapon other than a firearm in committing the offense in Count _____
_____. RCW 9.94A.825, 9.94A.533.
- Count _____, is aggravated murder in the first degree committed while the defendant was under 16
years of age 16 or 17 years of age when the offense was committed.
- Count _____, was committed while the defendant was under 18 years of age and the time of confinement
is over 20 years.
- Count _____, Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and
RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of
a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter;
or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in
a public housing project designated by a local governing authority as a drug-free zone.
- In count _____ the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21), RCW 9.94A._____.
- The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of
isomers, when a juvenile was present in or upon the premises of manufacture in Count
_____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- Count _____ is a criminal street gang-related felony offense in which the defendant compensated, threatened, or
solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- Count _____ is the crime of unlawful possession of a firearm and the defendant was a criminal street gang member
or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.
- The defendant committed vehicular homicide vehicular assault proximately caused by driving a vehicle while under
the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a
violent offense. RCW 9.94A.030.
- In Count _____, the defendant had (number of) _____ passenger(s) under the age of 16 in the vehicle. RCW 9.94A.533.
- Count _____ involves attempting to elude a police vehicle and during the commission of the crime the defendant
endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- In Count _____ the defendant has been convicted of assaulting a law enforcement officer or other employee of a
law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW
9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831,
9.94A.533.
- Count _____ is a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- The defendant has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- Reasonable grounds exist to believe the defendant is a mentally ill person as defined in RCW 71.24.025, and that this condition
is likely to have influenced the offense. RCW 9.94B.080
- In Count _____, assault in the 1st degree (RCW 9A.36.011) or assault of a child in the 1st degree (RCW 9A.36.120), the
offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum
term of 5 years (RCW 9.94A.540).
- Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score.
RCW 9.94A.589.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense
and cause number):

Crime	Cause Number	Court (county & state)	DV* Yes
1. N/A			

* DV: Domestic Violence was pled and proved.

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

2.2 Criminal History (RCW 9.94A.525):

Crime	Date of Sentence	Sentencing Court	Date of Crime	A or J	Type of Crime	DV* Yes
1 UPF 2	5-24-99	PIERCE CO. 99-8-01231-1	4-27-99	JUV.	NV	N/A
2 HARASSMENT	12-10-01	THURSTON CO. 01-8-01197-8	12-18-01	JUV	NV	N/A
3 ROBBERY 1	1-28-02	THURSTON CO. 02-8-00019-2	12-18-01	JUV.	VIOL.	N/A
4 ROBBERY 1	1-28-02	THURSTON CO. 02-8-00082-6	12-21-01	JUV.	VIOL.	N/A
5 ESCAPE 2	01-21-04	LEWIS CO. 03-1-00984-3	1-28-03	A	NV	N/A
6 CUSTODIAL ASSAULT	8-24-05	LEWIS CO. 05-1-00222-5	1-31-05	A	NV	N/A
7 MALICIOUS MISCHIEF	1-22-08	THURSTON CO. 07-1-02094-6	12-5-07	A	NV	N/A

* DV: Domestic Violence was pled and proved.

- Additional criminal history is attached in Appendix 2.2.
- The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- The prior convictions listed as number(s) _____, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)
- The prior convictions listed as number(s) _____, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
I	11	4	63 to 84 mo	36	99 to 120	10 yr
II	11	4	63 to 84 mo	36	99 to 120	10 yr
III X	8	6	77 to 102 mo	—	77 to 102	10 yr

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, see RCW 9.94A.533(7), (JP) Juvenile present, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude, (ALF) Assault law enforcement with firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

** must run consecutive to Count 1 Firearm enhancement*

Additional current offense sentencing data is attached in Appendix 2.3.

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

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

below the standard range for Count(s) _____.

above the standard range for Count(s) _____.

The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury, by special interrogatory.

within the standard range for Count(s) _____, but served consecutively to Count(s) _____.

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

2.5 **Legal Financial Obligations/Restitution.** The court has considered the total amount owing, the defendant's 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. (RCW 10.01.160). The court makes the following specific findings:

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

The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

(Name of agency) _____ 's costs for its emergency response are reasonable. RCW 38.52.430 (effective August 1, 2012).

2.6 **Felony Firearm Offender Registration.** The defendant committed a felony firearm offense as defined in RCW 9.41.010, and:

The defendant should register as a felony firearm offender. The court considered the following factors in making this determination:

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 defendant must register as a felony firearm offender because the offense was committed in conjunction with an offense committed against a person under the age of 18, or a serious violent offense or offense involving sexual motivation as defined in RCW 9.94A.030.

III. Judgment

3.1 The defendant is *guilty* of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 The court *dismisses Counts* _____ in the charging document.

IV. Sentence and Order

It is ordered:

4.1 **Confinement.** The court sentences the defendant to total confinement as follows:

(a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

120 ⁽⁸⁴⁺³⁶⁾ months on Count I

120 ⁽⁸⁴⁺³⁶⁾ months on Count II

84 months on Count III

36 month firearm enhancement consecutive to count 1.

- The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- The confinement time on Count _____ includes _____ months as enhancement for firearm deadly weapon VUCSA in a protected zone manufacture of methamphetamine with juvenile present impaired driving.

Actual number of months of total confinement ordered is: 120 months plus 36 = 156 months

(b) **Confinement.** RCW 10.95.030 (Aggravated murder and under age 18.) The court orders the following:

Count	<u>I</u>	minimum term:	<u> </u>	maximum term:	<u> </u>
Count	<u>II</u>	minimum term:	<u> </u>	maximum term:	<u> </u>
Count	<u>III</u>	minimum term:	<u> </u>	maximum term:	<u> </u>

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

This sentence shall run consecutively with the sentence in the following cause number(s) (see RCW 9.94A.589(3)): _____.

Confinement shall commence immediately unless otherwise set forth here: _____.

- (c) **Credit for Time Served.** The defendant shall receive credit for eligible time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.
- (d) **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701, RCW 10.95.030(3))

(A) The defendant shall be on community custody for:

- Count(s) — 36 months for Serious Violent Offenses
- Count(s) — 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 custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

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

- not possess or consume alcohol
- not possess or consume controlled substances, including marijuana, without a valid prescription.

- have no contact with: _____
- remain within outside of a specified geographical boundary, to wit: _____
- not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.
- participate in the following crime-related treatment or counseling services: _____
- undergo an evaluation for treatment for domestic violence substance use disorder mental health anger management, and fully comply with all recommended treatment.
- comply with the following crime-related prohibitions: _____

Other conditions:

All
 For purposes of credit for time served calculation, Time served at the Thurston County Jail shall be treated as presentencing time for purposes of calculation of good time. Further the defendant shall receive credit for time served for the time between 4-27-08 through 10-31-08

Court Ordered Treatment: If any court orders mental health or substance use disorder 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.

- (C) If the defendant committed the above crime(s) while under age 18 and is sentenced to more than 20 years of confinement:
- (i) As long as the defendant's conviction is not for aggravated first degree murder or certain sex crimes, and the defendant has not been convicted of any crime committed after he or she turned 18 or committed a disqualifying serious infraction as defined by DOC in the 12 months before the petition is filed, the defendant may petition the Indeterminate Sentence Review Board (Board) for early release after the defendant has served 20 years.
 - (ii) If the defendant is released early because the petition was granted or by other action of the Sentence Review Board, the defendant will be subject to community custody under the supervision of the DOC for a period of time determined by the Board, up to the length of the court-imposed term of incarceration. The defendant will be required to comply with any conditions imposed by the Board.
 - (iii) If the defendant violates the conditions of community custody, the Board may return the defendant to confinement for up to the remainder of the court-imposed term of incarceration.

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

<u>JASS CODE</u>			
PCV	\$ 500.00	Victim assessment	RCW 7.68.035
PDV	\$ _____	Domestic Violence (DV) assessment	RCW 10.99.080
	\$ _____	Violation of a DV protection order (\$15 mandatory fine)	RCW 26.50.110
CRC	\$ _____	Court costs, including	RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190
	Criminal filing fee \$ 200	FRC	
	Witness costs \$ _____	WFR	
	Sheriff service fees \$ _____	SFR/SFS/SFW/WRF	
	Jury demand fee \$ _____	JFR	

Extradition costs \$ _____ EXT
Other \$ _____

PUB \$ _____ Fees for court appointed attorney RCW 9.94A.760
WFR \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.760
FCM/MTH \$ _____ Fine RCW 9A.20.021; VUCSA chapter 69.50 RCW, VUCSA additional
fine deferred due to indigency RCW 69.50.430
CDF/LDI/FCD \$ _____ Drug enforcement fund of _____ RCW 9.94A.760
NTF/SAD/SDI \$ _____
CLF \$ _____ DUI fines, fees and assessments
\$ _____ Crime lab fee suspended due to indigency RCW 43.43.690
\$ 100.00 DNA collection fee RCW 43.43.7541
FPV \$ _____ Specialized forest products RCW 76.48.171
DEF \$ _____ Other fines or costs for: _____
\$ _____ Emergency response costs (\$1000 maximum, \$2,500 max.
effective Aug. 1, 2012.) RCW 38.52.430
Agency: _____
RTN/RJN \$ _____ Restitution to: _____
\$ _____ Restitution to: _____
\$ _____ Restitution to: _____
(Name and Address--address may be withheld and provided
confidentially to Clerk of the Court's office.)
\$ _____ Total RCW 9.94A.760

- The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:
- shall be set by the prosecutor.
 - is scheduled for _____ (date).
- The defendant waives any right to be present at any restitution hearing (sign initials): _____.
- Restitution Schedule attached.
- Restitution ordered above shall be paid jointly and severally with:

<u>Name of other defendant</u>	<u>Cause Number</u>	<u>(Victim's name)</u>	<u>(Amount-\$)</u>
--------------------------------	---------------------	------------------------	--------------------

RJN _____

- 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 of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____. RCW 9.94A.760.

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

- The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760. (This provision does not apply to costs of incarceration collected by DOC under RCW 72.09.111 and 72.09.480.)

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

4.4 **DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from the defendant for a qualifying offense. RCW 43.43.754.

HIV Testing. The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 **No Contact:**

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

The defendant is excluded or prohibited from coming within _____ (distance) of: _____ (name of protected person(s))'s home/ residence work place school (other location(s)) _____ or

other location: _____, until _____ (which does not exceed the maximum statutory sentence).

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

4.6 **Other:**

No contact with victim

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

4.8 **Exoneration:** The Court hereby exonerates any bail, bond and/or personal recognizance conditions.

V. Notices and Signatures

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

5.2 **Length of Supervision.** If you committed your offense prior to July 1, 2000, you 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. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over

you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

- 5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **Community Custody Violation.**
(a) If you are subject to a violation hearing and DOC finds that you committed the violation, you may receive a sanction of up to 30 days of confinement. RCW 9.94A.633(1).
(b) If you have not completed your maximum term of total confinement and you are subject to a violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.633(2)(a).
- 5.5a **Firearms.** You may not own, use or possess any firearm, and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.5b **Felony Firearm Offender Registration.** The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.
- 5.6 Reserved
- 5.7 **Department of Licensing Notice:** The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. **Clerk's Action**—The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.285. **Findings for DUI, Physical Control, Felony DUI or Physical Control, Vehicular Assault, or Vehicular Homicide (ACR information) (Check all that apply):**
 Within two hours after driving or being in physical control of a vehicle, the defendant had an alcohol concentration of breath or blood (BAC) of _____.
 No BAC test result.
 BAC Refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.
 Drug Related. The defendant was under the influence of or affected by any drug.
 THC level was _____ within two hours after driving.
 Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.
Vehicle Info.: Commercial Veh. 16 Passenger Veh. Hazmat Veh.
- 5.8 **Department of Licensing Notice – Defendant under age 21 only.**
Count _____ is (a) a violation of RCW chapter 69.41 [Legend drug], 69.50 [VUCSA], or 69.52 [Imitation drugs], and the defendant was under 21 years of age at the time of the offense OR (b) a violation under RCW 9.41.040 [unlawful possession of firearm], and the defendant was under the age of 18 at the time of the offense OR (c) a violation under RCW chapter 66.44 [Alcohol], and the defendant was under the age of 18 at the time of the offense, AND the court finds that the defendant previously committed an offense while armed with a firearm, an unlawful possession of a firearm offense, or an offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.
Clerk's Action—The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.265

5.8 Other: _____

Done in Open Court and in the presence of the defendant this date: 5/3/2017

Mary Sue Wilson
Judge/Print Name: **MARY SUE WILSON**

[Signature]
Deputy Prosecuting Attorney
WSBA No. 16936
Print Name: JOSEPH F. WHEELER

[Signature]
Attorney for Defendant
WSBA No. 20011
Print Name:

[Signature]
Defendant
Print Name: JD JONES BARTON

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 re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations

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

Defendant's signature: [Signature]

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

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

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

Interpreter Print Name

VI. Identification of the Defendant

SID No.: WA19566764
 (If no SID complete a separate Applicant card
 (form FD-258) for State Patrol)

Date of Birth: 02/20/1986

FBI No.: 427757AC1

Local ID No. _____

PCN No.: 766962211

Other _____

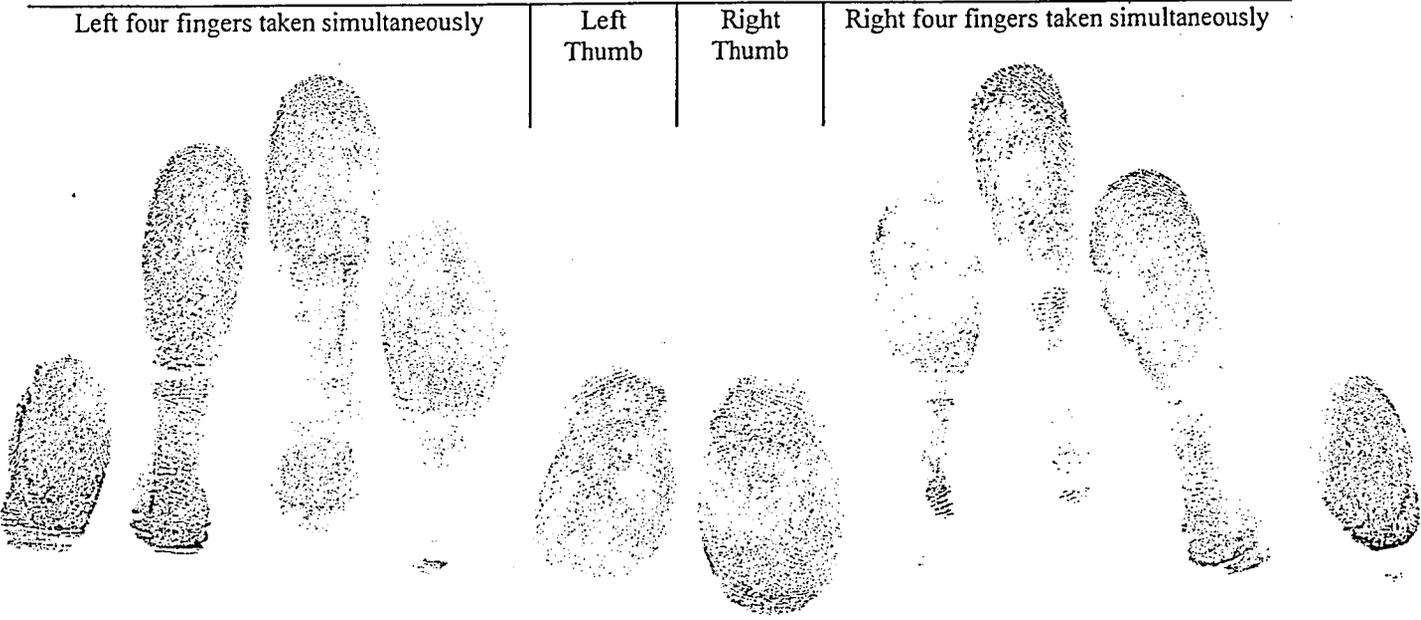
Alias name, DOB: _____

Race: Ethnicity: Sex:
 Asian/Pacific Islander Black/African-American Caucasian Hispanic Male
 Native American Other: _____ Non-Hispanic Female

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

Clerk of the Court, Deputy Clerk, Kara Denny Dated: 5/3/17

The defendant's signature: 



SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF THURSTON

STATE OF WASHINGTON

NO. 08-1-00727-1

Plaintiff,

vs.

WARRANT OF COMMITMENT ATTACHMENT TO
JUDGMENT AND SENTENCE (PRISON)

JD JONES BARTON,

Defendant.

DOB: 02/20/1986
SID: WA19566764 / FBI: 427757AC1
PCN: 766962211
RACE: W
SEX: M
BOOKING NO: C0151697

THE STATE OF WASHINGTON TO:

The Sheriff of Thurston County and to the proper officer of the Department of Corrections.

The defendant JD JONES BARTON has been convicted in the Superior Court of the State of Washington for the crime(s) of:

**ASSAULT IN THE SECOND DEGREE (DEADLY WEAPON) (2 CNTS.),
UNLAWFUL POSSESSION OF A FIREARM IN THE 1ST DEGREE**

and the court has ordered that the defendant be sentenced to a term of imprisonment as set forth in the Judgment and Sentence.

YOU, THE SHERIFF, 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.

By direction of the Honorable:

MARY SUE WILSON

LINDA MYHRE-ENLOW
CLERK

By:
DEPUTY CLERK

Kara Denny

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THURSTON COUNTY

STATE OF WASHINGTON,

Plaintiff / ~~Petitioner,~~

v.

JD JONES BARTON

Defendant / Respondent.

No. 08-1-00727-1

NOTICE TO DOC OF
POTENTIAL CONTEMPT OF
COURT VIOLATION

TO: DEPT. OF CORRECTIONS - STEPHEN SINCLAIR, WENDY
STIGALL, SCOTT FRANKS, KRISTI MUELLER, CARLOS LUGO, PATRICK GLEBE,
PAMELA INVERSON, TARA HOSLER, MARY DORAN, DON HOLBROOK, MARGARET
SCHOCK, ARIETA SCHOCK, MARY LOIACONO, RENEE RAUDOLPH, DALE
CAIDWELL, DENNIS DAVE, ET AL.

TO: BOB FERGUSON, ATTY GENERAL'S OFFICE

TO: HONORABLE MARY SUE WILSON

TO: JOSEPH F. WHEELER, PLAINTIFF'S COUNSEL

EACH AND EVERYONE OF YOU, PLEASE TAKE
NOTICE THAT DEFENDANT PRO SE, IS PROVIDING A 30
DAY NOTICE TO ALL THE ABOVE-LISTED DOC EMPLOYEES
WHO CONTINUE TO IMPAIR THE TRIAL COURT'S FOLLOWING
ORDER'S: (1) 12-20-12 ORDER VACATING PREVIOUS 2008
CONVICTION; (2) 10-21-13 GUILTY FINDINGS; (3) 11-7-13
JUDGMENT AND SENTENCE; AND (4) 5-3-17 RESENTENCE.

THE DOC EMPLOYEES HAVE 30 DAYS TO RESPOND FROM THE DATE THIS NOTICE IS RECEIVED.

THE DEFENDANT AND PLAINTIFF'S COUNSEL HAVE BOTH ATTEMPTED TO GET DOC TO COMPLY WITH THE TRIAL COURT'S ORDER'S, BUT TO NO AVAIL. THE DEFENDANT'S 2013 JUDGMENT AND SENTENCE IS NOT A RESENTENCE ON THE PREVIOUS 2008 CONVICTION. DOC MUST AWARD DEFENDANT PRESENTENCE CREDIT FROM 12-20-12-11-8-13.

WITH THIS NOTICE, DEFENDANT NOW DEMANDS DOC INTO FULL COMPLIANCE IMMEDIATELY. DOC CONTINUED WILLFULL ACTIONS OF IMPAIRMENT WILL FORCE DEFENDANT TO MOVE THE TRIAL COURT FOR AN ORDER OF ENFORCEMENT OF ITS OWN ORDERS AND FOR SANCTIONS UNDER RCW 7.21.010(D)(b) AND 7.21.030(2)(b) WITH THE MAXIMUM PENALTY OF \$2,000 A DAY FOR EACH VIOLATION BY EACH DOC EMPLOYEE DOC TO ACTING OUTSIDE ITS OWN ADMINISTRATIVE JURISDICTION AND AUTHORITY. RCW 72.02.015.

SUBMITTED ON THE 26TH DAY OF SEPT., 2017

JD JONES BARTON

JD JONES BARTON
DEFENDANT PRO SE

NOTICE-2

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THURSTON COUNTY

STATE OF WASHINGTON,

Plaintiff / ~~Petitioner,~~

v.

JD JONES BARTON

Defendant / Respondent.

No. 08-1-00727-1

SECOND AND FINAL NOTICE FOR
CONTEMPT OF COURT SANCTIONS
AGAINST DOC

TO: DEPT. OF CORRECTIONS - STEPHEN SINCLAIR, WENDY STIGALL, SCOTT FRAYES, KRIST MUELLER, CARLOS LUGO, PATRICK GLEBE, PAMELA INVERSON, TARA HOSLER, MARY DORAN, DON HOBBS, MARGARET SCHOCK, ABIETA SCHOCK, MARY LOIACONO, REBEKA RAUDOLPH, DALE CALDWELL, DENNIS DAHVE, ET. AL.

TO: BOB FERGUSON, Atty. Gen. office;

TO: HONORABLE MARY SUE WILSON;

TO: JOSEPH F. WHEELER, PLAINTIFF'S COUNSEL

EACH AND EVERYONE OF YOU PLEASE TAKE NOTICE THAT
DEFENDANT PRO SE IS PROVIDING A 20 DAY FINAL NOTICE TO ALL THE
ABOVE-LISTED DOC EMPLOYEES WHO CONTINUE TO IMPAIR THE
TRIAL COURT'S FOLLOWING ORDER'S: (1) 12-20-12 ORDER VACTING 2008
PREVIOUS CONVICTION; (2) 10-21-13 GUILTY FINDINGS, (3) 11-7-13
JUDGMENT AND SENTENCE; AND (4) 5-3-17 RESENTENCE

DOC AND THEIR RESPECTIVE EMPLOYEES HAVE 20
DAYS TO RESPOND FROM THE DATE THIS NOTICE IS RECEIVED
BY DOC HEADQUARTERS AND THE ATTORNEY GENERAL'S OFFICE.

SECOND NOTICE-1

The defendant and plaintiff's counsel have both attempted to get Doc to comply with the trial court's orders, but to no avail. DEFENDANT'S 11-7-13 JUDGMENT AND SENTENCE IS NOT A RESSENTENCE ON THE PREVIOUS 2008 CONVICTION. DOC MUST AWARD DEFENDANT PRESENTENCE CREDIT FROM 12-20-12-11-8-13.

With this FINAL NOTICE, DEFENDANT DEMANDS DOC into full compliance IMMEDIATELY. Doc continued willful actions of IMPAIRMENT will force defendant to move the trial court for an order of enforcement of its own orders with harsh sanctions under RCW 7.21.010(DCB) AND 7.21.030 with the maximum penalty of \$2,000 a day for each violation/IMPAIRMENT by each Doc employee due to acting outside Doc administrative jurisdiction and authority. RCW 72.02.015, AND AN ORDER FOR CRIMINAL CHARGES AGAINST DOC.

IN ORDER to defend AGAINST this action for contempt sanctions, you MUST respond by stating your defense in writing, and by serving a copy upon the defendant, Thurston county prosecutor's office, and the court within 20 days after the service of this notice, excluding the day of service, or a default of judgment will be entered against you without notice. A default judgment is one where defendant is entitled to what he asks for because you have not responded. If you serve a notice of appearance on the undersigned defendant, you are entitled to notice before a default judgment may be entered.

If you wish to seek advice of an attorney in this matter, you should do so promptly so that your

WRITTEN RESPONSE, IF ANY, MAY BE SERVED ON TIME.

THIS NOTICE IS ISSUED PURSUANT TO RULE 4 OF THE
SUPERIOR COURT CIVIL RULES OF THE STATE OF WASHINGTON.

DOC IS LIABLE FOR ITS ROGUE EMPLOYEES.

SUBMITTED THIS 31ST DAY OF OCTOBER, 2017

JD JONES BARTON

JD JONES BARTON

DEFENDANT PRO SE



THURSTON COUNTY SHERIFF'S OFFICE

W A S H I N G T O N

SINCE 1852

JOHN D. SNAZA
Sheriff

2000 Lakeridge Drive SW • Olympia, Washington 98502-6045 • (360) 786-5500

12/14/2017

Mr. JD Jones Barton
DOC# 867165; DOB 02/20/1986
Stafford Creek Correctional Center
191 Constantine Way
Aberdeen, WA 98520

Mr. Barton,

I have reviewed your request regarding your jail certification for the following cause number: 081007271. This Jail Time Certification was sent to the Washington State Department of Corrections per a previous request upon your transfer from our facility to the custody of DOC on 05/03/2017.

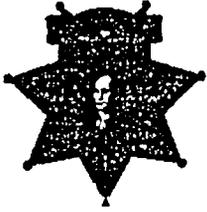
Our facility does not calculate days for good behavior and good performance. The Thurston County Sheriff's Office only provides the Department of Corrections with the dates you were in custody.

Please see the attached copy of the Jail Time Certification that was provided on 05/03/2017.

Sincerely,

B. O'Leary 1V315, Corrections Technician
Thurston County Sheriff's Office
Corrections Bureau





THURSTON COUNTY SHERIFF'S OFFICE

WASHINGTON

SINCE 1852

JOHN D. SNAZA

Sheriff 2000 Lakeridge Drive SW • Olympia, Washington 98502-6045 • (360) 786-5500

JAIL TIME CERTIFICATION

The following information is provided for the purpose of crediting time spent in confinement per RCW 9.92.151 prior to the transfer of the below listed subject.

NAME: Barton, JD	DOC # 867165	Date of Birth:
COUNTY: Thurston	Cause# 08-1-00727-1	Local#Z0063083

Listed are all dates of arrest and release concerning the above subject up to the Date of Transfer.

Start date	End date	Total days served	Days applied to other matters
06/24/2008	10/31/2008	129	
04/15/2011	04/22/2011	7	
10/12/2012	11/08/2013	392	
02/22/2017	05/04/2017	71	
Total		599	

Early Release Credits earned.

Notes:

Name: Klein

Date: 05/03/2017

Signature of Jail Official:


**LEVEL I - INITIAL GRIEVANCE
NIVEL 1 - QUEJA INICIAL**

Name: Last NOMBRE: APELLIDO	First PRIMERO NOMBRE	Middle 2DO NOMBRE	DOC Number NUMERO DOC	Facility/Office FACILIDAD	Unit/Cell UNIDAD/CELDA
Barton, JD Jones			867165	WSP	IMU S/E19
PART A - INITIAL GRIEVANCE/PARTE A - QUEJA INICIAL			Date Typed 12/19/13	Date Due Jan. 7, 2014	
<p>I WANT TO GRIEVE / QUIERO QUEJARME DE: WC Records inaccurately asserts that my previous 2008 "...JNS was not vacated. You were resentenced." Last year DOC received a transport order for me to appear for a <u>rearraignment hearing</u> set for Oct. 16, 2012 regarding Thurston Co. Superior Court cause no. 08-1-00727-1. A thorough check of my current 2008 JNS; the first page will reveal that: I was found guilty on Oct. 2, 2013 and sentenced on Nov. 7, 2013. There is a court file stamp of Nov. 7, 2013. Therefore, I should be deemed a recommit as my previous JNS has no bearing over this recent current <u>conviction, sentence, and warrant of commitment</u>. Prior to the new conviction date, DOC had no lawful jurisdiction or authority over me!</p> <p>SUGGESTED REMEDY / REMEDIO SUGERIDO: That DOC Records treat my current JNS as binding as the previous JNS shall be null and void as it was vacated in whole, and that I be deemed a recommit and reclassified as such. [12/12/13]</p>					
/s/ J. Aiyeku		12/20/13	/s/ JD Jones Barton		12/20/13
Grievance Coordinator Signature		Date	Grievant Signature		Date
FIRMA DE COORDINADOR DE QUEJAS		FECHA	FIRMA DE QUEJANTE		FECHA

PART B - LEVEL I RESPONSE / PARTE B RESPUESTA PRIMER NIVEL	
<p>CRT 2 M. Schock reports: Thurston County Superior Court was contacted about offender's case. They stated that there was never a court order issued to vacate the case. The J&S issued on 11/7/13 is simply an update of offender's original J&S. It is not a new sentence as offender is still serving on the same cause number. The sentence is a re-sentence and has been entered as such. Offender was never released from DOC custody and is therefore, not a re-commit, but rather a return from court.</p>	
EXHIBIT <u>9</u>	
J. Aiyeku	12/24/13
Grievance Coordinator Signature	Date
COORDINADOR DE QUEJAS	FECHA
<p>You may appeal this response by submitting a written appeal to the Coordinator within five (5) working days from date this response was received. Ud. puede apelar esta respuesta al someter una apelación por escrito al coordinador dentro de cinco (5) días de trabajo de la fecha en que esta respuesta fue recibida.</p>	

Sentence Information Menu

View J & S - Prison
View J & S - Field

Inmate: BARTON, Jd Jones (867165)

Gender: Male
DOB: 02/20/1986
R/C: HV
WRP-Around: No
ERD: 03/30/2019

Age: 27
Category: Regular Inmate
Custody Level: Close

Body Status: Active Inmate
Location: WCC-IMU - WSH / D104
CC/CCO:

View J & S - Prison

Now ERD after 2nd Sentencing and 5892

Period Of Jurisdiction
01/21/2004 - Current

Sentence Drilldown:
Cause, Count, & Confinement Element
WEP Eligible Offender : No
Felony Firearm Registration : No

Display
 Include Closed Causes Enable Scrolling
Details
 ERD Calculations MaxEx Calculations StatMax Calculations
 Out Time Graphical Sentence View

Consecutive Relationship

Cause	Count	Confinement Element	Consecutive Confinement	Status	Confinement Length	Time Start Date	ERD	MaxEx	Stat Max
AC-081007271-Thurston-CCP [Resentence/Modification]	1	Assault 2 - With Deadly Weapon Enhancement - 1-Firearm	Active	Active	0Y, 156M, 0D	10/31/2008	03/30/2019	553	02/29/2024
AC-081007271-Thurston-MON [Resentence/Modification]	2	Assault 2 - With Deadly Weapon Enhancement - 1-Firearm	Active	Active	0Y, 120M, 0D	10/31/2008	03/30/2019	553	06/16/2021
AD-081007271-Thurston-MON [Resentence/Modification]	1	Unlawful Possession Of A Firearm 1	Pending Field	Pending Field	0Y, 84M, 0D	10/31/2008	07/16/2013	523	06/17/2015

Sanctions

View Update Modify J & S Delete Cancel Modify View J & S Versions Copy Count Add Cause Add Count Add Out Time

Calculate Analyze Print



OFFENDER'S KITE

PAPELETA DE PETICIÓN DEL INTERNO

OFFENDER NAME (PRINT) NOMBRE DEL INTERNO (LETRA DE MOLDE)		
JD JONES BARTON		
DOC NUMBER/NÚMERO DOC	FACILITY, UNIT, CELL/FACILITY IS INSTALACIÓN/UNIDAD, CELDA	DATE/FECHA
867165	TC14	9/23/17
DESIRE INTERVIEW WITH OR ANSWER FROM/DESEA ENTREVISTA CON O RESPUESTA DE		
RECORDS		

REASON/QUESTION RAZÓN/PREGUNTA

Interpreter needed for _____ (language).
 Necesito intérprete para _____ (idioma).

AS TO THE TWO 36 MONTH FIREARM ENHANCEMENTS, PLEASE PROVIDE ME THE COMMENCEMENT & END DATE FOR EACH ENHANCEMENT?

RECEIVED

SEP 26 2017 Respectfully Requested,

SIGNATURE/FIRMA	DAYS OFF/DÍAS LIBRES
JD JONES BARTON	

RESPONSE RESPUESTA

Enhancement #1
 Start: 10/31/08
 End: 10/31/11

Enhancement #2
 Start: 10/31/08
 End: 10/30/14

RESPONDER/PERSONA QUE RESPONDE	DATE/FECHA
M. Doran	9.29.17

RECEIVED
 SEP 26 2017



AUDIT CHECKLIST - CENTRAL F

Offender: BARTON JD Jones

4-29-14 DOC Number: 867165

RLC: HV Type of Release: CCP

ERD: 3-30-14 10/16/08 good time

Sentence Information (Cause Level)	CSE: <u>AC1</u>	60 Day	CSE: <u>AC2</u>	60 Day	CSE: <u>AD1</u>
1. Committed Name	BARTON JD Jones		BARTON JD Jones		BARTON JD Jones
2. County/Cause Number	081007271/Thurston		081007271/Thurston		081007271/Thurston
3. Date of Sentence	10-31-08	/	10-31-08	/	10-31-08
4. Time Start	10-31-08	/	10-31-08	/	10-31-08
5. Exceptional Sentence	no		no		no
6. Cause Credits	✓		✓		✓
a. Indicate Jail Cert of J&S	Jail Cert		Jail Cert		Jail Cert
b. Jail Time/Good Time	136/68	/	136/68	/	136/68
c. Successful Comm. Custody	—		—		—
d. Albritton Credits	—		—		—
e. Reifschneider Credits	—		—		—
f. DOC Credits	—		—		—
7. Sentence Type	>1 year		>1 year		>1 year
8. Supervision Type	CCP	/	CCP	/	MON
9. Split J & S	yes		yes		yes

Sentence Information (Count Level)					
10. Date of Offense	4-20-08	/	4-20-08	/	4-21-08
11. RCW	9A.36.021	/	9A.36.021	/	9.41.040
12. Offender Score & Seriousness Level	11/4	/	11/4	/	8/6
13. Anticipatory/Modifier					
14. Statutory Maximum Length	10 years	/	10 years	/	10 years
15. 5990 Flag Set	none		none		none
16. Finding Type	Finearm	/	Finearm	/	none
17. Confinement Time-Min/Max	84 mas	/	84 mas	/	84 mas
18. Mandatory Length (Yes/No) Flat Time (Yes/No)	Total 120 none		Total 120 none		Grand Total 156 none
19. Enhancement Type/Length (Yes/No) Flat Time (Yes/No)	36 mas	/	36 mas (45)	/	none
20. Supervision Length	18 mas	/	18 mas	/	none
21. Earned Release Time %	33%	/	33%	/	33%
22. Length vs. Stat. Max.	OK		OK		OK
Consecutive Relationships	AC1 Base CS to AC2 Enh		AC2 Enh CS to AC1 Enh AC2 Rise CS to AC2 Enh		NA
SCOMIS/LINX/Problem J&S / Letter Written	no		no		no
Conditions/LFOs	✓ \$800-	/	✓	/	✓
Out Time					

OMNI ELECTRONIC FILE REVIEW

Offender Status: County of Origin: Pierce DNA 7-14-09

Personal Characteristics ORCS Flag Yes No Undetermined

Register offender Correct Updated N/A ISRB Actions Yes No Per F

Earned Time 12-30-13 Field Discipline/Sanctions printed, N/A HS quarter

Earned Time 60 day review Prison Discipline 90GT 125

Print View J&S screen w/ERD calculations: Done Prison Discipline 60 day Review

Screening & Restrictions Check dates

Release Notification Status: (Ten Day Release Eligible) Yes No LEN VW 35 Days

Transfer to Work Release Notification Done Yes N/A

Warrant Detainer Status Reviewed Updated Clear Chrono Audit Completed

Audit Completed by: Mary J. Loiacono, CRT WSP/WC 11-18-13
 Print Name Facility/Location Date

60 Day Review done by: B. Mandolph WSP 12-13
 Print Name Facility/Location Date

Inmate: BARTON, Jd Jones (867165)

Gender: Male	DOB: 02/20/1986	Age: 31	Category: Regular Inmate	Body Status: Active Inmate
RLC: HV	Wrap-Around: No	Comm. Concern: No	Custody Level: Close	Location: WCC-IMU — WSH / F208
ERD: 07/27/2019				CC/CCO:

Details

Date & Time Created: 05/04/2017 03:18 PM
 Offender Location At Occurrence: Not Unique
 Date & Time Of Occurrence: 05/04/2017
 DOC No.: 867165
 Offender Name: BARTON, Jd Jones
 Author Name: Schock, Margaret A
 Events: Records Issues (RC)

Text

Received scanned copy of amended J&S for Thurston County CSE#08-1-00727-1. They removed the supervision on counts 1 & 2 so those counts are now monetary. J&S ordered that he shall receive credit for all times spent at the Thurston County Jail and that he shall receive credit from 4/21/2008 to 10/31/2008. Called and spoke to Prosecutor Wheeler (360 786 5540 x 7278) to explain that his time never stopped with DOC while he was out to court. He stated that when he went to court in 2012 he withdrew his guilty plea so he wasn't under our jurisdiction anymore. I let him know that without something from the courts officially vacating his sentence and issuing a time stoppage on our end, his time never stopped running as far as we were concerned. Let him know that we will adjust his credits for the 4/21/2008 to 10/31/2008 time frame as he was not getting those fully previously. ERD changed from 1/3/2020 to 7/27/2019. Credits in the amount of 193 jail time / 96 days good time was applied per J&S. Returned call to P's Grandmother (Deb Naylor 360 250 1914) letting her know his new ERD is 7/27/2019. She stated that this wasn't right and I explained to her how we never stopped his time when he went out to court the last 3 times and we did credit him with the other time the J&S ordered. She asked that I call back and leave a voicemail with this information as she might not remember it all. I left her a voicemail explaining the same thing. Notice will be sent to P when he returns to WSP.

State Of Washington
Washington State Penitentiary



TO: #867165 BARTON, JD

FROM: West Complex Records, A. Schock *AS*

DATE: 5/4/2017

Mr. Barton,

You recently returned with an amended J&S for Thurston County CSE#08-1-00727-1.

They removed the supervision (community custody) length on Counts 1 & 2 so those have been removed. You will no longer owe supervision upon release from prison.

Your jail credits have changed as follows:

The J&S ordered you to receive credits for your time spent in the Thurston County Jail while there on this cause.

Every time that you have gone back out to court in Thurston County regarding this cause the Department of Corrections has not stopped your time/sentence from running. So you were already receiving these credits from us while you were out to court from 4/15/2011 to 4/22/2011; 10/12/2012 to 11/8/2013; and 2/22/2017 to 5/4/2017. The only time we can officially stop your sentence is if we receive and order from the courts vacating your sentence or issuing you released on bond/bail. Since we did not receive an order like this, your time continued to run.

As to the credit ordered from 4/21/2008 to 10/31/2008 that was added to your sentence. You were originally receiving credit in the amount of 33 days jail time / 16 days good time.

You are now receiving credit in the amount of 193 days jail time / 96 days good time.

Your ERD has changed from 1/3/2020 to 7/27/2019.

Analyze Prison Calculations : BARTON, Jd Jones (867165)

Cause: AC-081007271-Thurston-MON Consecutive To Cause: Count: 2
--

Calculation Type:	Length: Y, 36 M, D	Consecutive to:			
Enhancement	ERT% 0	ERD	Max Ex Date	Original ERD	Original Max Ex Date
Time Start	10/31/2011	10/31/2011	10/31/2011	10/31/2011	10/31/2011
(+) Length	1095	1095	1095	1095	1095
(-) Cause Credits	0	0	0	0	0
(+) Out Time	0	0	0	0	0
Expiration Date	10/30/2014	10/30/2014	10/30/2014	10/30/2014	10/30/2014
Remaining Days To Be Served	0	0	0	0	0

Calculation Type: Base	Length: Y, 84 M, D	Consecutive to: Enhancement (10/31/2011)		
ERT% 33	ERD	Max Ex Date	Original ERD	Original Max Ex Date
Time Start	10/30/2014	10/30/2014	10/30/2014	10/30/2014
(+) Length	2556	2556	2556	2556
(-) Cause Credits	193	193	193	193
(-) Good Time Credits	96		96	
(-) Potential Earned Time Release Credits	251.84		251.84	
(+) Earned Time not Earned	10.17			
(-) Potential Good Conduct Time	504		504	
(+) Good Conduct Time Lost	210			
(+) Out Time	0	0	0	0
Expiration Date	07/27/2019	04/19/2021	12/19/2018	04/19/2021
Remaining Days To Be Served	787	1,419	567	1,419

*
*²

Date Printed: 05/30/2017

logged on user: Margaret Schock

* Should BE 516 days JAIL CAUSE CREDITS
 4-21-08-10-31-08 = 193
 12-20-12-11-8-13 = 323

*² Should BE 257 days JAIL Good Time Credits
 4-21-08-10-31-08 = 96
 12-20-12-11-8-13 = 161

DOC: 867165
 NAME: BARTON, JD
 CSE/COUNT Assault 2nd WAWADW

Step 1: Enter Sentence from J&S
 a Enter Years _____
 b Enter Months _____
 c Enter Days _____
 = Sentence in Days 0 days

STEP 1 For Enhancement:

a	Enter Time Start Date	10/31/2011	
b	Enter Enhancement Length (in days)	1095	ERT%
c	(-) Cause Credits	0	0.00
d	(-) Good Time on Credits (if ERT%>0)	0	
e	Net Days	1095	
f	Earned Release Credit Total	0	
j	(-) Potential Earned Time	0	
k	(+) Earned Time Not Earned	0	
g	(-) Potential Good Time	0	
h	(+) Lost Good Time	0	
g	(+) Out Time Total	0	
h	Enhancement Expiration Date	10/30/2014	
i	Days Remaining to serve to Enhancement Expiration	-944	

STEP 2 For Mandatory:

a	Enter Time Start Date		
b	Enter Mandatory Length (in days)	0	ERT%
c	(-) Cause Credits	0	0.00
d	(-) Good Time on Credits (if ERT%>0)	0	
e	Net Days	0	
f	Earned Release Credit Total	0	
j	(-) Potential Earned Time	0	
k	(+) Earned Time Not Earned	0	
g	(-) Potential Good Time	0	
h	(+) Lost Good Time	0	
g	(+) Out Time Total	0	
h	Mandatory Expiration Date	1/0/1900	
i	Days Remaining to serve to Mandatory Expiration	-42886	

STEP 3 For Base:

a	Enter Time Start Date	10/30/2014	
b	Enter Base Length (in days)	2556	ERT%
c	(-) Cause Credits	193	33.3%
d	(-) Good Time on Credits (if ERT% > 0)	96	
e	Net Days	2267	
f	Earned Release Credit Total	756	
j	(-) Potential Earned Time	252	
k	(+) Earned Time Not Earned	10.17	
g	(-) Potential Good Time	504	
h	(+) Lost Good Time	210	
g	(+) Out Time Total	0	
h	Base Expiration Date	7/27/2019	
i	Days Remaining to serve to Base Expiration	788	

DATE 5/30/2017

SIGNATURE 



STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

P. O. Box 41132 • Olympia, Washington 98504-1132

October 12, 2017

JD Barton, DOC#867165
Stafford Creek Corrections Center
F-C14
191 Constantine Way
Aberdeen, WA 98520

Dear Mr. Barton:

This is in response to your letter received by my office on September 26, 2017. In your letter you are inquiring about your Thurston County cause 08-1-00727-1, specifically jail credits you feel should be applied due to a vacated sentence.

I have reviewed your information and the letter we sent dated August 1, 2017. The Department of Corrections (DOC) must follow the Judgment & Sentence (J&S) as ordered by the Court. Each time you left a DOC facility and attended court hearings in Thurston County, your confinement time continued to run. You never stopped receiving credit toward the Thurston County 08-1-00727-1 cause (AC/AD). As a result, you received credit from 12/20/2012 until you were returned to DOC on 11/08/2013, which was applied to Thurston County cause 08-1-00727-1.

Per RCW 9.94A.729 effective 07/01/2013, DOC was given the authority to calculate the jail good time. As a result, you will only receive good time based on the 22 days that were certified by the Thurston County jail. Without documentation from the jail certifying additional time spent in jail or an amended Judgment & Sentence from the sentencing Judge, I cannot apply more than 11 days of good time to Thurston County cause 08-1-00727-1 (AC/AD). The corrections to your good time were applied and your ERD changed to 11/01/2019.

If you disagree with this you must solicit a response from the Thurston County Superior Court and/or the Thurston County Jail. Without an order from the Jail or Court, no further changes will be made.

If you have any further records related questions, please contact your local records office.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Mueller', with a long horizontal flourish extending to the right.

Kristi Mueller,
Management Analyst 5

KM:bj

cc: Offender Central File



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
STAFFORD CREEK CORRECTIONS CENTER

191 Constantine Way • MS: WA-39 • Aberdeen, Washington 98520 • (360) 537-1800
Fax (360) 537-1807

DATE: July 3, 2017
NAME: BARTON, JD
DOC#: 867165
FROM: Tara Hosler
Correctional Records Technician 1

Mr. Barton Prosecuting Attorney Joe Wheeler forwarded our office a copy of the signed order withdrawing your plea of guilty. Your withdraw of a guilty plea does not affect or entitle you to credit for time served or allow you to have any addition presence credit.

In 2015 the court of appeals responded to your personal restraint petition and stated that your request did not show you were entitled to jail time credits or good time credits against your 2013 judgment and sentence for the period from April 21, 2008 to June 24, 2008. They also wrote that you failed to show any right to a restoration of previously lost earned early release credits.

They did however concede that because the trial court imposed the statutory maximum sentence of 156 months confinement and granted your petition in part and remanded the 2013 judgment and sentence to the trial court for correction on that issue only.

Your resentence from 5/3/17 was entered removing supervision as ordered and also gave credit for all time served in Thurston County Jail as presentence from 4/21/08 – 10/31/08. Because you were serving a consecutive DOC sanction on Lewis County CSE 051002225 a letter was written requesting to remove credit for time served during that period.

Unless we receive an amended order from the court for any further changes we are considering this matter addressed and no further actions will be taken.



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
STAFFORD CREEK CORRECTIONS CENTER
191 Constantine Way, MS WA-39 - Aberdeen, Washington 98520
(360) 537-1800
FAX: (360) 537-1807

July 10, 2014

TO: Barton, JD #867165
H2089L

FROM: T. Hosler, Correctional Records Technician 1

SUBJECT: Thurston County Cause #08-1-00727-1

While completing your intake audit it was discovered that your jail credits were reduced to 22 days and 11 days good time in error. Your judgment and sentence was ordered concurrent to any other felony cause not referred to in this judgment. Therefore you were eligible to receive the 129 days jail time and 64 days good time. Once applied your ERD changed from 9/28/19 to 5/9/19.

Please feel free to kite or kiosk Records with any questions or concerns you may have.

cc: Central File



CONFIDENTIAL

LOG I.D. NUMBER
145 63543

APPEAL TO LEVEL II
APELACION AL 2DO NIVEL

Name: NOMBRE:	Last APELLIDO	First PRIMERO NOMBRE	Middle 2DO NOMBRE	DOC Number NUMERO DOC	Facility/FACILIDAD Office	Unit/Cell UNIDAD:CELDA	
	BARTON	JD JONES		867165	WSP	FE217	
PART A - INITIAL GRIEVANCE/PARTE A - QUEJA INICIAL				Date Typed	7/10/14	Date Due	8/8/14

I WANT TO APPEAL: Ms. Schock states, "...Even though there has not been a change in the last '6 years'...". A 6 year delay is not a reasonable time for DOC to just NOW alter/contest the Jail Certification. Especially when DOC has accepted the Certification on 3 separate occasions (2008, 2011 and 2013), and further undergoing an audit per 5892 on 2 separate occasions. All for a total of 5 separate occasions by DOC specialist Barton's stipulated plea agreement entailed the STATUTORY MAXIMUM OF 156 MONTHS. All of a sudden DOC has NOW refused to accept the Jail Certification and has forced Barton to do an extra 8 MONTHS for an ILLEGAL GRAND TOTAL SENTENCE OF 164 MONTHS. (Counting presentence time beginning from his 4/21/08 arrest by TCSO, NOT from what TCCF has certified as 6/24/08). At NO TIME has DOC ever provided Barton, TOPO nor TCCF ANY such WRITTEN NOTIFICATION as to NOT accepting the Jail Certification. This tacit tactic by DOC deprives Barton to be duly informed.

SUGGESTED REMEDY: DOC shall credit Barton with ALL of the JAIL TIME CREDIT as certified BY TCCF. Especially as DOC has remained silent for over 6 years, even after 5 separate times of accepting the Jail Certification. DOC has not only slept on their rights to NOW CONTEST the Jail Certification but have NOT provided Barton, TOPO nor TCCF any such WRITTEN NOTIFICATION, let alone an opportunity to appeal their rejection of the Jail Certification and further deprives Barton to rightfully appeal per DOC policy (24-48 hrs. to the HCSC). [6/29/14]

/s/ J. Aiyeku	7/11/14	/s/ JD Jones Barton	7/11/14
Grievance Coordinator Signature	Date	Grievant Signature	Date
FIRMA DE COORDINADOR DE QUEJAS	FECHA	FIRMA DE QUEJANTE	FECHA

PART B - LEVEL II RESPONSE/PARTE B RESPUESTA 2DO NIVEL

Correctional Records Technician 2. A. Arieta has investigated your grievance and this is a summary of the investigation/response: I have reviewed your Level 1 grievance and response, as well as your Level 2 appeal. I requested that Correctional Records Supervisor P. Iverson review your grievance since your central file was at SCCC. You were interviewed by Correctional Specialist 3. D. Dahne. CRS Iverson reports that your jail credits have been put back to the 129 days jail served and 64 days jail good time as originally ordered. She also reports that per Dress language in you J&S, it is ordered concurrent to your sanction so your original jail credits are correct and have been re-applied. A memo was sent to you on 7/10/14 advising you of this change. During your interview, you stated the issue is not resolved. CRS Iverson concludes that the applied credits are correct.

I concur with this response


 D. Holbrook
 Superintendent, Work Release Supervisor, Field Administration Signature
 SUPERINTENDENTE

8-4-14
 Date
 FECHA

You may appeal this response by submitting a written appeal to the coordinator within cinco (5) working days from date this response was received. Ud. pueda apelar esta respuesta al someter una apelacion por escrito al coordinador dentro de cinco (5) dias de trabajo de la fecha en que esta respuesta fue recibida.



(F5B07)

CONFIDENTIAL

APPEAL TO LEVEL III
APELACIÓN AL 3ER NIVEL

Name: Nombre:	Last Apellido	First Nombre	Middle 2do Nombre	DOC Number Número DOC	Facility/Office Institución/Oficina	Unit/Cell Unidad/Celda
	Barton	JD Jones		867165	WSP	SCCC
PART A - APPEAL TO LEVEL III PARTE A - APELACIÓN 3ER NIVEL			Date Typed / Fecha escrita a mano 8/13/14		Due Date / Fecha de vencimiento 08/10/13	
<p>I WANT TO GRIEVE / QUIERO QUEJARME DE: I fully appreciate my Jail Time credit for 2008 being fully restored. However, I find the tacit tactics by Assistant Attorney General Ronda D. Larson, WSP records officers Mary J. Laiacono and M. Schock very troublesome. These such employees have caused me and my family unsumountable stress, depression, anxiety, etc. (in an already stressful environment) by: (i) violating my J&S; (ii) Not providing me nor TCPO, TCCF any proper written notification of DOC rejecting the Jail Certification; (iii) Not providing me an opportunity to appeal the change/rejection of the Jail Certification; and (iv) blatantly violating my Liberty Interest and Due Process rights without lawful jurisdiction. These employees SHALL be reprimanded at the very least and given proper training to coincide with proper documentation being implemented within their personnel files. I SHALL also be compensated due to such mismanagement and willful disregard in violating the clear language of my J&S. Such deviation that was warrantless and without any lawful jurisdiction nor merit to do so. (compensation amount to be later determined).</p> <p>SUGGESTED REMEDY / REMEDIO SUGERIDO:</p>						
/s/ J. Aiyeku		8/13/14		/s/ JD Jones Barton		8/13/14
Grievance Coordinator Signature		Date		Grievant Signature		Date
Firma del Coordinador de quejas		Fecha		Firma del quejado		Fecha

PART B - LEVEL III RESPONSE/PARTE B - RESPUESTA 3ER NIVEL

I reviewed your initial grievance as well as all appeals and responses.

Statewide Correctional Records Manager, Wendy Stigall, also reviewed this grievance and provided this response:

I reviewed your Level I and II grievance, the investigation, and the responses. I have read your Level III appeal.

It appears that your jail credits have been corrected at this point.

If the other part of your complaint is the training of records staff, that is an on-going process. We now have a jail credits process document posted for all staff to use, credits have changed through the years and court decisions. At each audit the jail credits are one point of the review. It is the Records staff's responsibility at each audit to ensure the Records are correct. Although we realize the stress this may cause an offender when their release date changes, it is our obligation to ensure the release date is correct.


 Assistant Secretary/Deputy Director/designee
 Subsecretario/designado

Scott Frakes

9-21-14
Date
Fecha

Distribution: Grievance Program Manager/Gerente del Programa de Quejas, Grievance Coordinator/Coordinador de Quejas, Grievant/Quejante



LEVEL I - INITIAL GRIEVANCE
NIVEL 1 - QUEJA INICIAL

Name: Last NOMBRE: APELLIDO	First PRIMERO NOMBRE	Middle 2DO NOMBRE	DOC Number NUMERO DOC	Facility/Office FACILIDAD	Unit/Cell UNIDAD/CELDA
Barton	JD Jones		867165	WSP	FE114

PART A - INITIAL GRIEVANCE/PARTE A - QUEJA INICIAL Date Typed 6/5/14 Date Due 6/20/14

I WANT TO GRIEVE / QUIERO QUEJARME DE: DOC is illegally "in the process of changing his credits to what DOC had originally calculated [5 times total]...The error gave him 114 days of jail time credit beyond what he should have received, and 57 days of jail good time beyond what he should have received." DOC continued to accept the 3 Thurston County Jail certification(s) (2008, 2011 and 2013) without any such objections, challenges nor changes until NOW. In fact, an audit in 2011 and 2013 per 5892 was conducted and DOC still DID NOT assert any such error until Barton filed his CrR 7.8 motion what was heard in court on 5/29/14. This in itself proves that DOC conceded and ratified the jail Certification(s) credits on a total of 5 separate occasions. Therefore, the Doctrine of Laches applies which DOC has legally waived all rights to contest and/or modify an issue that has gone uncontested for nearly 6 years.

SUGGESTED REMEDY / REMEDIO SUGERIDO: That DOC reinforce the 2008 (129 total days), 2011 (136 total days) and 2013 (391 total days) jail certification(s) and audits (2011 and 2013) which the jail certified and DOC accepting a grand total of 528 days served. Per the Doctrine of Laches DOC has legally waived all such rights to NOW contest the jail certification(s)!! [5/30/14]

/s/ J. Aiyeku	6/6/14	/s/ JD Jones Barton	6/6/14
Grievance Coordinator Signature	Date	Grievant Signature	Date
FIRMA DE COORDINADOR DE QUEJAS	FECHA	FIRMA DE QUEJANTE	FECHA

PART B - LEVEL I RESPONSE / PARTE B RESPUESTA PRIMER NIVEL

Correctional Records Technician 2 M. Schock reports: We apologize for the many changes in your jail credits. Unfortunately DOC is required to follow case law which does change frequently. Even though there has not been a change in the last 6 years, we have had 2 court decisions that have dramatically changed the way that jail credits are applied in the last 2 years. Due to those recent changes we are required to follow the newest directions.

The original jail credits from 6/24/08 to 10/31/08 equal 129 days of jail time/64 days of good time and those were adjusted due to your DOC sanction that ran from 5/2/08 to 10/9/08, leaving the remaining amount of credit as 22 days jail time/11 days good time. That credit time is currently being applied to your sentence.

As far as the jail certifications from 2011 and 2013 they included your original credits from 6/24/08 to 10/31/08 and the time periods from when you were out being resentenced. When you go out to court your time does not stop with DOC. You are basically on loan to the court and custody was transferred to them. So while you were out to court being re-sentenced your time was still running with the DOC and even if the jail certifies those days they are not applied to your sentence as you have already received them because DOC did not stop your time while you were out to court.

J. Aiyeku	6/19/14
Grievance Coordinator Signature	Date
COORDINADOR DE QUEJAS	FECHA

You may appeal this response by submitting a written appeal to the Coordinator within five (5) working days from date this response was received.
Ud. puede apelar esta respuesta al someter una apelación por escrito al coordinador dentro de cinco (5) días de trabajo de la fecha en que esta respuesta fue recibida.



STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

P. O. Box 41132 • Olympia, Washington 98504-1132

August 1, 2017

JD Barton, DOC#867165
Stafford Creek Corrections Center
F-C14
191 Constantine Way
Aberdeen, WA 98520

Dear Mr. Barton:

This is in response to your letter received by my office on July 13, 2017. In your letter you are inquiring about your Thurston County cause 08-1-00727-1, specifically whether or not it was vacated.

Upon review of your records I find that Department of Corrections (DOC) is holding you in confinement for Thurston County cause 08-1-00727-1 (AC/AD), which you were sentenced for on 10/31/2008.

The DOC does have the Amended J&S for Thurston 08-1-00727-1, which does specify your confinement time including consecutive time owed for enhancements. We do not have a Vacate Order for this cause.

This conviction has multiple base sentences, as well as two firearm enhancements for Counts 1 and 2. All pre-sentence jail time and pre-sentence jail good time are applied to the base sentence first and then any remaining jail time is applied to the enhancement. Once you have been received in the DOC, your enhancement will run first. Please reference In re King, 146 Wn.2d 658, 49 P.3d 854 (2002). This is accordance to RCW 9.94A.72(1)(b) and (2). This is why your ERD is 8/26/2019.

If you disagree with the Judgement and Sentence you must reach out to the sentencing Court in Thurston County. DOC does not have the authority to change the conviction.

I hope this addresses your concerns. If you have any further records related questions, please contact your local records office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristi Mueller', with a long horizontal flourish extending to the right.

Kristi Mueller
Management Analyst 5

KM:bj

cc: Offender central file



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF THE OMBUDS
P. O. Box 41101 • Olympia, Washington 98504-1101

September 1, 2017

Mr. JD Jones Barton, DOC 867165
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98502

Dear Mr. Barton:

Thank you for contacting my office with your Ombuds Review Request concerning the Department's calculation of your earned release date (ERD). In your complaint, you state that the Department is treating your 2013 Judgment and Sentence (J&S) as a resentence as opposed to a new conviction and therefore depriving you of presentence credit.

Before making a determination on your complaint, I want to ask for clarification. Are you alleging that the Department has not credited you for any of the time served in jail or prison (cause credits) between 12/20/12 and 11/08/13 or that it did not credit you for good time from that period?

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos D. Lugo".

Carlos D. Lugo
Ombuds



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF THE OMBUDS
P. O. Box 41101 • Olympia, Washington 98504-1101

September 27, 2017

Mr. JD Jones Barton, DOC 867165
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

Dear Mr. Barton:

Thank you for contacting my office with your Ombuds Review Request concerning the Department's calculation of your earned release date (ERD). In your complaint, you state that the Department is treating your 2013 Judgment and Sentence (J&S) as a resentence as opposed to a new conviction and therefore depriving you of presentence credit.

Following a thorough review of your case, including a calculation of your ERD based on your conviction and available good time, I cannot substantiate your complaint. Whether the Department considers your 2013 J&S a new conviction or a resentence is immaterial in its impact on your release date. I write this based on a hand calculation of your ERD taking into account the cause credits you have accrued since the date of your initial confinement in June 2008, the information in your J&S, and good time that you have lost as a result of infraction sanctions.

According to the information in your 2017 amended J&S, you were given an 84 month base sentence on your two assault convictions. You also received two 36 month firearm enhancements for a total of 72 additional months. Assuming that you did not lose any good time due to infractions, you would be eligible to earn up to 33% off the base portion of your sentence. This would not apply to the 72 months for the firearm enhancements though. Per RCW 9.94A.729, individuals "shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements."

If your pretrial confinement started on June 24, 2008, you would receive cause credits for time served but you would not begin accruing earned release time until June 24, 2014, when that 72 month enhancement portion of your sentence was completed. Once you started serving time on

Mr. JD Jones Barton, DOC 867165

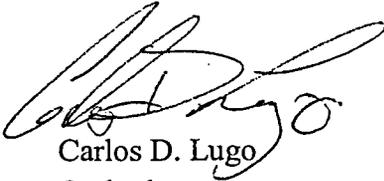
September 27, 2017

Page two

your base sentence, your ERD would take into account possible credits for good time and earned time. If you did not lose any good time due to infractions, you would be eligible to receive a maximum of 28 months toward your release date (84 months base x 33%). This would put your hypothetical ERD at about February 2019. My review of your infraction history, however, shows that you have lost 210 days or about 7 months of good time as sanctions for six serious infractions. This moves your ERD to August 2019 and is in line with my last review of the Department's records in early September.

I know that this is not the news you had hoped to receive in response to your complaint, but I assure you that I have given your allegation a complete and objective review. Thank you for bringing this matter to my attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carlos D. Lugo', is written over the typed name.

Carlos D. Lugo
Ombuds



LOG I.D. NUMBER
17633475

OFFENDER COMPLAINT

CHECK ONE: Initial Emergency Appeal Rewrite

RESIDENTIAL FACILITIES: Send completed form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible, but include the necessary facts. Use only one complaint form. A formal grievance begins on the date the typed grievance forms are signed by the Coordinator. Contact a Department employee to report an emergency situation or to initiate an emergency complaint. Please attempt to resolve all complaints through the appropriate Department employee(s) before pursuing a grievance.

NOTE: Complaints must be filed within 20 working days of the incident. Appeals must be filed within 5 working days of receiving the response. Include log ID # on rewrite or response being appealed.

Last Name	First	Middle	DOC Number	Facility/Office	Unit/Cell
BARTON	JD	JONES	867165	WSP	MSB/5

COMMUNITY SUPERVISION: Send completed copies of this form directly to: Grievance Program Manager, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE
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COMPLAINT: I RESPECTFULLY APPEAL MS. AIYERU, RUBBER STAMP RESPONSE.

I WAS RESENTENCED ON 5-3-17 & JUST RETURNED BACK FROM COURT TO WSP ON 5-17-17. THEREFORE I AM NOT TIME-BARRED AS THE 20 WORKING DAYS HAS NOT LAPSED.

THE 2017 & 2013 J&S CLEARLY STATES THAT I WAS "FOUND GUILTY" ON 10-21-13 UNDER THE 5TH AMENDED INFORMATION. THEREFORE, I SHOULD BE CREDITED PRESENTENCE TIME FROM 10-12-12-11-8-13 AS THE INITIAL 10-31-08 CONVICTION/GUILTY PLEAS WERE VACATED THUS MAKING THE INITIAL 2008 & 2011 J&S NULL & VOID.

SUGGESTED REMEDY:

SEE PREVIOUS REMEDY IN WHICH DOC RECORDS SHOULD CONTACT THE PROSECUTOR'S OFFICE & THE COURT TO RECEIVE THE 12-20-12 ORDER IN WHICH THE 10-31-08 CONVICTION WAS VACATED.

Mandatory JD JONES BARTON 6-1-17
Signature Date

GRIEVANCE COORDINATOR'S RESPONSE

Your complaint is being returned because:

- It is not a grievable issue.
- You requested to withdraw the complaint.
- You failed to respond to callout (sheet) on _____
- Administratively Withdrawn _____
- The formal grievance/appeal paperwork is being prepared.
- Not accepted

Facility/Office	Date Received
WSP	6/6/17

- The complaint was resolved informally.
- Additional information and/or rewriting needed. (See below.)
Return within 5 working days or by: _____
- No rewrite received _____
- Sent to GPM (facility) on 6/6 (date).

EXPLANATION:

Tobin for review

Coordinator's Name (print)	Coordinator's Signature	Date
J. AIYERU	<i>[Signature]</i>	6/6/17



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
P. O. Box 41129 • Olympia, Washington 98504-1129 • Tel (360) 725-8223
FAX (360) 664-4056

7
June 20, 2017

FNCLY

Barton, JD Jones; DOC# 867165
Stafford Creek Correction Center
FC14

Mr. Barton:

I am responding to your appeal of Grievance Log ID 17633475, dated 06/01/17. The grievance coordinator did not accept your complaint because it appears to be filed beyond timelines.

According to Page 20 of the Offender Grievance Program Manual, you have twenty (20) working days from the date of the incident to submit a complaint. You are past that timeframe.

In addition, court decisions are not grievable.

Sincerely,


Dale Caldwell,
Grievance Program Manager

CC: Dennis Dahne/Joni Aiyeku, SCCC/WSP Grievance Coordinator
Grievance Log ID 17633475



Confidential Grievant Copy

LOG I.D. NUMBER
18651180

OFFENDER COMPLAINT

CHECK ONE: Initial Emergency Appeal Rewrite

RESIDENTIAL FACILITIES: Send completed form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible, but include the necessary facts. Use only one complaint form. A formal grievance begins on the date the typed grievance forms are signed by the Coordinator. Contact a Department employee to report an emergency situation or to initiate an emergency complaint. Please attempt to resolve all complaints through the appropriate Department employee(s) before pursuing a grievance.

NOTE: Complaints must be filed within 20 working days of the incident. Appeals must be filed within 5 working days of receiving the response. Include log ID # on rewrite or response being appealed.

Last Name	First	Middle	DOC Number	Facility/Office	Unit/Cell
BARTON	JD	JONES	867165	SCCC	FC14

COMMUNITY SUPERVISION: Send completed copies of this form directly to: Grievance Program Manager, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE
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COMPLAINT: DENIED DATIVE CSII REFUSAL to ACCEPT & PROCESS my GRIEVANCE IS without MERIT! ESPECIALLY AS THE ENCLOSED RECORDS BEING CONSTRUCTIVE NOTICE for DOC to CEASE REINSTATING the null & void 10-31-08 conviction date THAT WAS VACATED BY THE SUPERIOR COURT ON 12-20-12! THIS FACT HAS BEEN EMBRACED BY THE COURT PROSECUTOR'S OFFICE & THE WASHINGTON STATE PATROL.

SUGGESTED REMEDY: THAT THIS GRIEVANCE & THE PREVIOUSLY ENCLOSES BE REVIEWED WITHOUT ANY FURTHER DELAYS.

Mandatory JD JONES BARTON 3-7-18
Signature Date

GRIEVANCE COORDINATOR'S RESPONSE Your complaint is being returned because: <input type="checkbox"/> It is not a grievable issue. <input type="checkbox"/> You requested to withdraw the complaint. <input type="checkbox"/> You failed to respond to callout (sheet) on _____. <input type="checkbox"/> Administratively Withdrawn _____. <input type="checkbox"/> The formal grievance/appeal paperwork is being prepared. <input type="checkbox"/> Not accepted	Facility/Office <u>SCCC IMU</u>	Date Received <u>3/9/18</u>
	<input type="checkbox"/> The complaint was resolved informally. <input type="checkbox"/> Additional information and/or rewriting needed. (See below.) Return within 5 working days or by: _____ <input type="checkbox"/> No rewrite received _____ <input type="checkbox"/> Sent to _____ (facility) on _____ (date).	

EXPLANATION:

You cannot appeal a complaint which was Not Accepted. If you disagree with the not accepted decision you may request a review of that decision writing to the Grievance Program Manager at Headquarters.

You may contact the GPM via USPS at:
 Grievance Program Manager
 Grievance Program Office
 Department of Corrections
 PO Box 41129
 Tumwater, WA 98501-1129

Coordinator's Name (print) Kerri S. McTarsney, CSII Coordinator's Signature Kerri S. McTarsney Date 3/19/18



AUDIT CHECKLIST - CENTRAL FILE

Offender: Barton, J D Jones DOC Number: 867165
 RLC: #V Type of Release: CCP MON ERD: 10/25/17 PRD:

Sentence Information (Cause level)		CSE	60 Day	CSE	60 Day	CSE	60 Day
1.	Committed Name						
2.	County	Thurston	/	Thurston	/		
3.	Cause Number	08-1-00727-1	/	08-1-00727-1	/		
4.	Date of Sentence	11-7-13	orig	10-31-08			
5.	Time Start	10-31-08	/	10-31-08	/		
6.	Exceptional Sentence	no		no			
7.	Cause Credits	33-10		33-10			
	a. J&S	193/96		193/96			
	b. Jail Time/Good Time	33-10		33-10			
	c. Successful Community Custody (includes sanction)	-		-			
	d. Confinement Time Credits	-		-			
	e. DOC Credits	-		-			
	f. Other	-		-			
	g. Sticky Note	yes		yes			
8.	Sentence Type	year		year			
9.	Supervision Type (5288/5891/MON)	CCP MON		CCP MON			
10.	Split J & S	w/AD		w/AD			
Sentence Information (Count Level)		CSE	60 Day	CSE	60 Day	CSE	60 Day
11.	Date of Offense	4-20-08	/	4-21-08	/		
12.	RCW/Subsequent Offense Flag	9A.36.021(1)(c)	/	9A.41.040(1)(2)	/		
13.	Offender Score/Seriousness Level	11-4	/	8-6	/		
14.	Anticipatory/Modifier	-		-			
15.	Statutory Maximum Length	10 years	/	10 years	/		
16.	5990 Flag Set	-		-			
17.	Finding Type	firearm	/	-			
18.	Confinement Time-Min/Max	84+36=120-3684		84			
19.	Mandatory Length (Yes/No) Flat Time (Yes/No)	-	120	-			
20.	Enhancement Type/Length (Yes/No) Flat Time (Yes/No)	FA x 2 36 x 2 stat	36	-			
21.	Supervision Length	18 months	/	na			
22.	Earned Release Time %	1/3	/	1/3			
23.	Length vs. Stat. Max.	156/120 mos		84/120			
Consecutive Relationships (Include Supervision)		FA 2 CS to FA 1, base CS to FA 2	/	CS to enhance ments	/		
Problem J&S/SCOMIS/LINX		no - 2 resentences					
Conditions		✓		✓			
LFO's		850		11			
Out Time		✓		✓			

RECEIVED



Department of Corrections
WASHINGTON STATE

OFFENDER'S KITE

CCC Records
PAPELETA DE PETICIÓN DEL INTERNO

OFFENDER NAME (PRINT) NOMBRE DEL INTERNO (LETRA DE MOLDE) JD JONES BARLOW		
DOC NUMBER/NÚMERO DOC 867165	FACILITY, UNIT, CELL/FACILITY IS INSTALACIÓN/UNIDAD, CELDA 11-SB37	DATE/FECHA 12-17-14
DESIRE INTERVIEW WITH OR ANSWER FROM/DESEA ENTREVISTA CON O RESPUESTA DE RECORDS		

Interpreter needed for _____ (language).
 Necesito intérprete para _____ (idioma).

REASON/QUESTION
RAZÓN/PREGUNTA

When is the START DATE
for 08-1-00727-1 that Doc has?

IS it NOV. 8, 2013, if not PLEASE
EXPLAIN?

Respectfully,

SIGNATURE/FIRMA JD JONES BARLOW	DAYS OFF/DÍAS LIBRES
------------------------------------	----------------------

RESPONSE
RESPUESTA

Your start date is the
day you ~~arrived~~ first arrived
in prison no matter
how many days you go
out to court. Unless your
sentence is vacated and restarted
again. Yours ~~is~~ a sentence.

RESPONDER/PERSONA QUE RESPONDE C. Jones	DATE/FECHA 12/22/14
--	------------------------

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al interno con respuesta,
ROSA-Interno

DOC 21-473 E/S (Rev. 05/23/13)

DOC 390.585, DOC 450.500

①



RESPONSE REQUIRED RECEIVED
Per Doc No. 300

OFFENDER'S KITE
JUL 10 2017

PAPELETA DE PETICIÓN DEL INTERNO

OFFENDER NAME (PRINT) NOMBRE DEL INTERNO (LETRA DE MOLDE) JD JONES BARTON		
DOC NUMBER/NÚMERO DOC 867165	FACILITY, UNIT, CELL/FACILITY IS INSTALACIÓN UNIDAD, CELDA T.C. 14	DATE/FECHA 7-6-17
DESIRE INTERVIEW WITH OR ANSWER FROM/DESEA ENTREVISTA CON O RESPUESTA DE RECORDS INRA HESLER		

Interpreter needed for _____ (language).
 Necesito intérprete para _____ (idioma).

REASON/QUESTION
RAZÓN/PREGUNTA

PLEASE EXPLAIN HOW & WHY THE 12-20-12
 ORDER VACATING THE 10-31-08 CONVICTIONS &
 THE 10-21-13 PLEA AGREEMENT DOES NOT
 ALLOW DOC TO TREAT THE 2013 JES AS
 A NEW CONVICTION & SENTENCE?
 HOW & WHY IS DOC ADAMANT ABOUT
 TREATING THE 2013 JES AS A "RESENTENCE"?

SIGNATURE/FIRMA JD JONES BARTON	DAYS OFF/DÍAS LIBRES
------------------------------------	----------------------

RESPONSE
RESPUESTA Please seek local
 advice if you disagree with
 the way your sentence has
 been entered.

RESPONDER/PERSONA QUE RESPONDE J. Johnson	DATE/FECHA 7/17/17
--	-----------------------



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
**PRISON/WORK RELEASE/FIELD
OFFENDER/SPANISH MANUALS**

REVISION DATE
9/21/15

PAGE NUMBER
1 of 12

NUMBER
DOC 350.100

POLICY

TITLE
EARNED RELEASE TIME

REVIEW/REVISION HISTORY:

Effective: 1/4/82 DOC 280.100	Revised: 3/10/08 AB 08-004
Revised: 5/1/83 DOC 350.100	Revised: 9/24/08
Revised: 3/1/86	Revised: 5/5/09 AB 09-015
Revised: 8/15/90	Revised: 4/29/11
Revised: 7/1/96	Revised: 10/24/11
Revised: 10/30/96	Revised: 7/9/12
Revised: 12/1/98	Revised: 3/9/14
Revised: 12/20/00	Revised: 1/12/15
Revised: 3/3/05	Revised: 5/25/15
Revised: 8/28/06	Revised: 9/21/15

SUMMARY OF REVISION/REVIEW:

X.A.1.b. - Added language for clarification

APPROVED:

Signature on file

BERNARD WARNER, Secretary
Department of Corrections

9/8/15

Date Signed

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p>	<p>APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER/SPANISH MANUALS</p>		
	<p>REVISION DATE 9/21/15</p>	<p>PAGE NUMBER 2 of 12</p>	<p>NUMBER DOC 350.100</p>
	<p>TITLE EARNED RELEASE TIME</p>		
<p>POLICY</p>			

REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 9.92.151; RCW 9.94A; RCW 9.95; RCW 69.50; RCW 69.52; RCW 72.09.130; WAC 137-25-030; WAC 137-30; DOC 320.150 Disciplinary Sanctions; DOC 320.400 Risk and Needs Assessment Process; DOC 460.135 Disciplinary Procedures for Work Release

POLICY:

- I. The Department will award Earned Release Time (ERT), which includes good conduct time and earned time, to offenders committed to Department facilities within the guidelines established by law.

DIRECTIVE:

- I. Eligibility
 - A. Offenders convicted of a serious violent offense or a Class A felony sex offense may earn ERT as follows:
 1. Offense committed between July 1, 1990, and June 30, 2003 - not to exceed 15 percent of their sentence
 2. Offense committed on or after July 1, 2003 - not to exceed 10 percent of their sentence
 - B. Offenders convicted before July 2, 2010, who are classified as Moderate or Low Risk may earn ERT not to exceed 50 percent of their sentence regardless of the date of offense or sentencing, provided they are not convicted of or have a prior:
 1. Sex offense,
 2. Violent offense,
 3. Crime against a person, including Identity Theft 1 and 2 committed on or after June 7, 2006,
 4. Felony domestic violence,
 5. Residential burglary,
 6. Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacturing or delivering methamphetamine, or by possessing methamphetamine with intent to manufacture or deliver,

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p>	APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER/SPANISH MANUALS		
	REVISION DATE 9/21/15	PAGE NUMBER 3 of 12	NUMBER DOC 350.100
	TITLE EARNED RELEASE TIME		

POLICY

- 7. Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (i.e., delivery of a controlled substance to a minor),
 - 8. Gross misdemeanor stalking,
 - 9. Domestic violence court order violation, including gross misdemeanors, or
 - 10. Any new felony committed under community supervision.
- C. Offenders may earn ERT not to exceed 33¹/₃ percent of their sentence in all other cases not identified in this section.
- D. As outlined in DOC 320.150 Disciplinary Sanctions and DOC 460.135 Disciplinary Procedures for Work Release:
- 1. Offenders found guilty of violation 557 or 810 will lose their 50 percent eligibility and all available ERT and privileges.
 - a. The Disciplinary Hearing Officer will notify the Correctional Records Supervisor (CRS) of all guilty findings for 557 and 810 violations.
 - 2. Offenders found guilty of an 813 violation related to employment or programming while in Work Release will lose all available ERT and privileges.
 - a. The Community Hearing Officer will notify the Records Office at the sending facility if the violation(s) is incurred in Work Release or a facility transfers the offender before the hearing is completed. The Records Office at the sending facility will revise DOC 02-329 50% Earned Release Time Eligibility Change Notice.

II. Requirements

- A. ERT will be calculated at two-thirds good conduct time and one-third earned time.
- B. An offender who has transferred from one sentence within a cause number to the next sentence, or from one cause number to the next cause number, can lose ERT associated with the previous sentence or cause. ERT can be taken on a consecutive sentence not yet being served.

III. Good Conduct Time

- A. All offenders will be eligible for good conduct time, except:



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
**PRISON/WORK RELEASE/FIELD
OFFENDER/SPANISH MANUALS**

REVISION DATE
9/21/15

PAGE NUMBER
4 of 12

NUMBER
DOC 350.100

POLICY

TITLE
EARNED RELEASE TIME

1. Offenders sentenced to death or Life Without Parole,
 2. Offenders serving the mandatory or flat time enhancement portion of their sentences,
 3. Community Custody Violators sanctioned by the Department on or after May 2, 2012,
 4. Offenders sanctioned to Community Custody Prison (CCP) Return or Community Custody Inmate (CCI) Termination, and
 5. Indeterminate offenders whose minimum term has expired and who have not been paroled or transferred to a consecutive sentence. Any good conduct time earned or denied will be addressed to the correct sentence after the parole/transfer date is determined.
- B. Offenders may lose good conduct time, as follows:
1. Offenders found guilty of a serious violation may be sanctioned to a loss of earned or future good conduct time per DOC 320.150 Disciplinary Sanctions and DOC 460.135 Disciplinary Procedures for Work Release.
 - a. The amount of time lost will be determined by the Disciplinary or Community Hearing Officer or Indeterminate Sentence Review Board (ISRB). The following offenders may lose good conduct time if found guilty of a serious violation:
 - 1) Indeterminate offenders whose time has not been adopted by the ISRB.
 - 2) Determinate offenders.
 2. Offenders serving the mandatory or flat time enhancement portion of their sentence are subject to a loss of future good conduct time available during the non-mandatory portion of their sentence. Lost good conduct time will be applied to the remainder of the sentence after the mandatory or flat time enhancement period is served.
 3. Offenders may lose good conduct time for committing a violation or being infraacted while out to court.
- C. When all of an indeterminate offender's available good conduct time has been denied due to violations, the Superintendent/Community Corrections Supervisor (CCS) may request, via the Headquarters Community Screening Committee, that the ISRB schedule a disciplinary hearing to address the offender's time structure.



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY

**PRISON/WORK RELEASE/FIELD
OFFENDER/SPANISH MANUALS**

REVISION DATE
9/21/15

PAGE NUMBER
5 of 12

NUMBER
DOC 350.100

POLICY

TITLE

EARNED RELEASE TIME

- D. When an offender paroled from an indeterminate sentence to a consecutive determinate sentence commits a violation, the Counselor/Community Corrections Officer (CCO) will notify the ISRB via email or hard copy, describing the behavior and recommended action. The report will note this behavior as a violation.

IV. Earned Time

- A. Offenders who participate in approved programs, including work and school, are eligible for earned time for each calendar month as follows:

- | | | |
|----|--|------------|
| 1. | Earned time eligible under 10 percent rule | 1.11 days |
| 2. | Earned time eligible under 15 percent rule | 1.76 days |
| 3. | Earned time eligible under 33 ¹ / ₃ percent rule | 5.00 days |
| 4. | Earned time eligible under 50 percent rule | 10.00 days |

- B. An offender will not be eligible for earned time if:

- 1. Serving an indeterminate sentence, and the ISRB has:
 - a. Extended the cause to the maximum term, or
 - b. Previously denied future earned time.
- 2. S/he is not involved in mandatory programming as determined through the classification process and consistent with his/her Custody Facility Plan. This includes refusing mandatory programming or being terminated from a program assignment for documented negative or substandard performance. An offender who is on a waiting list and refuses a program assignment will not earn earned time for the month in which s/he refused.
 - a. Offenders previously determined qualified to receive 50 percent earned time will participate in programming or activities targeted in the Custody Facility Plan. Offenders will not be penalized if programs and activities are not available.
- 3. S/he refuses any transfer, excluding Work Release. Earned time will not be earned for any calendar month the offender refuses transfer.
- 4. S/he serves 20 days or more in one calendar month in Administrative Segregation, disciplinary segregation, or Intensive Management Status (IMS) for negative behavior or unfounded/unsubstantiated protection concerns.
 - a. The offender is eligible to begin earning earned time when authorized to transfer or return to general population.

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- b. Offenders who are approved for transfer to general population and are scheduled for release to the community within 60 days will earn earned time unless found guilty of a(n):
 - 1) 557 or 810 violation, or
 - 2) 813 violation related to employment or programming while in Work Release.
 - c. An offender on IMS, or in Administrative Segregation or disciplinary segregation for negative behavior, will not earn earned time while on out to court status. Any earned time not earned will be addressed at a classification review upon return.
5. S/he is serving the mandatory or flat time enhancement portion of his/her sentence, except for indeterminate offenders sentenced for crimes committed before July 1, 1984.
- C. The offender's electronic file is the official record for his/her earned time.
1. The first entry on the Earned Time screen will be the time start date. Dates for all subsequent entries will reflect the first of the month following any month being updated.
 2. The Counselor/CCO will review and update earned time on the Earned Time screen in the offender's electronic file:
 - a. At annual review,
 - b. At transfer from Segregation to another facility, and
 - c. For any month earned time is not earned.
 3. The Counselor/CCO will have the offender sign a copy of the Earned Time Not Earned report listing all earned time denials. The offender will be provided a copy of the signed report, and a copy will be maintained in the offender's central file and electronic imaging file.
 - a. Offenders in Administrative Segregation/maximum custody will be provided the report every 30 days if earned time is denied during that time.
 4. The CRS will update the earned time on the Earned Time screen in the offender's electronic file at:
 - a. The request of the ISRB,
 - b. Transfer from general population to another facility, and
 - c. Release.

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D. Denials of earned time are final and cannot be appealed.

V. County Jail Earned Release Time

A. For offenders transferred to the Department from a county jail, the jail administrator will certify to the Department the amount of jail time spent in custody and any earned time not earned. The Department will calculate ERT for time spent in the jail at the rate earned in the Department.

1. If no certification is provided, the CRS/designee will forward a request to the jail administrator using DOC 02-387 Jail Time Certification.
2. If the Department becomes aware that the time certified by the jail is incorrect, the CRS will contact the jail to verify, but does not need to wait for verification to apply the proper credits.

B. Jail time ordered by the court for the same period on consecutive sentences will be applied as follows:

1. If the sentences have the same Prison intake date, jail time credits will be applied per the Judgment and Sentence, but no jail good conduct time will be applied for the overlapping time period. The Department may contest the court's calculations through the post-sentence petition process.
2. If the Prison intake dates are different, the CRS will apply the time from the Judgment and Sentence or jail certification, including jail good conduct time, and then apply Wickert time (i.e., out time applied to a period of confinement when the offender is required to serve a consecutive period of confinement starting before the current confinement is complete) for that same time period.

C. Offenders serving presentence time in another jurisdiction (e.g., juvenile detention center, another state/jurisdiction even if fighting extradition, etc.) will receive jail credit if serving solely on the Washington State charge. The Department will request documentation from the other jurisdiction of dates of incarceration and any early release time lost. The Department will calculate ERT for the presentence time spent in the facility at the rate earned in the Department.

VI. Re-sentenced on Previous Conviction - Credit Time Served

A. Offenders who are re-sentenced on a previous conviction are entitled to receive credit for the original jail time, original jail ERT, Department time served, and ERT on the Department time served. All time the offender served for the conviction offense, as well as Department ERT, will be applied. Any good

 <p>STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS</p>	<p>APPLICABILITY PRISON/WORK RELEASE/FIELD OFFENDER/SPANISH MANUALS</p>		
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conduct time lost due to violations or earned time not earned during the time served on the original sentence will be deducted from the Department ERT.

VII. Persistent Prison Misbehavior

- A. An offender serving a sentence for an offense committed on or after August 1, 1995:
 - 1. May have earned time credits taken away as part of a disciplinary sanction if s/he has lost all good conduct time credits for the current commitment.
 - 2. May have earned or future ERT credits reduced.

VIII. Release Date

- A. Jail time and jail ERT will be deducted from the total sentence to calculate an offender's release date on a determinate sentence.
 - 1. ERT applicable per statute is applied to the adjusted sentence.
- B. A determinate offender held beyond his/her Earned Release Date (ERD) may have available good conduct time taken if found guilty of a serious violation.
- C. An offender with an established release date who receives a Category A violation after an Offender Release Plan has been approved will have the release date suspended until the violation is adjudicated and all time loss and sanctions are completed.
- D. If the offender is denied earned time, loses good conduct time, or has time restored and is within 120 days to ERD, employees/contract staff responsible for entering the sanction information will notify the Counselor/CCO/CRS immediately by telephone and/or email.

IX. Superintendent/CCS Review

- A. ERT will be reviewed by the Superintendent/CCS at intervals not to exceed one year.
 - 1. At the time of his/her annual review, each offender will receive a written record of the ERT s/he is eligible to earn.
 - 2. For indeterminate pre-1984 offenders, review is final when adopted by the ISRB, at:



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- a. The .100 hearing, based on the Parole Eligibility Release Date and the current ERT recorded in the offender's electronic file.
- b. The time of parole or transfer to a consecutive determinate sentence.

B. Before adoption by the ISRB for indeterminate sentences or review by the Superintendent/CCS for determinate sentences, the projected ERD should be used for classification purposes when considering minimum facility placement, Work Release, and pre-parole/community release planning.

X. Restoration

A. Good conduct time, and earned time lost in lieu of good conduct time due to Persistent Prison Misbehavior, is the only ERT that can be restored.

1. Time will not be restored:

- a. For offenders within 6 months of their ERD.
- b. For offenders who have received any serious infraction within the last year.
- c. When lost as a result of a 557, 810, or 857 infraction.
- d. When lost as a result of an 813 infraction related to employment or programming while in Work Release.
- e. Once addressed/adopted by the ISRB for indeterminate sentences, unless approved in advance by the ISRB.

2. Offenders serving consecutive determinate sentences are eligible to have the time restored on any of the sentences.

B. At the offender's classification review, the Counselor will meet with the offender and establish a plan for restoring applicable lost time. The restoration plan will be documented in the Custody Facility Plan. If a restoration plan has not been previously approved, a Plan Change Review will be used to create the plan.

1. The restoration plan cannot put the offender less than 120 days to release, or restore time lost for the following infractions committed during the current incarceration:

- a. 501, 502, 511, 521, 550, 604, 611, 612, 613, 635, 636, 637, 882, or new Category A infraction within the last 10 years.



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- b. 601, 602, or 704 infraction within the last 5 years.
 - c. 507, 603, 650, or 651 infraction within the last 3 years.
 - d. Any other serious infraction within the last year.
 2. The restoration plan must be supported by a Facility Risk Management Team (FRMT)/multidisciplinary FRMT and approved by the Superintendent/designee.
 - a. Plans including restoration of time lost for any Category A infraction(s) also require approval from the Assistant Secretary for Prisons or the appropriate Deputy Director.
 3. When deciding whether to approve the restoration plan, the FRMT/ multidisciplinary FRMT or Superintendent/Deputy Director/Assistant Secretary will consider:
 - a. If the amount of time being restored correlates with the plan length and amount/type of required programming,
 - b. Whether the offender can reasonably be expected to fulfill the plan requirements,
 - c. Length and type of prior and proposed program participation,
 - d. Period of infraction free behavior,
 - e. Nature of infractions and current Prison Sanctioning Guidelines in DOC 320.150 Disciplinary Sanctions,
 - f. Overall behavior during the commitment period,
 - g. FRMT/multidisciplinary FRMT recommendation, and
 - h. Compliance with the Custody Facility Plan.
- C. At each subsequent classification review, the Counselor and offender will review the restoration plan and the offender's progress, and make any necessary adjustments for FRMT/multidisciplinary FRMT review and Superintendent/designee approval.
- D. If the offender adheres to his/her Custody Facility Plan and remains serious infraction free for the duration of the restoration plan, the lost time will be restored as outlined in the plan. The Counselor will forward a copy of the Custody Facility Plan and any associated documents (e.g., infraction reports, and the offender's Criminal Conviction Record) to the Superintendent.



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1. To restore the lost time, the Superintendent will complete DOC 21-730 Restoration of Good Conduct Time/Earned Time Lost in Lieu of Good Conduct Time and forward it to the Deputy Director/Assistant Secretary for Prisons, if necessary.
2. Any denial of restoration requires Superintendent/Deputy Director/Assistant Secretary approval, as applicable, and will only be considered when a significant, compelling reason(s) exists. The decision and reason(s) will be documented in the Custody Facility Plan.

- E. Designated employees will document restoration in the Decision, Sanction, or Appeal Result narrative on the Infraction Summary screen in the offender's electronic file.
- F. The restoration decision is final and cannot be appealed.

XI. Community Custody

- A. Community Custody Violators sanctioned by the Department before May 2, 2012, are eligible for good conduct time at a rate of 33¹/₃ percent. Offenders sanctioned on or after May 2, 2012, will not be eligible for good conduct time. Hearing Officers may adjust to avoid release on a weekend or holiday.
- B. If an offender has not completed his/her maximum term of total confinement and is found to have committed the violation, the Department may return the offender to Prison to serve the remainder of the Prison term.
 1. All jail ERT and Department ERT applied to the sentence before early release becomes return time.
 2. When determining the length of return time, the Department must credit the offender for all community custody time successfully served and with all periods of pre-hearing time spent in confinement pending all prior and current community custody violation hearings for that cause.
 3. The offender is not entitled to any good conduct time during the return time.
 4. Upon release from Prison after serving the remainder of the Prison term, the offender will resume serving the community custody portion of the sentence for any time remaining to serve on community custody.



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DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS:

DOC 02-329 50% Earned Release Time Eligibility Change Notice

DOC 02-387 Jail Time Certification

DOC 09-261 Court of Appeals Decision - Jail Time Credits

DOC 21-730 Restoration of Good Conduct Time/Earned Time Lost in Lieu of Good Conduct Time



30 DAY NOTICE

LOG I.D. NUMBER
17641332

OFFENDER COMPLAINT

CHECK ONE: Initial Emergency Appeal Rewrite

RESIDENTIAL FACILITIES: Send completed form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible, but include the necessary facts. Use only one complaint form. A formal grievance begins on the date the typed grievance forms are signed by the Coordinator. Contact a Department employee to report an emergency situation or to initiate an emergency complaint. Please attempt to resolve all complaints through the appropriate Department employee(s) before pursuing a grievance.

NOTE: Complaints must be filed within 20 working days of the incident. Appeals must be filed within 5 working days of receiving the response. Include log ID # on rewrite or response being appealed.

Last Name	First	Middle	DOC Number	Facility/Office	Unit/Cell
BARTON	JD	JONES	867165	SCCC	FC14

COMMUNITY SUPERVISION: Send completed copies of this form directly to: Grievance Program Manager, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE
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COMPLAINT: I JUST DISCOVERED THAT DOC WAS OBLIGATED AND MANDATED BY APPLICABLE STATUTES TO STOP ROLLING MY FIREARM ENHANCEMENT TIME ON 12-20-12 DUE TO THE TRIAL COURT VACATING THE PREVIOUS 2008 CONVICTION. THE TRIAL COURT FOUND ME GUILTY ON 10-21-13 & SENTENCED ME ON 11-7-13 WHILE TRANSFERRED TO DOC JURISDICTION ON 11-8-13. 11-8-13 IS THE DATE DOC SHOULD HAVE RECOMMENCED MY F.E. TIME AS DOC HAD NO JURISDICTION NOR AUTHORITY TO ROLL MY F.E. TIME WHILE I WAS A PRETRIAL DETAINEE FROM 12-20-12 - 11-8-13. ENHANCEMENT TIME CAN ONLY BE APPLIED AFTER A CONVICTION.

DOC FAILURE TO CORRECT THIS IMPAIRMENT WILL RESULT IN ME ASSERTING MY RIGHTS TO THE EXPECTATION OF FINALITY OF THE COURT 10-30-14 DATE. THIS IS NOTICE TO DOC, WITH A 30 DAY DEADLINE TO COMPLY WITH THE TRIAL COURT'S ORDERS OTHERWISE I WILL BE ENTITLED TO SUGGESTED REMEDY: THE EXPECTATION OF FINALITY REGARDING THE 10-30-14 COMPLETION DATE OF THE 72 MONTH FIREARM ENHANCEMENT. THE 30 DAY DEADLINE ENDS ON 10-25-17.

Mandatory Signature: JD JONES BARTON Date: 9-25-17

GRIEVANCE COORDINATOR'S RESPONSE Your complaint is being returned because: <input type="checkbox"/> It is not a grievable issue. <input type="checkbox"/> You requested to withdraw the complaint. <input type="checkbox"/> You failed to respond to callout (sheet) on _____. <input type="checkbox"/> Administratively Withdrawn _____. <input type="checkbox"/> The formal grievance/appeal paperwork is being prepared. <input checked="" type="checkbox"/> Not accepted	Facility/Office: SCCC Date Received: 9/25/17
	<input type="checkbox"/> The complaint was resolved informally. <input type="checkbox"/> Additional information and/or rewriting needed. (See below.) Return within 5 working days or by: _____. <input type="checkbox"/> No rewrite received _____. <input type="checkbox"/> Sent to _____ (facility) on _____ (date).

EXPLANATION:
Duplicate complaint. This issue has been repeatedly addressed through LOG ID's 14574783, 15592081, 17632023, 15592081 and 15578361 as well as through Correspondence dated Sept 18 2017, Aug 1, 2017 and June 14 2017. This issue will not be readdressed.

Coordinator's Name (print): Dahn
 Coordinator's Signature: [Signature]
 Date: 9/29/17



30 DAY NOTICE

LOG I.D. NUMBER
17641331

Confidential

Offender Copy

OFFENDER COMPLAINT

CHECK ONE: Initial Emergency Appeal Rewrite

RESIDENTIAL FACILITIES: Send completed form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible, but include the necessary facts. Use only one complaint form. A formal grievance begins on the date the typed grievance forms are signed by the Coordinator. Contact a Department employee to report an emergency situation or to initiate an emergency complaint. Please attempt to resolve all complaints through the appropriate Department employee(s) before pursuing a grievance.

NOTE: Complaints must be filed within 20 working days of the incident. Appeals must be filed within 5 working days of receiving the response. Include log ID # on rewrite or response being appealed.

Last Name	First	Middle	DOC Number	Facility/Office	Unit/Cell
BARTON	JD	JONES	867165	SCC	FC14

COMMUNITY SUPERVISION: Send completed copies of this form directly to: Grievance Program Manager, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE
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COMPLAINT: I just DISCOVERED that DOC Policy 350.100 VI.A, cannot be applied to my 11-7-13 JES. My 2013 JES is not a RESENTENCE on the previous 10-31-2008 conviction!

The prosecutor Joseph Wheeler has attempted to explain to DOC records that the 2013 JES is not a RESENTENCE but is in fact a NEW CONVICTION AND SENTENCE. MR WHEELER ALSO PROVIDED DOC RECORDS VIA EMAIL the following TRIAL COURTS ORDERS: (1) 12-20-12; (2) 10-21-13; & (3) 11-7-13 JES.

SUGGESTED REMEDY: DOC "MUST FOLLOW THE (2013/2017) JUDGMENT AND SENTENCE AS SO ORDERED" which DOC HAS yet to do while IMPAIRING the trial courts AUTHORITY & JURISDICTION. DOC WILLFUL CONDUCT BEING IN CONTEMPT OF COURT FROM 12-20-12 - current Mandatory JD JONES BARTON 9-25-17

DATE

GRIEVANCE COORDINATOR'S RESPONSE Your complaint is being returned because:	Facility/Office	Date Received
	SCC IMU	9/26/17
<input type="checkbox"/> It is not a grievable issue. <input type="checkbox"/> You requested to withdraw the complaint. <input type="checkbox"/> You failed to respond to callout (sheet) on _____ <input type="checkbox"/> Administratively Withdrawn _____ <input type="checkbox"/> The formal grievance/appeal paperwork is being prepared. <input checked="" type="checkbox"/> Not accepted	<input type="checkbox"/> The complaint was resolved informally. <input type="checkbox"/> Additional information and/or rewriting needed. (See below.) Return within 5 working days or by: _____ <input type="checkbox"/> No rewrite received _____ <input type="checkbox"/> Sent to _____ (facility) on _____ (date).	

EXPLANATION:

Duplicate complaint. This issue has been repeatedly addressed through LOG ID's 14574783, 15592081, 17632023, 15592081 and 15578361 as well as through Correspondence dated Sept 18 2017, Aug 1, 2017 and June 14 2017. This issue will not be readdressed.

Coordinator's Name (print)	Coordinator's Signature	Date
Dahne		9/26/17



LOG I.D. NUMBER
1710316603

Confidential

OFFENDER COMPLAINT

CHECK ONE: Initial Emergency Appeal Rewrite

RESIDENTIAL FACILITIES: Send completed form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible, but include the necessary facts. Use only one complaint form. A formal grievance begins on the date the typed grievance forms are signed by the Coordinator. Contact a Department employee to report an emergency situation or to initiate an emergency complaint. Please attempt to resolve all complaints through the appropriate Department employee(s) before pursuing a grievance.

NOTE: Complaints must be filed within 20 working days of the incident. Appeals must be filed within 5 working days of receiving the response. Include log ID # on rewrite or response being appealed.

Last Name	First	Middle	DOC Number	Facility/Office	Unit/Cell
BARTON	JD	JONES	867165	SCCC	FC14

COMMUNITY SUPERVISION: Send completed copies of this form directly to: Grievance Program Manager, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE
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COMPLAINT: DOC HQ & SCCC ARE trying to convince me that DOC will ALWAYS retain jurisdiction over me even after the superior court entered an order vacating the 10-31-08 conviction which immediately classified me as a pretrial detainee. Doc is adamant "when you go out to court your time does not stop with doc. You are basically on loan to the court..." However, this jurisdiction assessment violates Doc 350.100 VI.A, which clearly states "... RESENTENCED ON A PREVIOUS CONVICTION."

Further, upon entry of a judgment of 'GUILTY' & a sentence of imprisonment, legal authority for a 'CONVICTED FELON' passes to the DEPT. OF CORRECTIONS. From 12-26-12-11-7-13 Doc did not have any authority of me, not in part, not in whole.

SUGGESTED REMEDY: That Doc admit that they have over-stepped their designated authority as proscribed under the executive branch while clearly encroaching on both the judicial & legislative function & integrity.

Mandatory Signature: JD JONES BARTON Date: 7-9-17

GRIEVANCE COORDINATOR'S RESPONSE Your complaint is being returned because: <input checked="" type="checkbox"/> It is not a grievable issue. <input type="checkbox"/> You requested to withdraw the complaint. <input type="checkbox"/> You failed to respond to callout (sheet) on _____ <input type="checkbox"/> Administratively Withdrawn _____ <input type="checkbox"/> The formal grievance/appeal paperwork is being prepared.	Facility/Office SCCC IMU	Date Received 7/11/17
	<input type="checkbox"/> The complaint was resolved informally. <input type="checkbox"/> Additional information and/or rewriting needed. (See below.) Return within 5 working days or by: _____ <input type="checkbox"/> No rewrite received _____ <input type="checkbox"/> Sent to _____ (facility) on _____ (date).	

EXPLANATION: This is a classification issue you may address through classification process

Coordinator's Name (print)	Coordinator's Signature	Date
Dahnu		7/17/17

NK



Confidential Offender Copy

LOG I.D. NUMBER
17635685

OFFENDER COMPLAINT

CHECK ONE: Initial Emergency Appeal Rewrite

RESIDENTIAL FACILITIES: Send completed form to the Grievance Coordinator. Explain what happened, when, where, and who was involved or which policy/procedure is being grieved. Be as brief as possible, but include the necessary facts. Use only one complaint form. A formal grievance begins on the date the typed grievance forms are signed by the Coordinator. Contact a Department employee to report an emergency situation or to initiate an emergency complaint. Please attempt to resolve all complaints through the appropriate Department employee(s) before pursuing a grievance.

NOTE: Complaints must be filed within 20 working days of the incident. Appeals must be filed within 5 working days of receiving the response. Include log ID # on rewrite or response being appealed.

Last Name BARTON, JD JONES	First J.D.	Middle JONES	DOC Number 867165	Facility/Office WSP/A.G.O./H	Unit/Cell SCCC F.C.14
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COMMUNITY SUPERVISION: Send completed copies of this form directly to: Grievance Program Manager, Offender Grievance Program, Department of Corrections, P.O. Box 41129, Olympia WA 98504-1129.

MAILING ADDRESS: STREET OR P.O. BOX	CITY, STATE	ZIP CODE	TELEPHONE
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COMPLAINT: ON 5-4-17, WSP CRS MARGRET SCHOCK SENT ME A TYPED NOTIFICATION DETAILING THAT WITHOUT DOC RECEIVING AN ORDER VACATING THE 10-31-08 CONVICTION, DOC COULD NOT PROVIDE ME PRESENTENCE CREDIT FROM MY TIME IN THE COUNTY JAIL FROM 10-12-12-11-8-13. SEE 5-4-17 NOTIFICATION BY CRS SCHOCK.

ON 6-28-17 & 6-29-17, THE THURSTON CO. PROS. JOSEPH WHEELER PERSONALLY SENT SCCC CRS TARA HOSLER AN EMAIL ATTACHMENT OF THE FOLLOWING COURT BINDING DOCUMENTS: (1) 12-20-12 ORDER WITHDRAWING 10-31-08 GUILTY PKAS; & (2) 10-21-13 STATEMENT ON PLEA OF GUILTY. SEE EMAILS.

THESE VERY DOCUMENTS BEING RECORDS THAT DOC NEVER RECEIVED UNTIL JUNE, 2017, REVIEWING THESE NEW DOCUMENTS & BRING TO APPEAL PROCESS, THIS GRIEVANCE PROCESS IS MY ONLY OUTLET.

I THEREFORE REQUEST THAT THE: (1) 2013 JES FINALLY BE TREATED AS A NEW CONVICTION & SENTENCE AS I WAS NOT "RESITUATED ON PREVIOUS (10-31-08) CONVICTION; & (2) FROM 12-20-12-11-8-13 TO FINALLY BE CREDITED AS PRESENTENCE CREDIT - 323-DAYS OF JAIL CAUSE CREDITS & 161-DAYS OF JAIL GOOD TIME CREDITS. SEE 2013 & 2017 JES & 2017 JAIL CERTIFICATION.

SUGGESTED REMEDY: THAT SINCE THE A.G.O & DOC HQ ARE CURRENTLY REVIEWING THE RECENTLY SUBMITTED LEGAL DOCUMENTS, THAT THIS GRIEVANCE BE REVIEWED & ANSWERED BY THE A.G.O AND DOC HQ REGARDING THIS VERY ISSUE.

Mandatory JD JONES BARTON 7-5-17
Signature Date

GRIEVANCE COORDINATOR'S RESPONSE Your complaint is being returned because: <input type="checkbox"/> It is not a grievable issue. <input type="checkbox"/> You requested to withdraw the complaint. <input type="checkbox"/> You failed to respond to callout (sheet) on _____ <input type="checkbox"/> Administratively Withdrawn _____ <input type="checkbox"/> The formal grievance/appeal paperwork is being prepared. <input checked="" type="checkbox"/> Not accepted	Facility/Office SCCC	Date Received 7/17/17
	<input type="checkbox"/> The complaint was resolved informally. <input type="checkbox"/> Additional information and/or rewriting needed. (See below.) Return within 5 working days or by: _____ <input type="checkbox"/> No rewrite received _____ <input type="checkbox"/> Sent to _____ (facility) on _____ (date).	

EXPLANATION: 17635685 was deemed as a duplicate
You have repeatedly grieved this issue
multiple complaints on the same issue will
not be accepted

Coordinator's Name (print) Dahne	Coordinator's Signature 	Date 7/17/17
--	-----------------------------	------------------------

JAY INSLEE
Governor



JOHN R. BATISTE
Chief

STATE OF WASHINGTON
WASHINGTON STATE PATROL

PO Box 42633 • Olympia, Washington 98504-2633 • (360) 534-2000 • www.wsp.wa.gov

October 9, 2017

Mr. JD Jones Barton #867165
FC14
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen WA 98520

Dear Mr. Barton:

This is in response to your letter dated September 25, 2017, regarding the conviction date listed on your criminal history record information for case number 08-1-00727-1.

After review of your record we have updated the disposition status date to 10/21/2013 which reflects the new conviction date being reported by the Thurston County Superior Court.

If you have any questions, please contact the Criminal History Records Section at (360) 534-2000.

Sincerely,

A handwritten signature in cursive script that reads "Becky L. Miner".

Ms. Becky L. Miner
Criminal History Records Section

BLM:av

cc: Criminal History Records Section
Stafford Creek Corrections Center

JAY INSLEE
Governor



JOHN R. BATISTE
Chief

STATE OF WASHINGTON
WASHINGTON STATE PATROL

PO Box 42633 • Olympia, Washington 98504-2633 • (360) 534-2000 • www.wsp.wa.gov

October 24, 2017

Mr. JD Jones Barton #867165
FC14
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen WA 98520

Dear Mr. Barton:

This is in response to your letter received on October 16, 2017, requesting our department provide the Department of Corrections (DOC) notification they lost jurisdiction over you.

The Washington State Patrol (WSP) Criminal History Records Section is the repository for criminal history record information (CHRI). This office collects and disseminates CHRI and does not determine jurisdiction matters. The WSP does not provide any notifications regarding jurisdiction matters to the DOC. For questions or assistance regarding DOC jurisdiction matters please contact:

Department of Corrections
PO Box 41100
Olympia WA 98504-1100

If you have any questions related to your criminal history record, please contact the Criminal History Records Section at (360) 534-2000.

Sincerely,

A handwritten signature in cursive script, appearing to read "Becky L. Miner".

for Ms. Becky L. Miner
Criminal History Records Section

BLM:av
cc: Criminal History Records Section
Stafford Creek Corrections Center



DECLARATION OF SERVICE BY MAIL
GR 3.1

I, JD JONES BARTON, declare and say:

That on the 1st day of APRIL, 2018, I

deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. 50354-9-11:

(1) STATEMENT of ADDITIONAL GROUNDS - MEMORANDUM; (2) ORDER CLARIFYING PRESENCE CREDIT; (3) ~~AMENDED~~ ^{ADDITIONAL} SAG ISSUE IN SUPPORT of SAG - MEMORANDUM; (4) ORDER of EXPECTATION of FINALITY of FIREARM ENHANCEMENTS; & (5) DECLARATION of APPELLANT; (6) DOC TIME BARRED TO CONTEST PRESENCE CREDIT, & (7) motion to STRIKE
addressed to the following:

COURT of APPEALS
1/ COURT CLERK
950 BROADWAY, SUITE 300
TACOMA, WA 98402-4454

RECEIVED
APR 5 2018

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON

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

DATED THIS 1st day of APRIL, 2018, in the City of Aberdeen, County of Grays Harbor, State of Washington.

JD JONES BARTON
Signature

JD JONES BARTON
Print Name

DOC 867165 UNIT FC14
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
ABERDEEN WA 98520