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No. 50577-1-II  
Clark County No. 16-1-02575-7

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

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STATE OF WASHINGTON,

Respondent,

v.

QURAN INGRAM,

Appellant.

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ON APPEAL FROM THE  
SUPERIOR COURT OF THE STATE OF WASHINGTON,  
CLARK COUNTY

The Honorable Judge Daniel L. Stahnke

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*APPELLANT'S OPENING BRIEF*

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A. ASSIGNMENTS OF ERROR

1. The trial court erred and appellant's state and federal rights to trial by jury, proof beyond a reasonable doubt and due process were violated when the trial court treated an essential element of the charged crime as a "threshold" issue of law and removed the element from the jury's consideration.
2. The charging document and jury instructions were constitutionally insufficient because they failed to include all essential elements of the crime.
3. Appellant assigns error to Instruction 13, which provided:

A person commits the crime of violation of a court order when he or she knows of the existence of a restraining order, and knowingly violates restraint provisions of the order prohibiting contact with a protected party or a provision of the order excluding the person from a residence or a provision of the order prohibiting the person from knowingly coming within or remaining within a specified distance of a location.

CP 149.

4. Appellant assigns error Instruction 14, the "to convict" as follows:

To convict the defendant of the crime of violation of a court order, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about December 2, 2016, there existed a restraining order applicable to the defendant;
- (2) That the defendant knew of the existence of this order;
- (3) That on or about said date, the defendant knowingly violated a restraint provision of the order prohibiting contact with a protected party or provision of the order excluding the defendant from a residence

or provision of the order prohibiting the defendant from knowingly coming within or remaining within a specified distance or a location; and

- (4) That the defendant's act occurred in the State of Washington.

CP 150.

5. The superior court violated CrR 3.2, state and federal due process and the presumption of innocence by failing to apply the mandatory presumption of release on personal recognizance.
6. There was insufficient evidence to rebut the presumption of release on personal recognizance and the trial court erred in failing to make the required findings prior to imposing financial conditions on release.
7. Article 1, § 14 and 20, the Eighth Amendment and the state and federal guarantees of equal protection and due process are violated when a person cloaked with the presumption of innocence is kept in physical custody despite a presumption of release, because he is too impoverished to be able to pay financial conditions or "bail."
8. Appellant's Sixth Amendment and Article 1, § 22, rights to effective assistance of counsel were violated by the failure to appoint counsel until moments before the pretrial release hearing.
9. The issues surrounding the violations of CrR 3.2 and constitutional rights in relation to pretrial release are technically moot but likely to evade review and of great public importance which should be addressed by the Court.

B. QUESTIONS PRESENTED

1. Under RCW 26.50.110(1)(a), where the state alleges violation of a foreign court order, it must prove that there is "a valid foreign protection order as defined in RCW 26.52.020."

Below, over repeated defense objection, the trial court treated the validity of the foreign order as a "threshold" question for the court and made the finding by a

preponderance of the evidence, instead of submitting it to the jury.

Did the trial court err and were appellant's state and federal rights to due process, jury trial and proof beyond a reasonable doubt violated by the judge making a finding on an essential element of the offense instead of the jury?

Were the jury instructions and the charging document constitutionally flawed for excluding the required element?

2. Under CrR 3.2, those charged with but not convicted of a crime are entitled to a presumption of release on personal recognizance. It can only be overcome if the trial court makes specific findings that either the particular defendant presents a risk of failing to appear or there is a substantial danger that the particular defendant will commit a violent crime, intimidate a witness or otherwise interfere with the administration of justice.

Did the superior court violate CrR 3.2 and fundamental principles including due process and the presumption of innocence in failing to make the required findings or consider the relevant factors prior to imposing \$60,000 bail on an indigent defendant?

3. Does imposition of a pretrial condition of \$60,000 bail on an indigent defendant without following CrR 3.2 violate not only the rule, presumption of innocence and due process but also the Eighth Amendment and Article 1, § 14 and § 20 prohibitions against excessive bail and state and federal requirements of equal protection?
4. Is the accused deprived of his rights to effective assistance of counsel where counsel is appointed moments into a hearing on pretrial bail and, as a result, is utterly and admittedly unprepared to argue on his client's behalf?
5. Even though the pretrial release decision is technically "moot," should this Court address the issues relating to the ruling below, because there are significant, serious questions of constitutional violations which are of great public importance and has tremendous negative impact which needs to be redressed?

C. STATEMENT OF THE CASE

1. Procedural Facts

Appellant Quran Ingram was charged by information filed in Clark County superior court with Residential Burglary, alleged to be a domestic violence offense, and Domestic Violence Court Order Violation. CP 10-11; RCW 9A.52.025, RCW 10.99.020, RCW 26.50.110(1).

Pretrial hearings were held before the Honorable Judges Daniel Stahnke, Scott Collier and Derek Vanderwood on December 5, 16, 21 and 28, 2016, January 13 and February 2, 2017, after which pretrial and jury trial proceedings were held before Judge Stahnke on February 6 and 7, 2017. RP 1, 147, 326. The jury found Mr. Ingram guilty of the burglary and court-order violation, and of the “domestic violence” designation, as charged. CP 154-56. After hearings on March 3 and April 21, 2017, on May 1, 2017, Judge Stahnke imposed a standard-range sentence of 50 months for the burglary and a suspended sentence for the misdemeanor. CP 364-89. Mr. Ingram appealed and this pleading followed. CP 362-63.

2. Testimony at trial

Tiffany and Quran Ingram<sup>1</sup> dated for five years and then got married. RP 169-70. In November of 2016, their child together was three years old and the family lived in Vancouver, Washington, at a home on Rossiter Lane. RP 169-71. They had lived there almost two

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<sup>1</sup>Because they share the same last name, Tiffany and Quran Ingram will be referred to by their first names in this pleading, with no disrespect intended.

years together, Tiffany admitted, but only her name was on the lease. RP 174-75.

The last time Tiffany was with Quran there was November 27, when he left the home, because after that Tiffany left, went to Oregon, and on November 30, got a restraining order from Multnomah County against him. RP 172-73. Tiffany then stayed with her child at her mom's home in Oregon. RP 173, 189-90.

On December 1, Tiffany said, she was back at the Rossiter Lane address, locked it up and turned the lights off. RP 173, 189-90. On December 2, she was driving by the home and saw lights on. RP 173, 189-90. She called police. RP 173-74.

Police arrived and found Quran inside. RP 205, 227. Officers talked to him from outside the house and he was also on the phone with the police emergency telephone number, 9-1-1, for awhile, too. RP 206, 217. Quran told police he had lived there for two years and gave them a copy of the Oregon order, along with his identification. RP 208-228.

Quran was not alone - there was another man with him in the house. RP 208, 228. When Quran finally left the house, he went out the back door, saying he did not have the key to the front. RP 207, 228, 212-13.

The order Tiffany had secured from the Oregon court provided, in relevant part:

**IT IS HEREBY ORDERED THAT:**

**Petitioner's Request (check all that apply):**

- Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing Petitioner, or attempting to intimidate, molest, interfere with or menace Petitioner directly or third parties.
- Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing, or attempting to intimidate, molest, interfere, or menace, the minor child/ren in Petitioner's custody directly or through third parties.
- Except as otherwise set out in this Order, Respondent is restrained (prohibited) from entering or attempting to enter, or remaining in, the area within  150 feet or \_\_\_\_\_ feet of the building and land at the following locations: (*include homes/addresses unless withheld for safety reasons*)
  - a. Petitioner's current or future residence Withheld for safety reasons
  - b. Petitioner's current or future business or place of employment Withheld for safety reasons
  - c. Petitioner's current or future school. Withheld for safety reasons
  - d. Other locations: \_\_\_\_\_
- 4. Respondent shall not knowingly be or stay within  150 feet or \_\_\_\_\_ feet (other distance) of Petitioner unless otherwise ordered by the Court as follows: Stay away from home on Rossiter, mothers on Alder, Sisters On Hood pl and Grandmothers on Riverview

CP 57-58. There were no initials next to the strikeout in number 4.

The Order also provided:

- [x] 5. Except as otherwise set out in this Order, Respondent is restrained (prohibited) from:
  - [x] a. Contacting, or attempting to contact, Petitioner in person directly or through third parties.
  - [x] b. Contacting, or attempting to contact, Petitioner by mail or e-mail, or any other electronic transmission. . .

CP 57-58.

Both Quran and Tiffany gave officers copies of the same protection order from Oregon. RP 214, 249. Even the officers disagreed about what it meant. RP 215, 249. For one, the fact that the order specifically had a line through the Rossiter address meant that Quran was not prohibited from being there unless Tiffany was there, because he was only prohibited from being within 150 feet of her. RP 215-16. That officer also thought the order was ambiguous in what it really covered. RP 216.

For the other officer, however, the fact that the lineout did not have initials next to it meant the lineout was invalid and the prohibition against being at Rossiter Lane applied. RP 248-49.

Tiffany admitted that, in her request for the restraining order, she had typed out specific conditions which would have prohibited her husband from going to the Rossiter Lane address and other locations but those conditions had not, in fact, been ordered. RP 183-84. Put simply, she conceded, “[t]he judge didn’t agree to that[.]” RP 183-84.

As a result, Tiffany testified, the Oregon judge had crossed those proposed parts of the protection order out, eliminating the prohibition against not just the Rossiter address but also several others she had requested. RP 184, 193-94.

Tiffany had several convictions for crimes of dishonesty. RP 179-80. She conceded that, when she went to get the order in Oregon, she told the court there she was “residing” in Oregon. RP 189-90. She explained she meant that was her “current” address at that time. RP 178, 190-91.

At trial, Mrs. Ingram testified that she had told the Oregon court that Rossiter Lane was her “future residence.” RP 190-91. She admitted, however, she did not tell the Oregon court that she had a Washington state driver’s license and that the address on it was in Washington, or that she had paid rent in Washington until the end of December. RP 176-78. She said, “[t]hey didn’t ask.” RP 178.

Also on the Oregon order, Tiffany had identified Oregon as the children’s “home state.” RP 180. She claimed at trial that she did that because the child was with her at her mom’s in Oregon the day she sought the order. RP 179-83.

As part of the Oregon order, Tiffany asked the Oregon court to impose financial sanctions on Quran but that part of the order indicating she was to receive \$1,000 paid directly at an apartment in Oregon was not signed off by the Oregon judge. CP 57; RP 33-34. At trial, Tiffany recalled receiving about \$600 and used it mostly for gas cards. RP 185.

D. ARGUMENT

1. THE VALIDITY OF THE FOREIGN PROTECTION ORDER WAS AN ESSENTIAL ELEMENT OF THE CRIME AND THE TRIAL COURT ERRED AND VIOLATED APPELLANT'S RIGHTS TO TRIAL BY JURY AND PROOF BEYOND A REASONABLE DOUBT BY TREATING THE ELEMENT AS A "GATEKEEPING" QUESTION

Both state and federal due process principles require that the government must prove all essential elements of any charged crime, beyond a reasonable doubt. In re Winship, 397 U.S. 358, 364, 25 L. Ed. 2d 368 (1970); State v. Green, 94 Wn.2d 216, 221, 616 P.2d 628 (1980). Further, the Sixth Amendment and Article 1, § 21 guarantee the right to trial by jury. See United States v. Gaudin, 515 U.S. 506, 115 S. Ct. 2310, 132 L. Ed. 2d 24 (1995); State v. Abrams, 163 Wn.2d 277, 178 P.3d 1021 (2008). All of those rights were violated in this case, because the trial court - and prosecutor - erroneously believed that the validity of the Oregon protection order was not an essential element which the prosecution had to prove to the jury, beyond a reasonable doubt. Because this error permeated the entire trial, reversal and remand for a new trial on both counts is required.

a. Relevant facts

Before and during trial, Mr. Ingram repeatedly challenged the use of the Oregon restraining order to support the conviction, on several grounds. See CP 19-45, RP 44-59, 100-108, 181.

Before trial, he moved to dismiss the charges based on State v. Knapstad, 107 Wn.2d 346, 729 P.2d 48 (1986). CP 19-20. In the motion, he argued that the Oregon restraining order was both a)

invalid, because, *inter alia*, Mrs. Ingram had claimed she was a resident of Oregon and invoked the jurisdiction of Oregon when she was a Washington resident, and b) did not apply, because the Oregon judge had stricken the Rossiter Lane address from the order and Rossiter Lane did not qualify as a “future” address under the order. CP 19-45. The motion was denied. CP 79-80.

On December 21, counsel raised the issues with the Oregon order and asked for the court to release Ingram “in the interest of justice” and put him on supervised release “until this gets sorted out.” RP 12. Judge Stahnke was out so the matter was set before Judge Collier. RP 9.

Judge Collier agreed with Mr. Ingram that the order did not appear to cover Rossiter Lane. RP 10-11. To the judge, “all you have to do is look at a certified copy out of the Oregon” court to see there were potential issues about the validity of the no-contact order. RP 11-12.

Before trial, the prosecutor’s motions in limine included one to preclude Mr. Ingram from raising the issue of the validity of the court order at trial. CP 83. The prosecutor’s position was that the validity of the court order was a legal issue unless the Oregon order was void. CP 83.

On the first day of trial, counsel asked for a continuance in order to initiate efforts to set aside the Oregon order in that state. RP 44-45. The court denied the motion. RP 44-46. The judge said Tiffany had “the right and the power” to exclude Quran from the

home because “she was the only one, with the child, on the lease.” RP 44-46. The judge thought that meant it was her residence, as well. RP 46-47.

The prosecutor argued that the defense was trying to “collaterally attack” the Oregon order in the current case, stating that the validity of the order “is not an element of the crime.” RP 51-52. Citing State v. Miller, 156 Wn.2d 23, 27, 123 P.3d 827 (2005), the prosecutor declared that the issue of validity of the order was instead a “gatekeeper” question, which meant the trial judge decided whether the order was “void” but no challenge was brought to the jury. RP 52-53.

Counsel noted the evidence that Tiffany had not been honest when seeking that from the Oregon court, such as claiming to be an Oregon resident, and other factors he wanted to explore as part of impeaching Tiffany’s credibility. RP 55-59. The prosecutor agreed there was some “leeway” on veracity but that there should be no attack on the validity of the order. RP 56-57.

A few moments later, when the motions in limine were discussed, the judge said it would be “contrary to Washington” law to allow the defense to argue that the Oregon order was invalid. RP 100-101. The judge ruled, “[i]t’s valid until challenged in the issuing jurisdiction.” RP 100-101. The judge also stated that the defense could not “challenge the validity of the Multnomah County order.” RP 101. The court reiterated the ruling a few moments later when looking at the defense motions in limine, saying, the defense “cannot

challenge the validity of the order in Oregon in a Washington criminal case.” RP 103.

After they had moved on and were talking about other defense motions, counsel objected to any testimony from officers that the Oregon document was “a valid order.” RP 107. He said that was an issue for the jury to determine. RP 107. Both the prosecutor and the court then responded, “[v]alidity is not an element.” RP 107. Counsel again objected. RP 107-108.

Later, at trial, in cross-examination of Tiffany, when counsel tried to inquire about how she had sought the order in Oregon, the prosecutor objected, “[w]e’ve talked about the validity in pretrial.” RP 181. The court sustained the objection. RP 181.

After a few more questions, when counsel asked the court to take “judicial notice of the home state provision” in the Oregon order, the court said, “denied.” RP 182-83.

In closing argument, the prosecutor told the jury that the Oregon court had “ordered” Mr. Ingram “not to be” at the Rossiter Lane home. RP 294, 299. The prosecutor also said the restraining order was “active” and “[i]t is valid.” RP 296. She showed the jurors the order and told them the sections with the judge’s initials “are the provisions that apply.” RP 296-97. She then declared, “[t]hose are the provisions that apply” and “[b]lank space means it doesn’t.” RP 297.

Counsel objected and the court just said, “[c]losing argument, Counsel.” RP 297.

The prosecutor went on:

Now, something that this order does not do, it does not allow him to go to Rossiter Lane. So while it doesn't specifically preclude it down here, just because it was crossed out, does not mean, "Hey, Defendant, go to this address. I'm crossing it out and saying you can go. It doesn't even apply. We have a blanket order. Don't go to her house. Don't go to her current residence. Don't go to her future residence.

RP 297-98. The prosecutor then told the jury that her residence was in Washington and that being in Oregon "temporarily" did not mean that Tiffany had given up her residence here. RP 300-302.

For his part, counsel argued that the no-contact order was fraudulently secured because Tiffany was not a resident of Oregon when she sought it but had declared she was to the Oregon court. RP 304. He also pointed out that anyone reading the document - like Quran - would see that Tiffany was listing herself as a resident of Oregon and that the Rossiter Lane address had been crossed out, so assume that he could properly go there. RP 304. Ultimately, counsel focused on the ambiguity of what the order said. RP 305-310.

In rebuttal, the prosecutor again told the jury that the Oregon order told the defendant not to go to the residence. RP 316. Because he had done so, the prosecutor said, Mr. Ingram was guilty of both crimes. RP 316.

- b. The validity of a foreign protection order is an essential element of the crime under RCW 26.50.110(1)(a) and the trial court erred in treating it as a "gatekeeping" question and in failing to submit it to the jury

The trial court erred in its rulings below and in treating the validity of the Oregon order as a "gatekeeper" issue for the court

itself, because the validity of the order was an essential element of the crime. The elements of a crime are the facts which the prosecution is required to prove in order to support a conviction. Miller, 156 Wn.2d at 27, quoting, BLACK'S LAW DICTIONARY 559 (8<sup>th</sup> ed. 2004). The Legislature has the authority to define a crime, so in interpreting what is required, this Court starts with the statute. See State v. Williams, 162 Wn.2d 177, 183, 170 P.3d 30 (2007); Miller, 156 Wn.2d at 27.

Mr. Ingram was accused of violating an order of protection issued by an Oregon court. CP 10. The crime of violating a foreign protection order is defined in RCW 26.50.110(1)(a). That statute makes it a gross misdemeanor for someone to violate provisions of an order issued by a Washington court under certain statutes, or by a foreign court, under certain situations. RCW 26.50.110.

As applicable here, former RCW 26.50.110 (2016)<sup>2</sup> provides, in relevant part:

(1)(a) **Whenever** an order is granted under this chapter, chapter 7.92, 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, any temporary order for protection granted under chapter 7.40 RCW pursuant to chapter 74.34 RCW, or **there is a valid foreign protection order as defined in RCW 26.52.020 and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor . . .**

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a

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<sup>2</sup>2017 changes to the statute, effective after the relevant date here, added citations to two other Washington laws in section (1)(a) but otherwise do not affect the substance of the statute as applicable here. See Laws of 2017, ch. 230, § 9.

- protected party, or restraint provisions prohibiting contact with a protected party;
- (ii) A provision excluding the person from a residence, workplace, school, or day care;
  - (iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;
  - (iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or
  - (v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

Former RCW 26.50.110(a)(1)(2016) (emphasis added).

Thus, the plain language of the statute provides for different requirements when the order alleged to have been violated is from a Washington or “foreign” court. Where the case involves a no-contact order issued under Washington law, the statute requires only that the order was “granted under this chapter” or one of the listed statutes. Miller, 156 Wn.2d at 25-27.

Where, however, the protection order is “foreign,” it is an element of the crime under RCW 26.50.110(1)(a) that it is valid, i.e., “there is a valid foreign protection order as defined in RCW 26.52.020[.]” RCW 26.50.110(1)(a). RCW 26.52.020 then defines the element further, providing<sup>3</sup> in relevant part:

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<sup>3</sup>RCW 26.52.020 also creates a presumption in favor of validity for a foreign protection order, applicable “where an order appears authentic on its face.” Additional provisions require notice and an opportunity to be heard on the order if

A foreign protection order is valid if the issuing court had jurisdiction over the parties and matter under the law of the state, territory, possession, tribe, or United States military tribunal.

In this case, despite counsel's repeated objections and arguments, the trial court and prosecutor were completely convinced that validity of the Oregon order was not an element of the crime under Miller and that a "collateral bar" rule applied.

Even a cursory review of Miller and the "collateral bar" rule reveals the fallacy of those beliefs. First, Miller involved a domestic protection order, not one that was issued by a foreign court, as here. Different language in RCW 26.50.110(1)(a) thus applies. And that language was dispositive.

In Miller, the defendant was accused of violating a Renton (Washington) court's order. 156 Wn.2d at 27. The parties disagreed on whether the validity of the Renton order was an element of the crime which the state had to prove to the jury, beyond a reasonable doubt. Id. On review, the Supreme Court concluded that "validity" of a Washington court's order was not an element of the crime of violating that order, under the plain language of the statute defining the crime. Id.

In reaching its conclusion, the Miller Court specifically relied on the language of the statute. The portion of RCW 26.50.110(1)(a) which applies when the defendant is accused of violating a Washington court's order provides, "in relevant part that '[w]henver

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it was issued ex parte. RCW 26.52.020.

an order is granted . . . and the . . . person to be restrained knows of the order, a violation . . . is a class C felony if the offender has at least two previous convictions.” Miller, 156 Wn.2d at 27; see 26.50.110(5). The Miller Court reasonably found that nothing in that statutory language “requires the State to prove the validity of a Washington no-contact order.” Miller, 156 Wn.2d at 27.

Put simply, the Court declared, the term “valid’ does not appear in [the] relevant sections of the statute . . . [so] [a]ccordingly, the existence of a valid court order is not a statutory element.” 156 Wn.2d at 31.

Unlike in Miller, here, the term “valid” *does* appear in the relevant section of the statute, RCW 26.50.110(1)(a), requires that “there is a valid foreign protection order as defined in RCW 26.52.020” for a person to be subject to conviction for violating that order.

The Miller Court also found there was no “nonstatutory” or “implied” element of the validity of the court order. 156 Wn.2d at 30-31. But again, because the validity of the foreign protection order was already an explicit element of the offense under RCW 26.50.110(1)(a), it is irrelevant that no “implied” element also applies.

The reliance on Miller below was thus in error. Miller dealt with a different part of the relevant statute which does not apply.

Miller also created some confusion over the “gatekeeping” functions it discussed, because it declared that a trial court should, as part of those duties, determine as a threshold matter of law whether

an order is “applicable” and should be allowed to be admitted at trial. Miller, 156 Wn.2d at 31-32. The Miller Court declared an order is not “applicable to the charged crime if it is not issued by a competent court, is not statutorily sufficient, is vague or inadequate on its face, or otherwise will not support a conviction of violating the order.” Id. This analysis honors the integrity of the Court to enforce only truly valid orders, but afford deference to Washington courts - but it does not apply where, as here, the order in question is foreign.

And where, as here, the Legislature chose to specifically include the validity of the order as an element of the offense, this reasoning and holding of Miller is irrelevant, because Miller did not involve the same statutory language.

RCW 26.50.110(1)(a) explicitly requires the state to prove a “valid” foreign order as an essential element of the crime. Mr. Ingram had a “due process right to require that the state meet its burden of proof as to every element of the crime.” See State v. Humphries, 181 Wn.2d 708, 716, 336 P.3d 1121 (2014). He also had a state and federal right to have the jury, not a judge, render the findings on all essential elements. See Gaudin, 515 U.S. at 522-23; Abrams, 163 Wn.2d at 283. The trial court erred and violated Mr. Ingram’s rights to proof beyond a reasonable doubt and trial by jury when it treated the validity of the Oregon order as a pretrial matter instead of submitting it to the jury as required.

The mistake of believing that the validity of the order was not an essential element in this particular case also led to the

prosecutor's claim that Mr. Ingram was mounting an improper "collateral attack" which should be barred. The "collateral attack" bar applies in cases where the statute defining the crime does not require proof that the relevant court order is "valid." See, e.g., City of Seattle v. May, 171 Wn.2d 847, 256 P.3d 1161 (2011). Thus, in May, where the defendant was accused of violating a Washington state court's domestic violence protection order, he was precluded from challenging the validity of the order if the order appeared "facially valid" and not void. 171 Wn.2d at 851-52. On review, the Supreme Court applied the "collateral bar rule," which generally "prohibits a party from challenging the validity of a court order in a proceeding for violation of that order." 171 Wn.2d at 852.

But here, the validity of the Oregon order was not "collateral." Unlike in cases like May and Miller where the charge is violation of a Washington order, where, as here, the protection order is foreign, the Legislature specifically chose to require the state to prove that the foreign court order was "valid," as an element of the crime. RCW 26.50.110(1)(a).

Put another way, where, as here, the statute defining the crime explicitly requires proof that there is a "valid" foreign order, the "collateral bar" doctrine does not somehow relieve the state of the constitutional burden of proving that essential element of the offense to a jury, beyond a reasonable doubt. The Legislature chose to include the validity of the foreign order as an element. It was thus not "collateral" at all.

Under RCW 26.50.110(1)(a), where the defendant is alleged to have violated a foreign protection order - as opposed to one from Washington - the Legislature chose to require that the state prove a “valid protection order.” The trial court erred in treating that essential element of the crime as a “gatekeeping” matter, instead of submitting it to the jury and requiring the state to prove it beyond a reasonable doubt. This Court should so hold.

Notably, there are significant questions about the validity of the Oregon order, not the least of which is jurisdiction. On the order, the Oregon judge found “[t]his order involves minor CHILDREN” and established jurisdiction of the court as follows:

- A. Oregon has **JURISDICTION** over the issues of the child/ren custody and parenting time under ORS 109.701 to 109.834 on the following grounds:
  - A.  **Oregon is the child/ren’s home state**  
OR  No other state has home state jurisdiction OR  All courts with jurisdiction on home state or significant connections grounds declined  
 \_\_\_\_\_ is the child/ren’s home state but it has declined jurisdiction  AND the children’s parents or a person acting as a parent has significant connections with Oregon and substantial evidence is available here concerning the children’s care, protection, and personal relationships. ORS 109.741(1)(a)(b) and (c).
  - Oregon was the home state within six months before this proceeding** was commenced and the child/ren are absent from the state but a parent or person acting as a parent continues to live in Oregon. ORS 109.741(1)(a)[.]
  - Emergency grounds** exist for the

exercise of temporary jurisdiction because the child/ren are present in this state and have been abandoned or it is necessary to protect the child/ren because the child/ren, or a sibling or parent of the child/ren is subjected to or threatened with mistreatment or abuse. ORS 109.751.

CP 57.

Under Oregon law, however, Oregon was *not* the child's home state. ORS 109.704(7) defines that term, in relevant part, providing: "[h]ome state' means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before" the commencement of the action. In a similar case, the Oregon Court of Appeals found that Oregon did not have jurisdiction over the proceedings where the parents had lived out of state (in Mexico) since the child's birth for its first year, the mother stated an intent to return to Mexico after she spent a year in Oregon getting a degree, and the mother and child had only lived in Oregon for three months at the time the father filed his petition in Oregon court. Shepard v. Lopez-Barcenas, 200 Or. App. 692, 116 P.3d 254, review denied, 339 Or. 479 (2005); see also ORS 109.714(1) (requiring Oregon courts to treat a foreign country the same as another state in the U.S. for these matters). Because the absence from Mexico was only temporary, the time spent in Oregon was "therefore considered to be time in Mexico for the purpose of determining the home state" under ORS 109.704(7). Lopez-Barcenas, 200 Or. App. at 696-97. It was irrelevant that the father intended to have the child become a

permanent resident of Oregon. Id. The Oregon court lacked jurisdiction under the statute relevant to the child custody proceeding because Oregon was not the child’s “home state” as that term is defined in Oregon. Id.

Tiffany conceded at trial that she and Quran had lived together at the Rossiter Lane address in Washington for two years - and presumably, their child, who was three years old at the time of trial, was with them, living in Washington. RP 170-81. Under ORS 109.704(7), Washington was the child’s home state. But Tiffany identified Oregon as the child’s “home state” to the Oregon court. CP 69.

At trial, she tried to explain telling the Oregon court that Oregon was the child’s home state by suggesting that she had so indicated because her child was with her in Oregon at that time. RP 179-80; CP 69. When filling out the request for the Oregon restraining order, however, she specifically declared “[m]y child/ren have lived in Oregon for the last 6 months.” CP 69. She also explicitly said she was a “resident of Multnomah County, State of OR.” CP 64. It is highly likely that the state could not have met the burden of proving the Oregon protection order was “valid,” had the trial court not improperly relieved it of that weight.

The trial court erred in holding that the validity of the Oregon protection order was not an essential element of the crime, under the plain language of RCW 26.50.110(1)(a). The error led to the jury being instructed improperly, without being told that the state

had to prove the Oregon protection order “valid,” beyond a reasonable doubt. Instruction 13 provided:

A person commits the crime of violation of a court order when he or she knows of the existence of a restraining order, and knowingly violates restraint provisions of the order prohibiting contact with a protected party or a provision of the order excluding the person from a residence or a provision of the order prohibiting the person from knowingly coming within or remaining within a specified distance of a location.

CP 149. Instruction 14, the “to convict,” also omitted the element, providing in relevant part as follows:

To convict the defendant of the crime of violation of a court order, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about December 2, 2016, there existed a restraining order applicable to the defendant;
- (2) That the defendant knew of the existence of this order;
- (3) That on or about said date, the defendant knowingly violated a restraint provision of the order prohibiting contact with a protected party or provision of the order excluding the defendant from a residence or provision of the order prohibiting the defendant from knowingly coming within or remaining within a specified distance or a location; and
- (4) That the defendant’s act occurred in the State of Washington.

CP 150. Both of these instructions failed to include the requirement that the Oregon order must be proven “valid.” Indeed, the state did not include the element of the validity of the Oregon order in the charging document, either. CP 10.

The trial court erred in treating an essential element of the

crime as a threshold question of law, instead of submitting it to the jury. As a result, the jury was not properly informed on the essential elements of the crime or on the state's proper burden of proof. Mr. Ingram was deprived of his rights to have jurors decide his case, beyond a reasonable doubt, with the judge's improper rulings. This Court should so hold and should reverse.

2. MR. INGRAM WAS DENIED HIS RIGHTS UNDER CRIMINAL RULE 3.2 AND DUE PROCESS WHEN THE COURT FAILED TO APPLY THE PRESUMPTION OF RELEASE WITHOUT CONDITIONS, AND DUE PROCESS, ARTICLE 1, §§ 14 AND 20, THE EIGHTH AMENDMENT AND EQUAL PROTECTION WERE VIOLATED BY THE IMPROPER IMPOSITION OF \$60,000 BAIL ON AN INDIGENT

The criminal justice system is based upon the foundation of the presumption of innocence. See, State ex rel Wallen v. Judges Noe, Towne, Johnson, 78 Wn.2d 484, 487, 475 P.2d 787 (1970); Coffin v. United States, 156 U.S. 432, 453, 15 S. Ct. 394, 39 L. Ed 481 (1895).

That presumption ensures that the state may not simply keep someone in custody pretrial based solely on an unproven accusation. Hudson v. Parker, 156 U.S. 277, 285, 15 S. Ct. 450, 39 L. Ed. 424 (1895).

Instead, a person accused of a crime is entitled to have the state prove their guilt beyond a reasonable doubt before punishment - such as jail time - may be imposed. See, State v. Barton, 181 Wn.2d 148, 331 P.3d 50 (2014). As a result, pretrial release and liberty is - supposedly - "the norm." United States v. Salerno, 481 U.S. 739, 742, 107 S. Ct. 2095, 96 L. Ed. 2d 697 (1987); see, Barton, 181 Wn.2d at 152.

Indeed, the U.S. Supreme Court has declared that "detention

prior to trial or without trial” should be “the carefully limited exception.” Salerno, 481 U.S. at 742.

In addition to the presumption of innocence, the Eighth Amendment, Washington’s Article 1, §§ 14, 20 and CrR 3.2 apply when the government tries to keep custody of someone accused but not yet convicted of a crime. Barton, 181 Wn.2d at 152-54. The state and federal constitutions prohibit “excessive bail,” and CrR 3.2 further provides for a presumption of release on personal recognizance.

All of these provisions - and equal protection - were violated in this case. And this case is not isolated. This Court should address the issues despite any claim they are “moot.” On review, this Court should condemn the failure of the lower court to follow the criminal rules, and should reiterate this state’s commitment to the constitutional protections against excessive and unconstitutional pretrial proceedings which violate fundamental state and federal rights.

a. Relevant facts

Mr. Ingram was booked into custody at about 11 at night on December 2. CP 1, 2. On December 4, a court ordered “no bail until court hearing,” scheduled for the following day. CP 6.<sup>4</sup> At that hearing, before Judge Stahnke, the judge first asked if Ingram was

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<sup>4</sup>This Order appears to have been attached to the declaration of probable cause filing, without a separate sub number of its own. It has been designated as part of the three pages indicated for the declaration, which is itself only one page long.

going to hire an attorney or needed one appointed. RP 5-6. When Ingram asked for appointed counsel, the judge then appointed someone in the courtroom. RP 5.

At that point, the prosecution asked for \$60,000 “bail” as a condition of Mr. Ingram being released. RP 5. The prosecutor cited Ingram’s criminal history, which was mostly in the 1990s, but also said, “[o]ut of Oregon he has six different cases that have gone to warrant, he has an escape conviction, prior FTAs on his cases.” RP 5.

Newly appointed counsel started by telling the court he did not have enough information and had just gotten the charging document moments before. RP 6. He then argued that bail of \$5,000 would be appropriate. RP 6.

In ruling, Judge Stahnke declared:

The part that, kind of, jumps out at me is that Tiffany had told the law enforcement officers that she applied for a no-contact order because he had recently held a gun to her head; to I’m going to set bail at 60 for now - - unless some other issues develop, we’ll take a look at them - - plus conditions, next court appearance December 16th at 1:30.

RP 6.

No written order indicating any findings relating to the imposition of bail was apparently entered; a pretrial “no contact” order was, however, entered. See CP 8.

On December 21, after counsel had received a copy of the Oregon order and noted the concerns with that document, he asked for the court to release Ingram “in the interest of justice” and put him on supervised release. RP 12. Judge Stahnke was out so the

matter was set before Judge Collier. RP 9. Counsel told the court that Mr. Ingram could not bail out because he did not have the funds. RP 12.

The prosecutor objected that the issue was not before the proper department. RP 13. Counsel then pointed out that he was appointed because Mr. Ingram was indigent. RP 14-15. When the judge suggested filing a different motion, counsel stated the concern that “an innocent man is going to be sitting in jail, it’s the Christmas holiday.” RP 15. Counsel argued he was not asking for dismissal right then but just to have Mr. Ingram receive “the benefit of the doubt” pretrial and receive supervised release. RP 15.

The prosecutor told the court Mr. Ingram’s prior convictions and declared Ingram a “credible threat to the alleged victim,” because there was “probable cause to believe that he has committed this crime.” RP 16-17. The judge declined to rule, suggesting that the case be set in the other court. RP 16-17.

On December 28, Judge Stanke’s first day back, counsel again broached the issue. RP 19-20. The prosecution objected to reduction in bail, saying that “[b]ail was set at 60,000, based on the facts of this case and his criminal history.” RP 21. The prosecutor recited the criminal history from the 1990s and one in 2001 from Oregon, saying Ingram had previously had “six cases go to warrant, he has an escape conviction,” and “multiple Pvs.” RP 21. The prosecutor said “absent a change in his circumstances directly relating to his ability to reappear and the likelihood that he would reappear and the concerns

for the victim's safety," the state wanted the bail unchanged. RP 21. Counsel continued to try to argue but the court demurred, denying the motion as follows:

The question you asked me is: Can he be released prior to the Knapstad hearing? And the answer is, yes, he can, but he's got to post the \$60,000 bail that I set.

I didn't set the bail based on anything other than criminal history, failures to appear, and the likelihood of reappearance in court; nothing about that has changed so (inaudible).

RP 21.

- b. The trial court violated CrR 3.2, the presumption of release on personal recognizance and fundamental state and federal constitutional principles in imposing \$60,000 bail on an indigent

The trial court's decisions below violated CrR 3.2 and both the state and federal constitutions. Starting with the initial hearing on bail and again in refusing to reconsider when counsel was more prepared, the court violated CrR 3.2, the presumption of innocence, the state and federal due process clauses and the prohibitions against excessive bail, as well as the right to effective assistance below.

First, the court repeatedly violated the language and purposes of CrR 3.2, which governs pretrial release. Under that rule, unless a person is charged with a crime for which they could face the death penalty, there is a presumption that all accused will be released without any conditions pretrial. Butler v. Kato, 137 Wn. App. 515, 154 P.3d 259 (2007). CrR3.2(1)(a) provides:

**Presumption of Release in Noncapital Cases.** Any person, other than a person charged with a capital offense, shall at the

preliminary appearance or reappearance . . . be ordered released on the accused's personal recognizance pending trial unless

- (1) the court determines that such recognizance will not reasonably assure the accused's appearance, when required, or
- (2) there is shown a likely danger that the accused:
  - (a) will commit a violent crime, or
  - (b) will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice.

Release on "personal recognizance" means release "the court takes the defendant's word he or she will appear for a scheduled matter" or the arrested person promises, "without supplying a surety or posting bond, to appear." BLACKS LAW DICTIONARY (10<sup>th</sup> ed. 2014).

Thus, under CrR 3.2, the presumption is that a person who is charged with a crime in this state will be released based upon the promise to return, without any conditions placed on that person's release. State v. Rose, 146 Wn. App. 439, 450-51, 191 P.3d 83 (2008). Any other result requires the trial court to rebut the presumption of release by making the specific findings under CrR 3.2(a)(1) or (2), prior to imposing any conditions of release. Rose, 146 Wn. App. at 450-51.

Further, the determination whether the presumption of release without conditions is "overcome" is made by considering a mandatory (but not exclusive) list of factors. Under CrR 3.2(b),

[i]n making the determination herein, the court **shall**, on the available information, consider all the relevant facts including, but not limited to, those in subsections (c) and (e)

of this rule.

CrR 3.2(b) (emphasis added). “Shall” usually denotes a mandate. See Randy Reynolds & Associates, Inc. v. Harmon, 1 Wn. App. 2d 239, 404 P.3d 602 (2017).

CrR 3.2(e) provides the relevant factors for determining whether there is “shown a likely danger that the accused” will either “commit a violent crime” or “will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice,” requiring the court to consider:

- (1) The accused’s criminal record;
- (2) The willingness of responsible members of the community to vouch for the accused’s reliability and assist the accused in complying with conditions of release;
- (3) The nature of the charge;
- (4) The accused’s reputation, character and mental condition;
- (5) The accused’s past record of threats to victims or witnesses or interference with witnesses or the administration of justice;
- (6) Whether or not there is evidence of present threats or intimidation directed to witnesses;
- (7) The accused’s past record of committing offenses while on pretrial release, probation or parole; and
- (8) The accused’s past record of use of or threatened use of deadly weapons or firearms, especially to victim’s [sic] or witnesses.

CrR 3.2(c) provides the following factors for determining whether the “Future Appearance” exception of CrR 3.2(a)(1) applies:

- (1) The accused’s history of response to legal process, particularly court orders to personally appear;
- (2) The accused’s employment status and history, enrollment in an educational institution or training program, participation in a counseling or treatment program, performance of volunteer work in the community, participation in school or cultural activities or receipt of financial assistance from the government;
- (3) The accused’s family ties and relationships;
- (4) The accused’s reputation, character and mental condition;
- (5) The length of the accused’s residence in the community;
- (6) The accused’s criminal record;
- (7) The willingness of responsible members of the community to vouch for the accused’s reliability and assist the accused in complying with conditions of release;
- (8) The nature of the charge, if relevant to the risk of nonappearance;
- (9) Any other factors indicating the accused’s ties to the community.

CrR 3.2(c).

Here, the trial court made no oral or written findings that the presumption of release on personal recognizance had been rebutted. See RP 5-6. It said nothing about the rule, the presumption, or even the relevant facts it was *required* to consider prior to ordering the \$60,000 bail. The court also entered no written order containing findings regarding the presumption of release on personal

recognizance or why or how it was rebutted. The only order in the file appears to be the no-contact order. See CP 8.

Despite the lack of sufficient oral or written findings under CrR 3.2, it appears that the court initially ordered the \$60,000 the state sought because of concerns of safety for Mrs. Ingram. RP 6. The only concern at the initial bail hearing was the claim from Tiffany to the officers who responded to the Rossiter Lane call. RP 6. Despite the court's later declaration in late December that it had also relied on the risk of non-appearance, that was not stated by the judge as a basis for the imposition of the \$60,000 at the relevant time. RP 6; see RP 12.

There is no question that the prosecutor's focus was primarily not on safety for the victim but on factors more supporting of the "failure to appear" exception to release without conditions. RP 5-6. The prosecutor mentioned the 1995 for first-degree escape and referred to "prior FTAs on his cases," without providing further detail - but the latest prior conviction the prosecutor mentioned was a 2007 unlawful possession of a firearm - nearly 10 years earlier. RP 6.

The court mentioned nothing about those cases, however, or criminal history or the need to impose conditions in order to ensure Mr. Ingram's appearance. RP 6. The only concern was the claim that Tiffany had made to police about why she sought the court order in Oregon. RP 6; see RP 12.

It is improper and unconstitutional to rely on the nature of a charge or unproven allegations as the primary or sole basis for

determining issues of pretrial release. See Stack v. Boyle, 342 U.S. 1, 5-6, 72 S. Ct. 1, 96 L. Ed. 3 (1951). It violates the presumption of innocence. As the Supreme Court has held, “[t]o infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act” itself - one which would inject into “our own system of government the very principles of totalitarianism[.]” 342 U.S. at 6.

Further, the imposition of a \$60,000 financial condition precedent to pretrial freedom based on the hearsay claim contained in the declaration for determination of probable cause was improper, because there was simply not sufficient proof to support it. CrR 3.2 does not require proof of just any degree of “danger.” Rose, 146 Wn. App. at 452. CrR 3.2(a)(2) refers to the required danger as “likely danger,” but the rule then uses the term “substantial danger” throughout - including in the section listing the factors required to be considered in making the determination. CrR 3.2(d) similarly refers to the conditions of release to be used upon a “[s]howing of substantial danger,” if there is proof “there exists a substantial danger that the accused will commit a violent crime” or seek to intimidate a witness or unlawfully interfere with the administration of justice. CrR 3.2(e) refers to the “Relevant Factors” for “Showing of Substantial Danger,” and again, under CrR 3.2(a) is to be used in determining if the presumption of release without conditions was rebutted. CrR 3.2(a).

As a result, the evidence must show that the risk of a violent crime or witness intimidation or unlawful interference with the

administration of justice is not just the normal risk but instead is “**substantial.**” See Rose, 146 Wn. App. at 452 (emphasis added). A court has declined to find evidence sufficient to prove a “substantial danger” even where the defendant is charged with four counts of first-degree unlawful possession of a firearm, has a previous kidnaping conviction and had previously skipped bail on an offense. Rose, 146 Wn. App. at 443-44.

Here, again, the court did not make factual findings that the presumption of release without conditions had been rebutted, under either of the two exceptions of CrR 3.2. It made no oral or written findings that there was a “substantial danger.” It simply declared concern about the alleged reason that Tiffany had given to the officers about why she got the restraining order in the first place. That was insufficient to rebut the strong presumption of release on personal recognizance in CrR 3.2, and to comply with the mandates of the rule regarding rebutting that presumption.

The trial court further violated CrR 3.2 by failing to comply with its other provisions regarding the imposition of conditions of pretrial release. CrR 3.2 does not give the court unlimited authority to craft whatever scheme it chooses. Butler, 137 Wn. App. at 524. It is an abuse of discretion to fail to follow the rule. See id. Further, “the court may not impose onerous or unconstitutional provisions where lesser conditions are available to ensure the public is protected against potential violent acts.” Id. To do so is also “an abuse of discretion. Id.”

Under CrR 3.2(d), even if there is sufficient proof of a showing of “substantial danger” rebutting the presumption of release without conditions, the court may require a financial condition - but only if certain requirements are met:

[The court may] [r]equire the accused to pose a secured or unsecured bond or deposit cash in lieu thereof, conditioned on compliance with all conditions of release. **This condition may be imposed only if no less restrictive condition or combination of conditions would reasonably assure the safety of the community.** If the court determines under this section that the accused must post a secured or unsecured bond, the court shall consider, on the available information, the accused’s financial resources for the purposes of setting a bond that will reasonably assure the safety of the community and prevent the defendant from intimidating witnesses or otherwise unlawfully interfering with the administration of justice.

CrR 3.2(d)(6) (emphasis added).

Below, the superior court did not make any findings that a financial condition was required because “no less restrictive condition or combination of conditions would reasonably assure the safety of the community.” There was no discussion of less restrictive options at all. RP 6; see RP 12.

The trial court’s failure to follow the rule is not a trivial error. The portions of the rule the court specifically ignored were *added* to the rule in 2002 for the very purpose of reducing the unconstitutional, unfair disparities between the treatment of those with resources and those without. See *In the Matter of the Adoption of the Amendments to CrR 3.2, CrR 3.2.1, CrRLJ 3.2 and CrRLJ 3.2.1,*

Order No. 25700-A-721 (WSR 02-01-025) (Dec. 6, 2001).<sup>5</sup>

Indeed, the 2002 amendments were proposed by a blue-ribbon Commission proposed amendments after it received a study which “concluded the criteria established by court rule for pretrial release may discriminate against persons who are economically disadvantaged. Id; see, George Bridges, *A Study on Racial and Ethnic Disparities in Superior Court Bail and Pre-Trial Detention Practices in Washington*, Washington State Minority and Justice Commission (Oct. 1997).<sup>6</sup>

With these amendments, both the exceptions for “securing future appearance” and “preventing substantial danger” exceptions now have requirements for the trial court considering imposing a financial condition on a person pretrial. See id. CrR 3.2(d)(6) requires a court relying on the “danger” exception and considering imposing a financial condition on pretrial release to consider, “on the available information, the accused’s financial resources for the purposes of setting a bond that will reasonably assure the safety of the community and prevent the defendant from intimidating witnesses or otherwise unlawfully interfering with the administration of justice.” See id.

The trial court utterly failed to follow the requirements of CrR

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<sup>5</sup>Available at <http://apps.leg.wa.gov/documents/laws/wsr/2002/02/02-01-025.htm>.

<sup>6</sup>Available at [http://www.courts.wa.gov/committee/pdf/1997\\_ResearchStudy.pdf](http://www.courts.wa.gov/committee/pdf/1997_ResearchStudy.pdf).

3.2 before imposing \$60,000 bail as a condition of pretrial release. It failed to apply release on personal recognizance as a presumption. It failed to make findings to support the conclusion that the presumption had been rebutted. It failed to consider the relevant factors the rule says “shall” be considered. It failed to determine whether other, less restrictive means were proper. It failed to consider Mr. Ingram’s financial situation in entering the order, despite knowing of his indigency. And its sole expressed focus was a claim which was unproven and uncharged.

This Court should soundly reject the lower court’s failure to follow the clear mandates of the rule. Holding to the rule is vital to ensuring the rights of those only accused and not yet convicted of a crime. Pretrial detention has a significant negative impact on people who are kept in custody - “warehoused” despite not having been convicted of the crime:

The time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job; it disrupts family life; and it enforces idleness. Most jails offer little or no recreational or rehabilitative programs. The time spent in jail is simply dead time.

Barker v. Wingo, 407 U.S. 514, 532-33, 33 L. Ed. 2d 101, 92 S. Ct. 2182 (1972).

Further, there is strong evidence that pretrial detention correlates to increased likelihood of conviction and higher sentence. See Andrew D. Leipold, *How the Pretrial Process Contributes to Wrongful Convictions*, 42 AM. CRIM. L. REV. 1123, 1165 (2005); Christopher T. Lowenkamp et. al, *Investigating the Impact of Pretrial*

*Detention on Sentencing Outcomes*, Arnold Foundation (Nov. 2013).<sup>7</sup>

There can be no question that a person still cloaked with the presumption of innocence suffers significant negative impact on their lives - and their case - when deprived of the presumption of release on personal recognizance set forth in CrR 3.2.

The errors below did not just violate CrR 3.2 and the court's reasons below did not just violate the presumption of innocence. They also violated fundamental constitutional rights, including due process, equal protection and the state and federal rights to be free of excessive bail. The federal and state constitutions protect against the state depriving any person of "life, liberty or property, without due process of law." Hardee v. Dep't. of Soc. & Health Svcs., 172 Wn.2d 1, 256 P.3d 339 (2011); Salerno, *supra*. These protections apply pretrial. Salerno, 481 U.S. at 744. And it is an essential part of pretrial due process - even "implicit in the concept of ordered liberty" - that every person is presumed innocent unless and until proven guilty by the state, beyond a reasonable doubt. See Estelle v. Williams, 425 U.S. 501, 503, 96 S. Ct. 1691, 48 L. Ed. 2d 368 (1970).

As a result, being a pretrial detainee is far different and due process provides far greater protection for such detainees as compared with those being detained *after* conviction, either in custody or on parole. See Bell v. Wolfish, 441 U.S. 520, 535 n. 16, 99

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<sup>7</sup>Available at <https://csgjusticecenter.org/courts/publications/investigating-the-impact-of-pretrial-detention-on-sentencing-outcomes/>

S. Ct. 1861, 60 L. Ed. 2d 447 (1997); State v. Hartzog, 96 Wn.2d 383, 635 P.2d 694 (1981).

The state violates due process when it discriminates on the basis of wealth. Reanier v. Smith, 83 Wn.2d 342, 517 P.2d 949 (1974). In Reanier, the state's highest Court recognized that, under the system as it existed then, wealthy defendants were treated differently and secured release (except where no bail was allowed), while indigent defendants did not. 83 Wn.2d at 349. Put bluntly, the Court declared, based on the existing "present (especially state) bail procedures," the wealthy "are able to remain out of prison until conviction and sentencing; the poor stay behind bars." 83 Wn.2d at 349. And the Court held that "[p]re-trial detention is nothing less than punishment. An unconvicted accused who is not allowed or cannot raise bail is deprived of his liberty." Rainier, 83 Wn.2d at 349, quoting Culp v. Bounds, 325 F. Supp. 416 (D. N.C. 1971).

Here, \$60,000 was clearly an amount intended to keep Mr. Ingram from securing his own release. Given exactly the same risks to the community and situation, a richer man could have bought his liberty. This is discrimination on the basis of wealth at its most flagrant - because a rich man in the exact same position with the same circumstances and creating the same risk would be able to buy his way out of jail. Those in poverty, like Mr. Ingram, cannot.

The \$60,000 bail also violated both the state and federal constitutional prohibitions against excessive bail. Article 1, § 20, of the Washington Constitution provides a right to bail in all but the

most extreme case, while Article 1, § 14 prohibits “excessive bail.” State v. Heslin, 63 Wn.2d 957, 959-60, 389 P.3d 892 (1964); Barton, 181 Wn.2d at 152-53.

Before 2010, a Washington trial court had **no** authority at all to deny bail in any case other than one in which the crime alleged was a capital (i.e. death penalty) crime. Barton, 181 Wn.2d at 152-53. After Maurice Clemmons shot and killed several police officers while on pretrial release, however, the constitution was amended. Barton, 181 Wn.2d at 153. Article 1, § 20, now provides, in relevant part, “[a]ll persons charged with crime shall be bailable by sufficient sureties, except for capital offenses when the proof is evidence or the presumption great,” and that bail may be denied for offenses punishable with possible life without parole, “upon a showing by clear and convincing evidence of a propensity for violence that creates a substantial likelihood of danger to the community or any person.” See, Barton, 181 Wn.2d at 153; see ESHJ Res. 4220, 61<sup>st</sup> Leg., Reg. Sess. (Wash. 2010) (amending Article 1, § 20).

The function of bail is “limited” so that fixing of it for “any individual defendant must be based upon standards relevant to the purpose of assuring the presence of that defendant.” Barton, 181 Wn.2d at 153. Further, bail “is not a device for keeping persons in jail upon mere accusation until it is found convenient to give them a trial[.]” Stack, 342 U.S. at 7-8 (Jackson, J, and Frankfurter, J, concurring). In this respect, the right to be free from “excessive” bail reflects a principle of proportionality, requiring that the court setting

bail must consider the specific situation of the individual involved and set bail only at the amount required for the relevant purpose, in light of the situation of the accused. Stack, supra; see also, Salerno, supra, 481 U.S. at 744-47.

Thus, under our state constitution, Mr. Ingram had a right to be released on bail, and to have bail set only at the amount required for the state purpose. Under the Eighth Amendment and Article 1, § 14, he had a right to have bail set which was not “excessive.” Bail is “excessive” when it is set “at a figure higher than an amount reasonably calculated” to ensure the presence of the accused in court. Stack, 342 U.S. at 5.

Here, the amount set at the bail hearing was not done for the purposes of ensuring the presence of the accused. The court did not discuss that as a factor and did not enter written findings to rebut its oral declaration. RP 5-6. Instead, the court’s only concern was that Mrs. Ingram had claimed that Mr. Ingram had held a gun to her head, presumably on November 27<sup>th</sup> when she had last seen him, which had led to her seeking the restraining order in Oregon a few days later. RP 6. There was no discussion of why \$60,000 was necessary in order to ensure against potential harm, nor any explanation why having that amount in place rather than just the restraining order was required, given that Mr. Ingram had no prior convictions for domestic violence or for violation of a domestic

violence court order. See CP \_\_\_\_.<sup>8</sup>

Further, the prosecutor and court had the financial declaration from Mr. Ingram which showed that he was in such poverty he was indigent and entitled to appointed counsel. \$60,000 bail for a non-homicide, non-assault, non-violent alleged burglary when the alleged victim was not even home was an extreme request. It is patently clear that amount was chosen not as a result of the court's careful deliberation of the relevant factors under CrR 3.2. It was set with intent to ensure Mr. Ingram was unable to post bail, to keep him in custody pretrial. And while courts in this state may, in very limited circumstances, keep someone in custody pretrial, they cannot do so by failing to follow the relevant rule, failing to make the required findings and failing to honor the systems set in place which, if followed, would have likely prevented the violations of the important constitutional rights involved.

Incarcerating people because they are unable to pay to be freed is not just a violation of the Eighth Amendment and Article 1, sections 14 and 20; it also violates equal protection. See, e.g., Tate v. Short, 401 U.S. 395, 398, 91 S. Ct. 668, 28 L. Ed. 2d 130 (1971); Bearden v. Georgia, 461 U.S. 660, 672-73, 103 S. Ct. 2016, 76 L. Ed. 2d 221 (1983). Equal protection requires that similarly situated individuals receive similar treatment under the law. State v. Simmons, 152 Wn.2d 450, 458, 98 P.3d 789 (2004).

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<sup>8</sup>A copy of the criminal history is attached as Appendix D.

Even applying the most deferential standard of review, “rational basis,” the violation of equal protection by the trial court below is clear. Mr. Ingram is part of the class of people who are accused of crimes in this state. He is also part of a subset of that class - those without money. There is no legitimate or rational difference between a person in Mr. Ingram’s situation who is indigent and the same person with money. They both present exactly the same risk. Yet Ingram was required to remain in custody pretrial, despite the presumption of innocence, despite the principles of CrR 3.2, based on imposition of bail which was excessive - simply because he was too poor to pay for his own liberty.

This biased, unfair and unconstitutional procedure is nothing new - it has been discussed with concern for years. See, e.g., John S. Goldkamp, *Two Classes of the Accused: A Study of Bail and Detention in American Justice* (Ballinger Publishing Co., 1979) (Cambridge, Ma); see also, Ram Subramanian et al, *Incarceration’s Front Door: The Misuse of Jails in America*, Vera Institute of Justice) (Feb. 2015).<sup>9</sup>

During this time, the average length of pretrial stay also increased during this time, from 14 to 23 days, but in Washington state it is usually far, far longer. See, e.g., Caseloads of the Courts, Superior Courts, Criminal Case Management (2016).<sup>10</sup> For Mr.

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<sup>9</sup>Available at <https://www.vera.org/publications/incarcerations-front-door-the-misuse-of-jails-in-america>

<sup>10</sup>Available at <http://www.courts.wa.gov/caseload/?fa=caseload.showReport&level=s&freq=a&tab=trend&fileID=Crimcm>

Ingram, it was more than 100 days. CP \_\_\_\_.

Over this same time, there has been a stark increase in the use of “financial” conditions upon people presumed innocent, awaiting trial. From 1990 to 1998, “non-financial” release in state courts dropped from 40% of all those released to 28%. See Thomas H. Cohen and Brian A. Reaves, Bureau of Justice Statistics, Special Report, *Pretrial Release of Felony Defendants in State Courts* (Nov. 2007).<sup>11</sup> In 2009, the percentage of pretrial release involving financial conditions had grown to an estimated average of 61 percent of all cases involving felonies in large urban counties. See Brian A. Reaves, Bureau of Justice Statistics, State Court Processing Statistics, *Felony Defendants in Large Urban Counties, 2009 - Statistical Tables* (Dec. 2013).<sup>12</sup>

There has been a concurrent rise in costs not only to the accused and his or her family but to society itself. Just a few years ago, then-U.S. Attorney General Eric Holder acknowledged that the cost of increased pretrial detention of the accused was an estimated 9 billion taxpayer dollars. Eric Holder, Attorney General of the United States, Speech at the National Symposium on Pretrial Justice (June 1, 2011).<sup>13</sup> Closer to home, the Honorable Theresa Doyle of King County Superior Court in our state has noted, “[s]ociety bears the

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<sup>11</sup> Available at <https://www.bjs.gov/content/pub/pdf/prfdsc.pdf>.

<sup>12</sup> Available at <https://www.bjs.gov/content/pub/pdf/fdluco9.pdf>.

<sup>13</sup> Available at <http://www.justice.gov/opa/speech/attorney-general-eric-holder-speaks-national-symposium-pretrial-justice>.

non-economic costs of lost employment, housing, family support, public benefits, and financial and emotional security for the children of the incarcerated person.” Hon. Theresa Doyle, *Fixing the Money Bail System*, KING COUNTY BAR BULL. (KCBA, Seattle, WA) (April 2016).

Today, it is estimated that, like Mr. Ingram, pretrial, three out of five people sitting in jail in our country are legally presumed innocent, awaiting trial or plea resolution, too poor to afford bail. See Timothy R. Schnacke, *Fundamentals of Bail: a Resource Guide for Pretrial Practitioners and a Framework for American Pretrial Reform*, U.S. Dept. Of Justice, Nat’l Inst. of Corrections (2014).<sup>14</sup> More than half of the people in our nation’s local jails - in 2012, an estimated 60 percent - are estimated to be presumed innocent but simply too poor to make bail. See *Bail Fail: Why the U.S. Should End the Practice of Using Money for Bail*, Justice Policy Institute (Sept. 2012).<sup>15</sup> There is some evidence that this even impacts whether a person is convicted and how long their later sentence will be. See Lowenkamp et. al, supra.

In this state, CrR 3.2 could - and should - be the guidance on the proper procedures to use. It applies a presumption of release without conditions. It requires specific findings to rebut that

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<sup>14</sup>Available at <http://www.pretrial.org/download/research/Fundamentals%20of%20Bail%20-%20NIC%202014.pdf>.

<sup>15</sup>Available at <http://www.justicepolicy.org/uploads/justicepolicy/documents/bailfail.pdf>.

presumption. It gives very clear mandatory requirements for considering the least restrictive means of ensuring governmental ends pretrial. Here, it was not followed. And the resulting order, imposing \$60,000 as the price for pretrial freedom, does not withstand constitutional scrutiny.

The procedure might have gone a different way had Mr. Ingram been allowed to have effective assistance of counsel. The right to the assistance of counsel involves more than just a warm body next to you. See Javor v. United States, 724 F.2d 831 (2<sup>nd</sup> Cir. 1984). Counsel must at least be appointed with time and opportunity to review the relevant information regarding the issues on behalf of his client - yet Ingram was appointed counsel only moments before the discussion of bail. RP 4-6. Counsel had access to only the charging documents and, as he admitted, was unprepared to advocate on his client's behalf as a result. RP 4-6. If counsel had been appointed prior to the hearing and given the information upon which the prosecution was relying in some form to look at more than in passing while in court, it is likely he would have raised the specific language of CrR 3.2 and the presumption of release on personal recognizance which applied.

This Court should address these important, significant issues regarding the constitutionality of our pretrial procedures but also the serious failure of the trial court to follow the established rule. In response, the prosecution may urge the Court to decline to do so by arguing that the case is "moot," because Mr. Ingram has now been

convicted and is of course no longer suffering from the improperly set bail.

This Court should reject any such claim. A case is moot if the court can no longer provide the appellant “effective relief.” In re Det. of M.W., 185 Wn.2d 633, 648, 374 P.3d 1123 (2016). While in general the Court does not consider a case which is moot, this Court also retains discretion to consider such a case, where the question is of “continuing and substantial public interest.” See State v. Hunley, 175 Wn.2d 901, 907, 287 P.3d 584 (2012).

The superior court’s refusal to apply the presumption of personal recognizance and the other provisions and limits of CrR 3.2, and the constitutional implications of those failures, are issues of continuing and substantial interest, likely to arise again but evade review. See, e.g., Federated Publ’ns, Inc. v. Swedberg, 96 Wn.2d 13, 16, 633 P.2d 74 (1981), cert. denied, 456 U.S. 984 (1982). To determine if a case meets this standard, the Court considers 1) the public or private nature of the question presented, 2) the desirability of an authoritative determination on the issue for “the future guidance of public officers,” and “the likelihood of future recurrence of the question.” Hunley, 175 Wn.2d at 907.

Matters involving interpretation and proper application of a rule or statute tends to be more public in nature, more likely to arise again and the more likely it is that a ruling would be desirable in order to provide future guidance. See Hart v. Dep’t of Soc. & Health Serv., 111 Wn.2d 445, 449, 759 P.2d 1206 (1988). In addition the Court

considers “the likelihood that the issue will escape review because the facts of the controversy are short-lived.” In re the Marriage of Horner, 151 Wn.2d 884, 892, 93 P.3d 124 (2004) (quotations omitted).

This case meets all of those requirements. Decisions on pretrial release occur all the time and the failure to properly apply the relevant court rule is an issue of serious public importance. It is desirable for this Court to provide guidance as there are a limited number of cases on the issue but appears to be a lack of understanding and application of the rule.

This Court should address the issue, should roundly decry the lower court’s violations of CrR 3.2 and should hold that the procedures here used violated due process, the right to the presumption of innocence, the state and federal prohibitions against excessive bail, and equal protection. Further, the Court should hold that having the pretrial hearing on the crucial issue of bail only moments after appointment of counsel, so counsel has no meaningful opportunity to prepare or even consider potential issues to raise on his client’s behalf, is a violation of the state and federal constitutional rights to effective assistance of counsel.

E. CONCLUSION

For the reasons stated herein, this Court should grant appellant relief.

DATED this 16th day of February, 2018.

Respectfully submitted,

/s/ Kathryn Russell Selk  
KATHRYN RUSSELL SELK, No. 23879  
Counsel for Appellant  
RUSSELL SELK LAW OFFICE  
1037 N.E. 65<sup>th</sup> Street, Box 176  
Seattle, Washington 98115  
(206) 782-3353

DECLARATION OF SERVICE BY EFILING/MAIL

Under penalty of perjury under the laws of the State of Washington, I hereby declare that I sent a true and correct copy of the attached Opening Brief to opposing counsel VIA this Court's upload service, at Clark County Prosecutor's Office, prosecutor@clark.wa.gov, and to Mr. Ingram, at DOC 775808, WSP, 1313 N. 13<sup>th</sup> Ave., Walla Walla, WA. 99362.

DATED this 16th day of February, 2018,

/S/Kathryn A. Russell Selk  
KATHRYN RUSSELL SELK, No. 23879  
1037 Northeast 65<sup>th</sup> St., Box 176  
Seattle, WA. 98115  
(206) 782-3353

# APPENDIX A

**TO PETITIONER AND RESPONDENT:**

**NOTICE OF "Exceptional Circumstances HEARING:"**

The Court has scheduled an "exceptional circumstances" hearing about the temporary custody of your child/ren, on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

*(To Be Completed by Court Staff Only)*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
COUNTY OF MULTNOMA

16P011622

16P011622  
ORRA  
Order Abuse Prevention Restraining  
618838



JEFFANY R INGRAM

Petitioner (your full name)

See CIF )  
(date of birth) )

Case No. \_

v.

QURAN D INGRAM

Respondent

(full name of person to be restrained)

See CIF )  
(date of birth) )

RESTRAINING ORDER  
TO PREVENT ABUSE  
(Family Abuse Prevention Act)

FILED  
NOV 30 PM 2:24  
CLERK OF DISTRICT COURT  
MULTNOMA COUNTY

**NOTICE TO RESPONDENT:**

- You must obey all of the provisions of this Restraining Order, even if the Petitioner contacts you or gives you permission to contact him/ her.
- Violation of this Restraining Order may result in your arrest and in civil and/or criminal penalties. This order is enforceable throughout Oregon and in every other state. Review this order carefully.
- See the attached "NOTICE TO RESPONDENT/REQUEST FOR HEARING" for more information about your rights to a hearing.

The Court, having reviewed the Petition, and having heard testimony, makes the following findings:

Judge's Initials

1. Petitioner and Respondent are **RELATED** as follows:

1. u

A. Petitioner and Respondent are  spouses/ registered domestic partners, or  former spouses/former registered domestic partners.

B. Petitioner and Respondent  are adults related by blood, marriage or adoption.

C. Petitioner and Respondent  have been cohabiting (living together in a sexually intimate relationship) since \_\_\_\_\_ (date), or  cohabited from \_\_\_\_\_ (date) to \_\_\_\_\_ (date).

D. Petitioner and Respondent  have been involved in a sexually intimate relationship within the last two years.

E. Petitioner and Respondent  are the unmarried parents of a child/ren.

F. Petitioner  is a minor and has been involved in a sexually intimate relationship with Respondent who is 18 years of age or older.

2.

Respondent has **ABUSED** Petitioner as defined by ORS 107.705; the abuse occurred **WITHIN THE LAST 180 DAYS** as provided in ORS 107.710; Respondent represents a **CREDIBLE THREAT** to the physical safety of Petitioner or Petitioner's child/ren; and the Petitioner is in **IMMINENT DANGER OF FURTHER ABUSE**.

2. u



**IT IS HEREBY ORDERED THAT:**

**Judge's Initials**

**Petitioner's Request (check all that apply):**

1. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing Petitioner, or attempting to intimidate, molest, interfere with or menace Petitioner directly or through third parties.

1. W

2. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or menacing, or attempting to intimidate, molest, interfere, or menace, the minor child/ren in Petitioner's custody directly or through third parties.

2. W

3. Except as otherwise set out in this Order, Respondent is restrained (prohibited) from entering or attempting to enter, or remaining in, the area within ~~150~~ <sup>150 feet</sup> feet or ~~9000~~ feet of the building and land at the following locations: (include names/addresses unless withheld for safety reasons)

3. W

a. Petitioner's current or future residence. Withheld for safety reasons

b. Petitioner's current or future business or place of employment Withheld for safety reasons

c. Petitioner's current or future school. Withheld for safety reasons

d. Other locations: \_\_\_\_\_

4. Respondent shall not knowingly be or stay within ~~150~~ <sup>150 feet</sup> feet or ~~2000~~ feet (other distance) of Petitioner unless otherwise ordered by the Court as follows: Stay away from home on Kossiter, mothers on Alder, Sisters on Hood pl and Grandmothers on Riverview

4. \_\_\_\_\_

Nothing in this restraining order prevents Respondent from appearing at or participating in a court (or administrative) hearing or other related legal process as a party or witness in a case involving the Petitioner. At these times, Respondent must stay at least 10 feet away from the Petitioner and follow any additional protective terms ordered in that case. Further, nothing in this order prevents Respondent from serving or providing documents related to a court (or administrative) case to the Petitioner in a manner permitted by law. However, Respondent may not personally deliver legally-related documents to the Petitioner.

5. Except as otherwise set out in this Order, Respondent is restrained (prohibited) from:

5. W

a. Contacting, or attempting to contact, Petitioner in person directly or through third parties.

b. Contacting, or attempting to contact, Petitioner by mail or e-mail, or any other electronic transmission, except for mailing court-ordered emergency monetary assistance, checks or money orders directly or through third parties.

c. Contacting, or attempting to contact, Petitioner by telephone, including cell phone or text messaging directly or through third parties.

d. Exceptions to the restraint from third party contact is as follows (list purpose/s and person/s): \_\_\_\_\_

Judge's Initials

6. Respondent is restrained (prohibited) from entering, attempting to enter, or remaining at: 6. [Signature]  
 a. The child/ren's current or future day care provider, or removing them from daycare.

b. The child/ren's current or future school, or removing them from the school.

7. Respondent shall move from and not return to the residence located at: 7. \_\_\_\_\_

except with a peace officer to remove essential personal effects of the Respondent, and if the Respondent is the custodial parent, essential personal effects of Respondent's child/ren, including, but not limited to: clothing, toiletries, diapers, medications, social security cards, birth certificates, identification and tools of the trade.

8. A peace officer shall accompany the Petitioner to the parties' residence to remove 8. \_\_\_\_\_  
essential personal effects of Petitioner, and if the Petitioner is the custodial parent, essential personal effects of the Petitioner's child/ren, including, but not limited to: clothing, toiletries, diapers, medications, social security cards, birth certificates, identification and tools of the trade.

9. Emergency Monetary Assistance: The Respondent is ordered to pay Petitioner 9. \_\_\_\_\_  
\$ 1,000.00 as Emergency Monetary Assistance by the 45<sup>th</sup> day after Respondent is served with this Restraining Order by  check or  money order. Payment is to be made by mail to the following address: 12620 SE ALDER ST APT. 93, PORTLAND, MULTNOMAH, OR 97233

*Use Safe Contact Address*

10. Firearms. Respondent shall not purchase or possess any firearms or ammunition. 10. [Signature]  
[OJIN Event Code: FQOR]

Other orders regarding firearms: The attached Firearms Surrender and Return Terms apply and are made a part of this order.

10A. Current firearm/s indicated [OJIN Program Code RLSR] 10A. [Signature]

**FIREARMS NOTIFICATION**

If the firearms prohibition in Paragraph 10 is initialed by the judge, it IS unlawful under OREGON state law for you to possess or purchase a FIREARM, including a rifle, pistol, or revolver, and AMMUNITION.

You should consult an attorney if you have questions about this.

[OJIN EVENT CODE: NOGR]

11. Other Relief: 11. \_\_\_\_\_

http://www.courts.or.gov

**CHILD CUSTODY**

Judge's Initials  
12.                     

12. **TEMPORARY CUSTODY** of the following child/ren is ordered as follows, subject to the parenting time terms set forth in Paragraphs 17 and 18 below.

Additional page attached labeled, "Paragraph 12 continued."

Copy of Original	Party to Have Custody (Petitioner or Respondent)	Child/ren's Name	Date of Birth	Age
Verified Correct	Petitioner	Domnick T.R. Ingram	See CIF	3
			See CIF	

13. A peace officer of the county or city where the child/ren are located shall assist in recovering the custody of the parties' child/ren that was awarded to Petitioner. The peace officer is authorized to use any reasonable force to that end, including forcible entry into the following specific premises (list the address(es) where the child/ren are most likely to be found and why): \_\_\_\_\_ 13. \_\_\_\_\_

14. (For court use only) Effect of Prior Custody Order (ORS 107.722) 14. \_\_\_\_\_

A CUSTODY ORDER ALREADY EXISTS in Case # \_\_\_\_\_ filed in \_\_\_\_\_ County, Oregon, or  \_\_\_\_\_ (another state/tribe).

14A. NO new custody order is made because the terms in the existing order or judgment shall continue to apply.

14B. The child/ren custody provisions in paragraph 12 of this Restraining Order are necessary to protect the safety and welfare of the child/ren or Petitioner but they CONFLICT with the custody provisions in the already existing order or judgment. Therefore, the child/ren custody provisions in this Restraining Order shall remain in effect only until this Restraining Order expires or is cancelled, until a new order is issued in the other case, or until \_\_\_\_\_ (date), whichever occurs first.

15. **Exceptional Circumstances Hearing:** The Court has found that exceptional circumstances 15. \_\_\_\_\_ affecting custody exist, so NO custody order is entered at this time about the parties' child/ren. Both parties shall instead appear at a hearing as indicated in the box on the upper left-hand corner of page 1 of this Restraining Order. This hearing will be the respondent's only chance to contest this order. The purpose of the hearing will be to consider the temporary custody of the parties' child/ren and other issues that may be contested by the Respondent. At the hearing, the court may cancel or change this Order.

Judge's Initials

16. Until the Exceptional Circumstances Hearing, the residence of the child/ren and the parental contact with the child/ren shall be as follows: \_\_\_\_\_

16. \_\_\_\_\_

PARENTING TIME

17. The parent not awarded temporary custody shall have parenting time with the minor child/ren listed in paragraph 12 beginning on Date the order is signed as follows:

17. u

a. NO PARENTING TIME because (explain why Respondent should not have parenting time): he is currently in custody and it would be to tramatic for our son to see his dad in the situation he is in.

17a. u

b. SUPERVISED PARENTING TIME:

17b. \_\_\_\_\_

3 hours or  \_\_\_\_\_ hours per week supervised by \_\_\_\_\_, as follows: \_\_\_\_\_

c. PARENTING TIME as follows (day/s of week, place, times)  or as attached:

17c. \_\_\_\_\_

AND/OR

Every weekend from \_\_\_\_\_ (day) \_\_\_\_\_ until \_\_\_\_\_ (day) to \_\_\_\_\_

FIRST AND THIRD or  SECOND AND FOURTH weekends from \_\_\_\_\_ (day) \_\_\_\_\_ until \_\_\_\_\_ (day) to \_\_\_\_\_

Once per week on \_\_\_\_\_ (day) \_\_\_\_\_ until \_\_\_\_\_ (day) to \_\_\_\_\_

d. The parent without temporary custody will pick up and return the child/ren at:

17d. \_\_\_\_\_

Petitioner's  Respondent's residence.  Petitioner  Respondent may remain at the curb (or driveway if no curb), for a maximum of 5 minutes or  \_\_\_\_\_ minutes, for the sole purpose of picking up and/or returning the child/ren.

Other location: \_\_\_\_\_

18. (For court use only) Effect of Prior Parenting Time Order (ORS 107.722)

18. \_\_\_\_\_

A PARENTING TIME ORDER ALREADY EXISTS in Case # \_\_\_\_\_ filed in

\_\_\_\_\_ County, Oregon, or  \_\_\_\_\_ (Another State/Tribe)

NO new parenting time order is made because the terms in the existing order or judgment shall continue to apply.

The parenting time provisions in this Restraining Order are necessary to protect the safety and welfare of the child/ren or Petitioner but they CONFLICT with the custody provisions in the already existing order or judgment. Therefore, the parenting time provisions in this Restraining Order shall remain in effect only until this Restraining Order expires or is cancelled, until a new order is issued in the other case, or until \_\_\_\_\_ (date), whichever occurs first.

http://www.fapacourt.com

Judge's Initials

19. No further service is necessary because Respondent appeared in person before the court. 19. \_\_\_\_\_

**IT IS FURTHER ORDERED** that the SECURITY AMOUNT for violation of any provision of this Order is \$5,000 unless otherwise specified here: Other Amount: \$ \_\_\_\_\_

The above provisions of this Restraining Order are in effect for a period of one (1) year from the date of the judge's signature (unless renewed before it expires) or until the Order is dismissed, modified, or replaced, whichever occurs first.

CERTIFICATE OF COMPLIANCE WITH FULL FAITH AND CREDIT PROVISIONS OF VIOLENCE AGAINST WOMEN ACT (This is not a Brady Certificate)

This Restraining Order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. 2265. This Court has jurisdiction over the parties and the subject matter. The Respondent is being afforded notice and timely opportunity to be heard as provided by the law of this jurisdiction. This Order is valid and entitled to enforcement in this and all other jurisdictions.

**IT IS HEREBY ORDERED** that:

The Petition for Restraining Order to Prevent Abuse is **GRANTED** as set forth above.

The Petition for Restraining Order is **DENIED** because:

The Petitioner did not establish a claim for relief.

The Petitioner did not appear at the time set for the *ex parte* hearing on his/her petition.

Other: \_\_\_\_\_

DATED: 11/30/16

\_\_\_\_\_  
JUDGE (Signature)

\_\_\_\_\_  
Print or Type Name of Judge

MICHAEL S. LOY  
CIRCUIT COURT JUDGE

**Certificate of Document Preparation.** You are required to truthfully complete this certificate regarding the document you are filing with the Court. Check all boxes and complete all blanks that apply:

I selected this document for myself and I completed it without paid assistance.

I paid or will pay money to \_\_\_\_\_ for assistance in preparing this form.

I selected and completed this document through TurboCourt and did not pay anyone to review the completed form.

**Submitted by**

TIFFANY R INGRAM

Print Name,  Petitioner  Attorney for Petitioner

OSB No. (if applicable)

[See Attachment(s), item 'Filer's Address']

(503) 995-3627

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone Number

Use Safe Contact Address

Use Safe Contact Number

RELEVANT DATA

PETITIONER: TIFFANY R INGRAM

Female  Male

Name

\*\*Residence/Contact Address (Use a safe address\*\*\*):

2620 SE ALDER ST APT. 93

Number, Street and Apt. Number (if applicable)

PORTLAND

MULTNOMAH

OR

97233

City

County

State

Zip

Telephone/Contact Telephone Number (503) 995-3627

(Use safe contact number)

Birthdate (See CIF) Age 28

Race/Ethnicity White

Height 5' 8''

Weight 215

Eye Color GREEN

Hair Color BLONDE

\*\*\*The Respondent will receive a copy of this information. If you wish to have your residential address or telephone number withheld from Respondent, use a contact address in the state where you reside or a contact telephone number so the Court and the Sheriff can reach you if necessary. Please check for mail at this address frequently.

RESPONDENT: QURAN D INGRAM

Female  Male

Name

Residence Address 8101 NE 117TH AVE, VANCOUVER, CLARK, WA 98662

Telephone Number

Birthdate (See CIF)

Age 38

Race/Ethnicity Black/African-American

Height 6' 0''

Weight 200

Eye Color BROWN

Hair Color BLACK

PLEASE FILL OUT THIS INFORMATION TO AID IN SERVICE OF THE RESTRAINING ORDER

Where is Other Party most likely to be located?

Residence Hours ALL DAY Address 8101 NE 117TH AVE, VANCOUVER, CLARK, WA 98662

Employment Hours Address (See CIF)

Other Hours Address

Description of Vehicle no vehicle known

Is there anything about the other party's character, past behavior, or the present situation that indicates that he or she may be a danger to others? to him/herself? EXPLAIN: NO

Does the other party have any weapons, or access to weapons? EXPLAIN: Firearms: CURRENTLY BEING HELD ON GUN CHARGES

Has the other party ever been arrested for or convicted of a violent crime? EXPLAIN: ARMED ROBBERY, HOME INVASION AND OTHERS THAT IM NOT SURE OF

# APPENDIX B

FILED  
 NOV 30 AM 11:48  
 CLERK OF COURT  
 MULTNOMAH COUNTY

16P011622  
 PTAB  
 Petition Abuse Prevention  
 6188925



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
 COUNTY OF MULTNOMAH

Verified Correct Copy of Original  
 11/21/16

TIFFANY R INGRAM )  
 Petitioner (your full name) )  
 )  
 v. )  
 )  
OURAN D INGRAM )  
 Respondent )  
 (full name of person restrained.) )

See CIF )  
 (date of birth) )  
 )  
 See CIF )  
 (date of birth) )

Case No. 16P011622

**PETITION FOR RESTRAINING ORDER  
 TO PREVENT ABUSE**  
 (Family Abuse Prevention Act)  
 ORS 107.700 – 107.735

**NOTICE TO PETITIONER**

You must provide complete and truthful information. If you do not, the court may dismiss any restraining order and may also hold you in contempt.  
Contact Address and Telephone Number: If you wish to have your residential address or telephone number withheld from Respondent, use a contact address and telephone number so the court and the sheriff can reach you if necessary.

**NOTICE TO PETITIONER**

You must keep certain information (“confidential personal information”) out of any papers you file or submit to the court and, instead, provide that information in a Confidential Information Form (CIF). On this document, where that confidential personal information would otherwise appear, you must provide that in a Confidential Information Form (CIF) under UTCR 2.130 (see instructions).

I am the Petitioner and I state that the following information is true:  
 I am a resident of Multnomah County, State of OR. I am 28 years old.  
 Respondent is a resident of CLARK County, State of WA  
 Respondent is 38 years old.

- At the hearing, I will need an interpreter in the \_\_\_\_\_ language.
- At the hearing, I will need American’s with Disabilities Act accommodations.

1. **CHECK and FILL OUT ALL THAT APPLY:**
- A. Respondent is my  spouse/domestic partner  former spouse/domestic partner. We were married/registered on 11/07/2014 (date). Our marriage/partnership was dissolved on \_\_\_\_\_ (date).
  - B. Respondent and I are adults related by blood, marriage, or adoption. Respondent is my \_\_\_\_\_ (type of relationship).
  - C. Respondent and I have been cohabiting (living together in a sexually intimate relationship) since \_\_\_\_\_ (date), or cohabited from \_\_\_\_\_ (date) to \_\_\_\_\_ (date).
  - D. Respondent and I have been involved in a sexually intimate relationship within the last two years.
  - E. Respondent and I are the unmarried parents of a child.
  - F. I am a minor and have been involved in a sexually intimate relationship with Respondent, who is 18 years of age or older.

http://urdcourt.com/

2. **WITHIN THE LAST 180 DAYS\*\*, RESPONDENT HAS** (check all that apply):

- A. Caused me bodily injury.
- B. Attempted to cause me bodily injury.
- C. Placed me in fear of imminent bodily injury.
- D. Caused me to engage in involuntary sexual relations by force or threat of force

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**\*\*THE 180 DAY PERIOD CAN BE INCREASED BY THE AMOUNT OF TIME RESPONDENT WAS IN JAIL, IN PRISON, OR LIVED MORE THAN 100 MILES FROM YOUR HOME:**

- The Respondent was incarcerated from \_\_\_\_\_ to \_\_\_\_\_
- The Respondent lived more than 100 miles from my home from \_\_\_\_\_ to \_\_\_\_\_ (date).

**DESCRIBE THE INCIDENT(S) OF ABUSE THAT HAPPENED IN THE LAST 180 DAYS:**  
Describe how Respondent hurt or threatened to hurt you, starting with the most recent incident:

Date: 11/19/2016 (aprx) County/State: CLARK, WA

RAISED HIS CLOSED FIST TO ME WITH MY CHILD IN MY ARMS THREATING TO KILL ME. " BITCH KEEP  
FUCKING WITH ME AND I DONT GIVE A FUCK ILL KILL YOU"

Date: \_\_\_\_\_, County/State: \_\_\_\_\_

Date: \_\_\_\_\_, County/State: \_\_\_\_\_

Additional pages attached labeled "Paragraph 3: Description of Abuse"

http://www.courts.com

4. Are there incidents other than those described above in which the Respondent has hurt or threatened to hurt you before the 180 day period above? If yes, explain:

Describe how Respondent hurt or threatened to hurt you, starting with the most recent incident:

Date: 01/30/2016 (aprx), County/State: CLARK, WA

He let me know how he planned to kill me and make it look like an accident. He was going to wait in the park which is connected to his residence and wait till I drove by and would then

[See Attachment(s) Item #4, Abuse #3 (continued)]

Date: 06/15/2015 (aprx), County/State: multnomah, OR

put hands around me neck chocking and hitting me till unconscious. thought I was cheating on him in fact it was the Dish network installer setting up my appointment to install cable

Date: \_\_\_\_\_, County/State: \_\_\_\_\_

Additional pages attached labeled "Paragraph 4: Additional Abuse"

5. I am in imminent danger of further abuse by Respondent and the Respondent is a threat to my physical safety or the physical safety of my child/ren because: he said if I ever took his son from him he would kill me and everyone I love.

6. IN ANY OF THE ABOVE INCIDENTS OR OTHER INCIDENTS OF ABUSE:

A. Were you injured?  Yes  No Describe: on 05/15/2015 (aprx): bruises on neck and face black eye and busted lip

B. Did you seek medical treatment?  Yes  No Describe: on 06/15/2015 (aprx): would not let me

C. Were weapons involved?  Yes  No Describe: on 11/19/2016 (aprx): AT THE TIME HAD THE GUN HE IS BEING CHARGED OF STEALING

D. Were drugs or alcohol involved?  Yes  No Describe: on 11/19/2016 (aprx): HE IS ADDICTED TO METH AND ALCOHOL

on 06/15/2015 (aprx): he was drunk

E. Were the police called?  Yes  No Who was arrested? \_\_\_\_\_

7.  The Respondent has access to firearms now, or I am concerned about his/her getting firearms.  
 I want the Respondent ordered not to possess or purchase firearms or ammunition because (explain how your and/or your children's safety and welfare are affected by Respondent's possession of firearms): he is a felon

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http://inprocourt.com

8.  There is another  restraining order and/or  stalking order between Respondent and me:  
 \_\_\_\_\_ County, State of \_\_\_\_\_, Case # \_\_\_\_\_
9.  There is another court case between Respondent and me for divorce/dissolution, annulment, legal separation, or paternity in: \_\_\_\_\_ County, State of \_\_\_\_\_  
 Case # \_\_\_\_\_
10.  I need an order requiring Respondent to move from my residence. (Check all that apply.)  
 The residence is  solely in my name, or  jointly owned, or  jointly leased by me and Respondent, or  jointly rented by me and Respondent, or  Respondent is my spouse/registered domestic partner.
11.  I request that Respondent pay me emergency monetary assistance (one time payment) to help me and/or my child/ren in the amount of \$ 1,000.00 for (describe why needed): for our childs care, shelter, car that he got impounded

**JOINT CHILD/REN**

**12. THE CHILD/REN OF RESPONDENT AND ME WHO ARE UNDER THE AGE OF 18:**

Name	Age	Birthdate	Gender/Sex
Domnick T.R. Ingram	3	SEE CIF	male
		SEE CIF	

Additional pages attached labeled "Paragraph 12: Joint Child/ren"

13. The child/ren are now living with TIFFANY R INGRAM  
 at 12620 SE ALDER ST APT. 93, PORTLAND, MULTNOMAH, OR 97233 (address or use a safe contact address). For how long? < 1 month, (from 11/27/2016 till present)
14. Where have the child/ren listed in Paragraph 12 above lived for the last five years and with whom (starting with the most recent location)?

Child's Name	Lived With	From (date)	To (date)	County & State
Domnick T.R. Ingram	TIFFANY R INGRAM	11/27/2016	present	12620 SE ALDER ST APT. 93, PORTLAND, MULTNOMAH, OR 97
	TIFFANY R INGRAM, QURAN D INGRAM	10/30/2016 (aprx)	11/26/2016 (aprx)	Clark, WA
	TIFFANY R INGRAM, QURAN D INGRAM	09/23/2013	10/26/2016	Multnomah, OR

Additional pages attached labeled "Paragraph 14: Child/ren-Past 5 Years"

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- 15.  My child/ren have lived in Oregon for the last 6 months.
- My child/ren have NOT lived in Oregon for the last 6 months BUT my child/ren and I are now living in Oregon and I want the Court to award me custody because of an EMERGENCY. Describe the emergency:

\_\_\_\_\_

\_\_\_\_\_

- 6. If you and Respondent are unmarried, has legal paternity of your child/ren been established?  Yes  No
- If yes, in what way?  Birth Certificate  Child Support Proceeding  Voluntary Acknowledgment
- Paternity Lawsuit  Other: \_\_\_\_\_

- 7. Is there another court order (other than child support) now in effect concerning any of the child/ren listed above?  Yes  No
- If yes: Date of Order: \_\_\_\_\_ Case #: \_\_\_\_\_
- Filed in \_\_\_\_\_ County, State of \_\_\_\_\_

- 18. A. I have not participated as a party, witness or in any other capacity in any other proceeding concerning the custody, parenting time or visitation of the child/ren listed EXCEPT: \_\_\_\_\_

B. I know of no other proceeding that could affect this case (including any other legal case for custody/parenting time enforcement or relating to domestic violence, protective orders, termination of parental rights and adoptions) in this or any other state EXCEPT: he has a custody issue between Oregon and Connecticut with Stephanie Cox for their daughter Ayen Ingram

C. I know of no one, other than Respondent, who has physical custody of the child/ren or who claims custody, parenting time or visitation rights with the child/ren EXCEPT: \_\_\_\_\_

- 19.  I believe that I will need the assistance of a peace officer to regain custody of my child/ren from the Respondent. The address(es) where the child/ren can most likely be found are listed on the proposed Order. I believe the child/ren are most likely to be found there because: \_\_\_\_\_

- 20.  The Department of Human Services (Child Welfare) is involved with my child/ren.
- Explain: welfare, food stamps OHP and WIC

**NOTICE TO PETITIONER**

**You must notify the court of any change of address/contact address or telephone number/contact telephone number. All notices of hearing will be sent to this address and the court may dismiss the restraining order if you do not appear at a hearing.**

*If you wish to have your residential address or telephone number withheld from Respondent, use a "contact address" and "contact telephone number" so the Court and the Sheriff can reach you if necessary.*

http://wboecourt.com/

**I ASK THE COURT TO ORDER MY REQUESTS AS MARKED ON THE RESTRAINING ORDER.**

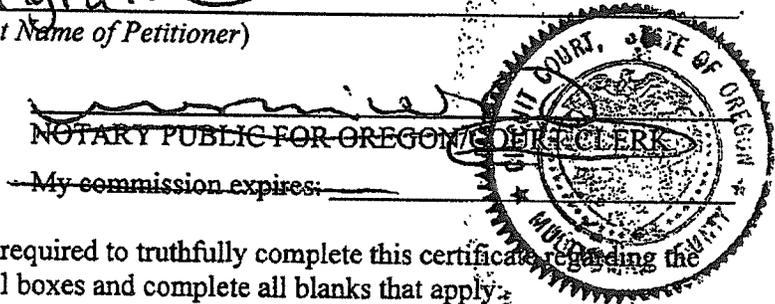
hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use as evidence in court and are subject to penalty for perjury.

[Signature]  
Signature of Petitioner

STATE OF OREGON )  
County of \_\_\_\_\_ )

This instrument was acknowledged before me this 30<sup>th</sup> day of November, 2016 by  
Tiffany Rene Ingram  
(Print Name of Petitioner)

Witnessed by Court Clerk. Document content may not meet standards for judicial signature



**Certificate of Document Preparation** You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself and I completed it without paid assistance.
- I paid or will pay money to \_\_\_\_\_ for assistance in preparing this form.
- I selected and completed this document through TurboCourt and did not pay anyone to review the completed form.

**Submitted by:**

TIFFANY R INGRAM

Print Name,  Petitioner  Attorney for Petitioner  OSB No. (if applicable)

[See Attachment(s), item 'Filer's Address'] (503) 995-3627  
Address or Contact Address City, State, Zip Telephone or Contact Telephone Number  
Use Safe Contact Address Use Safe Contact Number

http://turbotcourt.com

To Petition for Restraining Order to Prevent Abuse

**Paragraph 4: Additional Abuse**

**Incident of Abuse # 3 on 01/30/2016 (aprx) (continued):**  
shoot me

**Filer's Address:**

12620 SE ALDER ST APT. 93, PORTLAND, MULTNOMAH, OR 97233

\_ Verified Correct Copy of Original 12/2/2016 \_

<http://lhbocourt.com/>

If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.

# APPENDIX C

CASE#: 16-1-02575-7 JUDGMENT# 17-9-01491-4 JUDGE ID: 1  
TITLE: INGRAM, QURAN DAYMAN ALI  
FILED: 12/07/2016 APPEAL FROM LOWER COURT? NO

RESOLUTION: CVJV DATE: 02/07/2017 CONVICTED BY JURY  
COMPLETION: JODF DATE: 05/01/2017 JUDGMENT/ORDER/DECREE FILED  
CASE STATUS: APP DATE: 05/01/2017 ON APPEAL  
ARCHIVED:  
CONSOLIDIT:  
NOTE1:DOB:11/08/1978  
NOTE2:(VPD)

----- PARTIES -----

CONN.	LAST NAME, FIRST MI TITLE	LITIGANTS	ARRAIGNED
PLA01	STATE OF WASHINGTON		
DEF01	INGRAM, QURAN DAYMAN ALI		
ATP01	PRDS ATTY		
ATD01	BYRD, LOUIS BRODERICK JR		
BAR#	19659		

----- SENTENCE INFORMATION -----

DEF01 INGRAM, QURAN DAYMAN ALI

DEF. RESOLUTION CODE: CVJV DATE: 02/07/2017 CONVICTED BY JURY  
TRIAL JUDGE: DANIEL STAHNKE  
SENTENCE DATE : 05/01/2017 SENTENCED BY JUDGE STAHNKE  
SENTENCING DEFERRED : NO APPEALED TO : DIVISION II DATE APPEALED : 05/01/2017

PRISON SERVED.....	X		
PRISON SUSPENDED.....		FINE.....	\$
JAIL SERVED.....		RESTITUTION.....	\$
JAIL SUSPENDED.....	X	COURT COSTS.....	\$
PROB/COMM. SUPERVISION.....		ATTORNEY FEES.....	\$
		DUE DATE :	PAID : NO

----- SENTENCE DESCRIPTION -----

COUNT I: 50 MONTHS DDC WITH CTS TBD BY DDC;  
COUNT II: 364 DAYS JAIL WITH 364 DAYS SUSPENDED FOR 24 MONTHS

----- CHARGE INFORMATION -----

DEF01 INGRAM, QURAN DAYMAN ALI

RS	CNT	RCW/CODE	CHARGE DESCRIPTION	DV INFO/VIOL.	RESULT
				---DATE---	---DATE---
			INFORMATION		12/07/2016
G	1	9A.52.025(1)	RESIDENTIAL BURGLARY	Y	12/02/2016 02/07/17
		10.99.020	DOMESTIC VIOLENCE--DEFINITIONS		
G	2	26.50.110(1)	PROTECTION ORDER VIOLATION (GM)	Y	12/02/2016 02/07/17
		10.99.020	DOMESTIC VIOLENCE--DEFINITIONS		
	901	NOTEPCN	659269121		

## -----APPEARANCE DOCKET-----

SUB#	DATE	CODE/ CONN	DESCRIPTION/NAME	SECONDARY
1	12/05/2016	PLMHRG	FRELIMINARY APPEARANCE RLS DENIED/BAIL \$60,000 + CNDTNS	12-16-2016C1
		ACTION	#1 ARRAIGNMENT 1:30PM	
	12/05/2016	OAPAT	ORDER APPOINTING ATTORNEY	
		ATD01	BYRD, LOUIS BRODERICK JR	
2	12/05/2016	RORIS	ROR INTERVIEW SHEET	
3	12/05/2016	ADPC	AFFIDAVIT/DECLARATION PROB CAUSE	
4	12/05/2016	DRNC	NO CONTACT ORDER - PRE ARRAIGN	
5	12/07/2016	INFO	INFORMATION	
6	12/16/2016	ARRAIGN	INITIAL ARRAIGNMENT	02-02-2017RS
		ACTION	#1 READINESS HEARING 1:30	
	12/16/2016	MTHRG	MOTION HEARING	
7	12/16/2016	ASTD	ASSIGNMENT OF TRIAL DATE	02-06-2017T1
8	12/16/2016	OR	ORDER TO RESCIND NCO	
9	12/16/2016	DRNC	NO CONTACT ORDER - POST ARRAIGN	
10	12/19/2016	CIT	CITATION	12-20-2016
		ACTION	#1 REVIEW BAIL/RELEASE 9 AM	
11	12/19/2016	CIT	CITATION - AMENDED	12-21-2016C
		ACTION	#1 REVIEW BAIL/RELEASE 9 AM	
12	12/21/2016	MTHRG	MOTION HEARING	
13	12/21/2016	CIT	CITATION	12-28-2016C
		ACTION	#1 REVIEW BAIL/RELEASE 9 AM	
14	12/27/2016	MTDSM	MOTION TO DISMISS (KNAPSTAD)	
15	12/28/2016	MTHRG	MOTION HEARING	01-13-2017CF
		ACTION	#1 RVW BAIL/RELEASE 9AM APPROVED BY DEPT 1	
16	12/28/2016	MM	MEMORANDUM OF DISPOSITION	
17	01/09/2017	RSP	STATE'S RESPONSE	
18	01/13/2017	MTHRG	MOTION HEARING	
19	01/20/2017	STLW	STATE'S LIST OF WITNESSES	
20	01/20/2017	SB	SUBPOENA -INGRAM, T	
21	01/20/2017	SB	SUBPOENA -ADAMS, P	
22	01/20/2017	SB	SUBPOENA -BUTCHARD, D	
23	01/20/2017	SB	SUBPOENA -CUSTODIAN OF RECORDS	
24	02/02/2017	PTMHRG	PRE-TRIAL MANAGEMENT HEARING CASE CALLED READY	
25	02/02/2017	DRAU	ORDER AUTHORIZING SECONDARY DISSEMINATION OF NON CONV DATA	
26	02/02/2017	DRAU	ORDER AUTHORIZING RVW OF JURY BOOK	
27	02/03/2017	MTL	MOTION IN LIMINE - STATE'S	
28	02/06/2017	FNFCL	FINDINGS OF FACT&CONCLUSIONS OF LAW	
29	02/06/2017	MTL	MOTION IN LIMINE - DEFENSE	
30	02/06/2017	EVIHRG	EVIDENTIARY HEARING CLERK'S IN COURT RECORD	
31	02/06/2017	PLPIN	PLAINTIFF'S PROPOSED INSTRUCTIONS WITH WIPICS	
32	02/06/2017	PLPIN	PLAINTIFF'S PROPOSED INSTRUCTIONS W/OUT WIPICS	
33	02/06/2017	JYP	JURY PANEL	
34	02/07/2017	JTRIAL	JURY TRIAL	03-03-2017CF
		ACTION	#1 SENTENCING 9:00 A.M. CLERK'S IN COURT RECORD	
		JDG01	JUDGE DANIEL STAHNKE	

## -----APPEARANCE DOCKET-----

SUB#	DATE	CODE/ CONN	DESCRIPTION/NAME	SECONDARY
-	02/07/2017	EXLST	EXHIBIT LIST	
35	02/07/2017	CTINJY	COURT'S INSTRUCTIONS TO JURY	
36	02/07/2017	VRD	VERDICT COUNT I: GUILTY	
37	02/07/2017	VRD	VERDICT COUNT II: GUILTY	
38	02/07/2017	SPV	SPECIAL VERDICT: YES	
39	02/07/2017	MM	MEMORANDUM OF DISPOSITION	
40	02/07/2017	EXRECT	RECEIPT FOR EXHIBIT/UNOPENED DEPOS	
41	03/03/2017	MTHRG	MOTION HEARING	04-21-2017CP
		ACTION	#1 SENTENCING 9AM	
42	03/03/2017	MM	MEMORANDUM OF DISPOSITION	
43	03/03/2017	ORDOSA	ORDER FOR DOSA PRE-SENTENCE EXAM	
44	03/03/2017	LTR	LETTER FROM DEFT	
45	03/09/2017	RPT	REPORT - RESTITUITON	
46	04/18/2017	RPT	REPORT - RISK ASSESMENT	
47	04/20/2017	MM	SENTENCING MEMORANDUM-STATE	
48	04/21/2017	MTHRG	MOTION HEARING	05-01-2017CP
		ACTION	#1 SENTENCING 1:30PM	
49	04/21/2017	MM	MEMORANDUM OF DISPOSITION	
50	04/21/2017	CP	CERT COPIES CRIM CONVICTIONS	
51	05/01/2017	SNTHRG	SENTENCING HEARING	
52	05/01/2017	NTIPF	NOTICE INELIGIBLE POSSESS FIREARM	
53	05/01/2017	MM	MEMORANDUM OF DISPOSITION	
54	05/01/2017	NACA	NOTICE OF APPEAL TO COURT OF APPEAL	
55	05/01/2017	ADR	ADVICE OF RIGHTS	
56	05/01/2017	OR	ORDER TO RESCIND NCO	
57	05/01/2017	ORNC	NO CONTACT ORDER - POST CONV	
58	05/01/2017	FJS	FELONY JUDGMENT AND SENTENCE	
-	05/01/2017	WC	WARRANT OF COMMITMENT	
59	05/01/2017	JDOSSG	JDGMT & ORD SUSPND SENT, GRNT PROB	
60	05/11/2017	TRLC	TRANSMITTAL LETTER - COPY FILED	
			NACA EFILED TO COA	
61	05/15/2017	MTAF	MOTION AND AFFIDAVIT/DECLARATION	
			F/ORDER CORRECTING J&S	
62	05/15/2017	DRMJS	ORDER MODIFYING JUDGMENT & SENTENCE	
63	05/23/2017	LTR	LETTER F/DEPT 1 T/MS. JONES	
64	05/24/2017	CRRSP	CORRESPONDENCE F/COA RE FILING FEE	
65	05/24/2017	ORIND	ORDER OF INDIGENCY	

=====END=====

# APPENDIX D

184  
10

**POOR QUALITY ORIGINAL**

**FILED**

APR 21 2017 10:29am

Scott G. Weber, Clerk, Clark Co.

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

STATE OF WASHINGTON,

Plaintiff,

v.

QURAN DAYMAN ALI INGRAM,

Defendant.

No. 16-1-02575-7

CERTIFIED COPIES OF CRIMINAL  
CONVICTIONS AND PENITENTIARY  
PACKETS

Certified copies of the Defendant's penitentiary packets from Washington and California are attached. Certified copies of the Defendant's following convictions and probation violations are also attached:

CRIME	COUNTY/STATE CAUSE NO.	DATE OF CRIME	DATE OF SENTENCE
ROBBERY 1ST DEGREE	WHATCOM/WA 94-8-00411-3	5/2/1994	6/21/1994
ESCAPE 1ST DEGREE	WHATCOM/WA 97-1-00728-6	12/21/1995	11/6/1997
BURGLARY 2ND DEGREE	WHATCOM/WA 97-1-00731-6	8/26/1997	11/6/1997
ASSAULT 2ND DEGREE	WHATCOM/WA 97-1-00731-6	8/26/1997	11/6/1997
UNLAWFUL POSSESSION OF FIREARMS	WHATCOM/WA 97-1-00731-6	8/26/1997	11/6/1997
ROBBERY 2ND DEGREE	CONTRA COSTA/CA 0111682	3/8/2001	10/4/2001

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AND PENITENTIARY PACKETS - 1

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CRIME	COUNTY/STATE CAUSE NO.	DATE OF CRIME	DATE OF SENTENCE
FORCE/ADW NOT FIREARM: GBI LIKELY	SAN FRANCISCO/CA 02120278	7/31/2003	11/29/2004
DRIVING UNDER THE INFLUENCE OF INTOXICANTS	MULTNOMAH/OR 100140824	4/26/2010	4/26/2010
RECKLESSLY ENDANGERING ANOTHER PERSON	MULTNOMAH/OR 120532048	4/4/2012	8/30/2012
DRIVING UNDER THE INFLUENCE	MULTNOMAH/OR 120532048	4/4/2012	8/30/2012
CRIMINAL DRIVING WHILE SUSPENDED	MULTNOMAH/OR 120748335	7/10/2012	8/30/2012
PROBATION VIOLATION	MULTNOMAH/OR 100140824	4/23/2012	9/4/2012
PROBATION VIOLATION	MULTNOMAH/OR 100140824		4/10/2013
PROBATION VIOLATION	MULTNOMAH/OR 100140824		7/29/2013
PROBATION VIOLATION	MULTNOMAH/OR 100140824		8/29/2013
PROBATION VIOLATION	MULTNOMAH/OR 100140824		12/17/2013
CRIMINAL DRIVING WHILE SUSPENDED/REVOKED	MULTNOMAH/OR 16CR04825	1/26/2016	5/23/2016

DATED this 21<sup>st</sup> day of April, 2017.



LAUREL K SMITH, WSBA#46970  
Deputy Prosecuting Attorney

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# RUSSELL SELK LAW OFFICE

February 15, 2018 - 4:58 PM

## Transmittal Information

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 50577-1  
**Appellate Court Case Title:** State of Washington, Respondent v Quran D. A. Ingram, Appellant  
**Superior Court Case Number:** 16-1-02575-7

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