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

IN RE THE PERSONAL RESTRAINT
PETITION OF:

VICHAI SALY,

Petitioner.

NO. 50884-2-II

STATE'S RESPONSE TO PERSONAL
RESTRAINT PETITION

I. ISSUES PERTAINING TO PERSONAL RESTRAINT PETITION:

1. Did the adult division of the superior court have jurisdiction to accept petitioner's plea of guilty and sentence him?
2. Has petitioner established "actual and substantial prejudice?"
3. Is this Court able to provide petitioner effective relief?
4. Is the remedy of *State v. Mora* and *In re Dalluge* retroactive?

II. STATUS OF PETITIONER:

Petitioner, Vichai Saly (date of birth: 2/1/78¹), is restrained pursuant to a Judgment and Sentence (Appendix "A") entered in Pierce County Cause No. 94-1-04921-8.

¹ Petitioner asserts his birthdate is February 1, 1997. PRP at 1. That must be a scrivener's error.

1 Petitioner, then sixteen years old, was arraigned on three counts of assault in the
2 first degree in the Pierce County Superior Court, adult division, on December 6, 1994.
3 Clerk's Minutes, Appendix A at 11; Information, Exhibit A at 2-4. Those charges were
4 necessarily brought before the adult division of the superior court, pursuant to RCW
5 13.04.030(1)(e)(v)(A).

6 Respondent agrees with petitioner that no waiver of juvenile court jurisdiction was
7 presented in these proceedings and that no RCW 13.40.110 decline hearing was held. The
8 complete 48 page record is attached as Exhibit A. Because of the lapse of time, no
9 transcript is available. Appendix B.

10 On January 13, 1994, petitioner pleaded guilty to an amended information alleging
11 three lesser degree counts of assault in the second degree and one count of taking a motor
12 vehicle without permission. Statement of Defendant on Plea of Guilty, Exhibit A at 35-40;
13 Clerk's Minutes, Exhibit A at 41. None of the amended charges are "mandatory adult
14 jurisdiction" cases pursuant to RCW 13.04.030(1)(e)(v)(A). Petitioner was sentenced on
15 the same day. Judgment and Sentence, Exhibit A at 27-34.

16 Petitioner now collaterally attacks his sentence, claiming that the trial court lacked
17 jurisdiction to sentence him because juvenile court jurisdiction was never addressed in the
18 adult division of the superior court prior to the entry of his judgment and sentence. PRP at
19 1-4. Petitioner also asserts ineffective assistance of counsel because of his lawyer's failure
20 to move to transfer petitioner's case to juvenile court. PRP at 4.

21 III. ARGUMENT:

22 A. THE SUPERIOR COURT HAD JURISDICTION TO TAKE
23 DEFENDANT'S PLEA OF GUILTY AND SENTENCE HIM.

24 Petitioner's request for relief is founded upon the assertion that the Superior Court
25 lost jurisdiction over him after it allowed amendment to the three counts of assault in the
second degree and one count of taking a motor vehicle without permission. PRP at 5-6.

1
2 While the Superior Court's jurisdiction is irrelevant to petitioner's claim of trial court
3 error, it is important to the standard of review applied to this twenty three year old personal
4 restraint petition.

5 1. The Superior Court's failure to address the juvenile
6 declination issue was error.

7 The Pierce County Superior Court erred when it sentenced defendant without
8 finding a waiver of juvenile court jurisdiction² and without conducting a declination
9 hearing pursuant to *Dillenburg v. Maxwell*, 70 Wn.2d 331, 413 P.2d 940 (1966). *State v.*
10 *Mora*, 138 Wn.2d 43, 977 P.2d 564 (1999). Had petitioner raised this error on direct
11 appeal, the matter would have been reversed and remanded. *Id.*; *In re Dalluge*, 152 Wn.2d
12 772, 100 P.3d 279 (2004).

13 2. The Superior Court had jurisdiction when it failed to
14 address the juvenile declination issue, accepted petitioner's
15 guilty plea, and sentenced petitioner.

16 The Superior Court had jurisdiction when it erred. Regardless of petitioner's age at
17 the time of his plea and sentencing, the Superior Court had jurisdiction to accept
18 petitioner's plea and sentence him. *State v. Posey*, 174 Wn.2d 131, 139, 272 P.3d 840
19 (2012) (*Posey II*). This is because "a court's jurisdiction cannot hinge on the result it
20 reaches. Jurisdiction means the power to hear and determine. It is conceptually incoherent
21 to suppose that a court's power to determine a case depends on its determination in the
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² See *State v. Saenz*, 175 Wn.2d 167, 176, 283 P.3d 1094 (2012).

1 case.” (internal citation and quotation marks omitted) *Posey II*, 174 Wn.2d at 139. *Posey*
2 *II* explicitly rejected the jurisdictional analysis of *In re Dalluge*, 152 Wn.2d 772, 100 P.3d
3 279 (2004). *Posey II* at 138-39.³

4 B. PETITIONER HAS FAILED TO SHOW THAT HE WAS ACTUALLY
5 AND SUBSTANTIALLY PREJUDICED BY THE TRIAL COURT’S
6 FAILURE TO ADDRESS JUVENILE DECLINATION.

7 Where constitutional error or fundamental defect is alleged, the [personal restraint]
8 petitioner must show that he or she was actually and substantially prejudiced by the error.
9 *In re Lord*, 123 Wn.2d 296, 303, 868 P.2d 835 (1994). This personal restraint petition
10 should be dismissed because petitioner has failed to establish that petitioner would have
11 been declined to juvenile court had the adult court been made aware of his age prior to his
12 sentencing on the amended charges.

13 In *In re Dalluge*, the personal restraint petitioner bridged the problem of showing
14 “actual and substantial prejudice” by demonstrating that his appellate counsel was
15 ineffective for failing to present the juvenile court jurisdiction argument to the Court of
16 Appeals on direct review. *Dalluge*, 252 Wn.2d at 787-790. In that case, both deficient
17 performance and prejudice were established by the fact that “[h]ad Dalluge's appellate
18 counsel raised [the *State v. Mora*] argument, his case would have been remanded to the
19

20 ³ [*State v. Werner*], 129 Wash.2d 485, 496, 918 P.2d 916 (1996)] distinguished between “three
21 jurisdictional elements in every valid judgment, namely, jurisdiction of the subject
22 matter, jurisdiction of the person, and the power or authority to render the particular judgment.”
23 *Id.* (quoting [*In re Marriage of Little*, 96 Wash.2d 183, 197, 634 P.2d 498 (1981)] (citing 1 A.C.
24 Freeman, A TREATISE OF THE LAW OF JUDGMENTS § 226 (5th ed. rev.1925)). The opinion's
25 distinction between “jurisdiction of the subject matter” and “the power or authority to render the
particular judgment” rests on an antiquated understanding of subject matter jurisdiction.
Compare 1 Freeman, *supra*, § 226, with Restatement (Second) of Judgments § 11 (1982).² It is not
even clear that the precedents relied on by *Werner* recognized such a distinction. *See Little*, 96
Wash.2d at 197, 634 P.2d 498 (“We have found no case holding that trial procedural requirements,
such as the time for deciding issues, are jurisdictional.”). Unfortunately, *Werner* is not our only
opinion embracing this antiquated distinction. *See In re Per. Restraint of Dalluge*, 152 Wash.2d
772, 783, 100 P.3d 279 (2004).
State v. Posey, 174 Wn.2d 131, 138–39, 272 P.3d 840, 843–44 (2012).

1 appropriate division of the superior court.”⁴ *Id.* at 787-89. In this case, twenty-three years
2 ago, petitioner pled guilty. Plea of Guilty and Clerk’s Minutes, Appendix A at 35-41.
3 There was no appeal. To demonstrate prejudice, petitioner must now demonstrate that he
4 would have prevailed in a *Dillenburg* hearing had his trial counsel requested such a
5 hearing. Petitioner has presented no evidence of actual and substantial prejudice to this
6 court and his petition should be dismissed for that reason.⁵ See *In re Yates*, 180 Wn.2d 33,
7 41, 321 P.3d 1195, 1199 (2014) (applying the “actual and substantial prejudice” standard
8 and examining the “practical effect”).

9
10 C. EITHER THE REMEDY OF *STATE V. MORA* AND *IN RE DALLUGE*
11 SHOULD NOT BE APPLIED RETROACTIVELY OR THIS COURT
12 CANNOT PROVIDE PETITIONER EFFECTIVE RELIEF.

13 The mandatory adult jurisdiction provisions of the Juvenile Justice Act relating to
14 violent felonies first came into effect in 1994. Laws 1994, Sp. Sess. Ch. 7, § 519. Charges
15 against petitioner were first filed on December 6, 1994. Appendix A at 2-4. At the time
16 the trial court accepted the amended information, took petitioner’s plea, and sentenced
17 him, *State v. Mora*, 138 Wn.2d 43, 977 P.2d 564 (1999) had not yet been decided. This

18 ⁴ The continued validity of this reasoning is suspect after *In re Salinas*, ___ Wn.2d ___, ___ P.3d ___
19 (January 4, 2018) and *In re Coggin*, 182 Wn.2d 115, 120, 340 P.3d 810 (2014). In these cases, “the usual
20 presumption of prejudice applicable to courtroom closure claims raised on direct appeal does not apply in the
21 PRP context.” *Salinas* (second paragraph in the “Invited Error” section). But such suspicion of such
22 invalidity may itself be questionable, given the following statement from *In re Rhem*: “If Rhem
23 demonstrates he adequately raised this [public trial violation] claim, no dispute exists that he would be
24 entitled to relief. *In re Orange*, 152 Wn.2d 795, 814, 100 P.3d 291 (2004) (finding prejudice when appellate
25 counsel failed to raise a public trial violation since the error would have been presumptively prejudicial on
direct appeal); see also *In re Morris*, 176 Wn.2d 157, 166, 288 P.3d 1140 (2012) (plurality opinion). *In re
Rhem*, 188 Wn.2d 321, 326, 394 P.3d 367, 369–70 (2017). See also, *In re Stockwell*, 179 Wn.2d 588, 596-
603, 316 P.3d 1007 (2014).

⁵ The difference between direct appeal review and collateral attack review is also illustrated by the cases
addressing sufficiency of the charging document. An information which does not reasonably apprise the
accused of the elements of the crime charged may be challenged for the first time on appeal. *State v.
Kjorsvik*, 117 Wn.2d 93, 102, 812 P.2d 86 (1991). If the information does not reasonably apprise the
accused of the essential elements, the appellant is entitled to dismissal. *Kjorsvik*, 117 Wn.2d at 107-09. Yet
“a defective charging document does not establish per se prejudice on collateral review.” *In re St. Pierre*,
118 Wn.2d 321, 330, 823 P.2d 492 (1992). The personal restraint petitioner must also “establish actual and
substantial prejudice.” *Id.*

1 was uncertain legal terrain for trial courts until later caselaw clarified mandatory adult
2 jurisdiction procedure.

3 This personal restraint petition is presented twenty-three years after petitioner
4 pleaded guilty and was sentenced (Exhibit A at 21-43), and seventeen years after petitioner
5 received his certificate and order of discharge. Exhibit A at 48. Four years after he
6 received his certificate of discharge in this case, petitioner murdered a person in King
7 County. Appendix C. Petitioner seeks to lower his offender score in that case. PRP at 2.⁶

8 The jurisdiction of the trial court is established (*Posey II, supra*) and the knowing,
9 voluntary, and intelligent character of petitioner's guilty plea is unchallenged. The State
10 agrees with petitioner that the ordinarily appropriate remedy for such claimed error is
11 generally a *Dillenburg* hearing. PRP at 6. If the State prevails in the *Dillenburg* hearing,
12 the conviction stands. *Dillenburg*, 70 Wn.2d at 355. However, petitioner asserts that he
13 would be entitled to a "new trial" if he prevails in the *Dillenburg* hearing. PRP at 6. That
14 asks for too much, given that petitioner long ago entered a knowing, voluntary, and
15 intelligent plea of guilty before a court of competent jurisdiction.

16 Years after *Dillenburg* and *Kent v. United States*, 383 U.S. 541, 86 S. Ct. 1045, 16
17 L. Ed. 2d 84 (1966) reshaped juvenile court procedure, the Washington Supreme Court
18 addressed a habeas petition asserting pre-*Dillenburg* error. *McRae v. State*, 88 Wn.2d
19 307, 313-14, 559 P.2d 563 (1977) refused to apply *Dillenburg* retroactively. The reasons
20 expressed in *McRae* in 1977 support a refusal to apply *Mora* and *Dalluge* retroactively
21 today.
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⁶ Petitioner asserts that he is presently under "restraint" because of the effect the convictions in this case have on his offender score. PRP at 2.

1 In 1999, *State v. Mora* clarified the law by requiring a declination hearing when
2 mandatory adult jurisdiction charges are reduced to non-mandatory adult jurisdiction
3 charges. In 2004, in *In re Dalluge*, a personal restraint petitioner successfully invoked
4 *State v. Mora*. Compare this to *Kent v. United States* and *Dillenburg v. Maxwell*. In
5 1966, in *Kent v. United States*, a watershed juvenile justice rule was announced. In 1967,
6 in *Dillenburg v. Maxwell*, a habeas corpus petitioner successfully invoked *Kent v. United*
7 *States*. In *McRae v. State*, a habeas corpus petitioner attempted to invoke *Kent v. United*
8 *States* and *Dillenburg v. Maxwell* eleven years after he was improperly declined. *McRae*
9 *v. State*, 88 Wn.2d at 309. In this case, petitioner waited twenty-three years after he was
10 improperly declined. In *McRae v. State*, the petitioner filed his petition eight years after
11 *Dillenburg v. Maxwell* was decided. In this case, petitioner filed his petition thirteen years
12 after *In re Dalluge* was decided. PRP at 1.

14 The central question in *McRae* was whether or not *Dillenburg* would be given
15 retroactive effect. *McRae*, 88 Wn. at 308. The Supreme Court noted that *Dillenburg* itself
16 was a retroactive holding,⁷ yet refused to give *Dillenburg* retroactive application.⁸ The
17 decision in *McRae* ought to control in this case.

18 However, when he filed that [habeas] application, the juvenile court had lost
19 jurisdiction to give him the benefit of the rehabilitative measures he would
20 have received so long as he was a juvenile. Whether those measures would
21 have been beneficial or successful in accomplishing rehabilitation is at least
22 speculative. Certainly *McRae's* history following the declination order,
23 including the events which caused the revocation of his deferred sentence,
24 suggest that *McRae* might not have benefited particularly from the use of
25 those measures during the remaining time the juvenile court had jurisdiction
over him.

Meanwhile in that 11-year-period the difficulties of proof may well have
increased. Whether witnesses and evidence when *McRae* pled guilty to the

⁷ *McRae v. State*, 88 Wn.2d at 309.

⁸ *Id.* at 314.

1 grand larceny charge of car theft are still available we do now know. If not
2 available, McRae, notwithstanding he pled guilty to the charge, may not be
3 tried or if tried will probably be acquitted for want of proof. On the other
4 hand, if the evidence is available, the likelihood that he will be acquitted of
5 the charge to which he pled guilty seems insubstantial. Under the first
6 alternative, an admittedly guilty defendant will escape conviction; under the
7 second a new trial will not change the conviction adjudged more than 11
8 years ago. The *Dillenburg* remedy of a new trial in the instant case seems
9 inappropriate or to use the language of *Bouge v. Reed*, [254 Or. 418, 459
10 P.2d 869, 871 (1969)] ‘not realistic.’

11 . . .

12 The fact that a remedy for the wrong claimed is no longer efficacious is
13 relevant in determining whether a writ of habeas corpus should be granted.

14 If *Dillenburg* is not applied retroactively, denial of McRae's petition for
15 post-conviction relief in the nature of an application for habeas corpus is
16 required. We hold against a retroactive application whether (1) we apply
17 RCW 13.04.120 alone or in light of the due process rationale of *Kent* or (2)
18 whether we hold the *Brumley v. Charles R. Denney Juvenile Center of
19 Snohomish County*, 77 Wn.2d 702, 466 P.2d 481 (1970)] rationale and
20 additional decisional law so undermines the basis for continuing to hold
21 *Dillenburg* retroactive as to require us to hold against retroactivity.

22 *McRae v. State*, 88 Wn.2d at 313–14.⁹ The *Brumley* rationale for non-retroactivity is also
23 compelling in this case:

24 The *Brumley* court held the right to counsel was not retroactive both on the
25 basis of decisional law outside this state holding *Gault* to be prospective
only and on the basis of reason. The court considered three factors
pertinent: (1) The need to obtain a fair and judicious examination of whether
the defendant was guilty of being a delinquent and whether retroactive
application would carry out this objective, (2) whether reliance upon Pre-
*Gault*¹⁰ procedures by law enforcement prosecutors and the courts was
justifiable, and (3) whether retroactive application would have
serious consequences upon the administration of justice, in that many who
had been convicted by the use of Pre-*Gault* procedures would now seek to
upset their convictions. See also *Stovall v. Denno*, 388 U.S. 293, 296—98,
87 S.Ct. 1967, 18 L.Ed.2d 1199 (1967). The *Brumley* court concluded from
a consideration of these factors that *Gault* should have prospective
operation only.

⁹ Respondent apologizes to the Court for the long block quote, but realizes that it cannot improve upon the language of Justice Horowitz.

¹⁰ *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967).

1 *McRae*, 88 Wn.2d at 310–11.

2 Given its repudiation of *Dalluge's* jurisdictional holding, the Supreme Court may
3 be moving away from the new trial remedy of *Mora* and *Dalluge* and toward the remedy
4 of *Posey II* and *State v. Maynard*, 183 Wn.2d 253, 260-61, 351 P.3d 159 (2015) where the
5 matter is remanded for a new adult sentencing consistent with what the defendant would
6 have received had he remained in juvenile court.¹¹ However, neither of those remedies
7 affords petitioner effective relief in this case. The new trial remedy is very bad for the
8 reasons stated in *McRae* and the remand for resentencing is meaningless because petitioner
9 long ago discharged his sentence.

10
11 Application of non-retroactivity would not work injustice upon any future
12 petitioner because it would (a) apply only to a narrow band of cases amended down from
13 mandatory adult charges, (b) occurring between 1994-1999, where (c) any prospective
14 petitioner had an unutilized fourteen to nineteen year window to seek relief pursuant to
15 *Mora* (1999) or *Dalluge* (2004), where (d) any sentence was completed a long time ago;
16 where (e) the matter was properly brought before the adult court originally; and where (f)
17 the petitioner had a lawyer in those proceedings.

18 If this Court declines to hold that the remedy of *Mora* and *Dalluge* is non-
19 retroactive, then this Court should, for the reasons presented here, conclude that it is
20 unable, in this case, to provide meaningful relief to this petitioner.¹² For either alternative
21 reason, this Court should dismiss the instant petition.
22

23
24 ¹¹ For this kind of an outcome, the Court may also consider *In re LaForge*, 195 Wn. App. 1058 (2016) (an
25 unpublished opinion, with no precedential value, not binding on any court, cited only for such persuasive
value as the court deems appropriate, GR 14.1, *Crosswhite v. DSHS*, 197 Wn. App. 539, 544, 389 P.3d 731
(2017)).

¹² See *In re Cross*, 99 Wn.2d 373, 376–77, 662 P.2d 828 (1983) (“A case is moot if a court can no longer
provide effective relief.”).

1 IV. CONCLUSIONS:

2 Twenty-three years ago petitioner was found guilty in an adult court, with
3 jurisdiction, and with the full panoply of adult criminal court due process—including the
4 right to a jury trial. Seventeen years ago, petitioner fully completed his sentence. The
5 opportunity for a rehabilitative term in juvenile court is long gone. The opportunity for a
6 corrective sentence, as in *Posey II*, is long gone. The only remaining value to be preserved
7 is the underlying finding of guilt in this case—and petitioner casts no doubt upon the
8 reliability of his long ago guilty pleas.

9 Petitioner has failed to demonstrate actual and substantial prejudice because he has
10 not shown that he would have prevailed in a timely-requested *Dillenburg* hearing. Even if
11 petitioner could demonstrate such prejudice, this Court could not fashion a meaningful
12 remedy for that long-ago error.

13 For these alternative reasons this personal restraint petition should be dismissed.

14 DATED: February 7, 2018.

15
16 MARK LINDQUIST
17 Pierce County
18 Prosecuting Attorney



19 Mark von Wahlde
20 Deputy Prosecuting Attorney
21 WSB #18373

22 Certificate of Service:

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

26 2/8/18 Theresa K
Date Signature

APPENDIX "A"

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington



94-1-04921-8 38538965 ARCHREC 05-18-12

ARCHIVE RECORD

STATE OF WASHINGTON, County of Pierce: I, Kevin Stock, Clerk of the Pierce County Superior Court, do hereby certify that this instrument is a true and correct copy of the original taken under my direction and control on the date attached hereto. IN WITNESS WHEREOF, I hereunto set my hand and the Seal of said Court.



Kevin Stock, Pierce County Clerk



Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

DEC 06 1994

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AM DEC 6 1994 PM
PIERCE COUNTY WASHINGTON
TED RUTT COUNTY CLERK
BY _____ DEPUTY

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

STATE OF WASHINGTON,
Plaintiff,
vs.

CAUSE NO. 94-1-04921-8
INFORMATION

VICHAJ SALY,
Defendant.

CO-DEF: ROEUTH AN 94-1-04920-0

In 104 08129
DOB: 2/1/78 A/M SID#: UNK DOL#:
SS#: UNK

I, JOHN W. LADENBURG, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse ROEUTH AN and VICHAJ SALY of the crime of ASSAULT IN THE FIRST DEGREE, committed as follows:

That ROEUTH AN and VICHAJ SALY acting as accomplices to each other, in Pierce County, Washington, on or about the 2nd day of December, 1994, did unlawfully and feloniously with intent to inflict great bodily harm, assault Reginald Skinner with a firearm or deadly weapon or by any force or means likely to produce great bodily harm or death, contrary to RCW 9A.36.011(1)(a) and 9A.08.020, and against the peace and dignity of the State of Washington.

INFORMATION - 1

ORIGINAL

Office of Prosecuting Attorney
930 Tacoma Avenue South, Room 946
Tacoma, Washington 98402-2171
Main Office (206) 591-7400

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COUNT II

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse ROEUTH AN and VICHAI SALY of the crime of ASSAULT IN THE FIRST DEGREE, a crime of the same or similar character, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That ROEUTH AN and VICHAI SALY acting as accomplices to each other, in Pierce County, Washington, on or about the 2nd day of December, 1994, did unlawfully and feloniously with intent to inflict great bodily harm, assault Ondry Thompson with a firearm or deadly weapon or by any force or means likely to produce great bodily harm or death, contrary to RCW 9A.36.011(1)(a) and 9A.08.020, and against the peace and dignity of the State of Washington.

COUNT III

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse ROEUTH AN and VICHAI SALY of the crime of ASSAULT IN THE FIRST DEGREE, a crime of the same or similar character, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That ROEUTH AN and VICHAI SALY acting as accomplices to each other, in Pierce County, Washington, on or about the 2nd day of December, 1994, did unlawfully and feloniously with intent to inflict

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

94-1-04921-8

1
2 great bodily harm, assault Johnny Cash with a firearm or deadly weapon
3 or by any force or means likely to produce great bodily harm or death,
4 contrary to RCW 9A.36.011(1)(a) and 9A.08.020, and against the peace
5 and dignity of the State of Washington.

6 DATED this 6th day of December, 1994.

7
8 City Case
9 WA02703

JOHN W. LADENBURG
Prosecuting Attorney in and for
said County and State.

10 mj

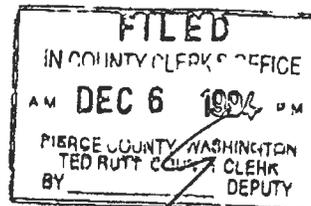
11 By: Gerald Costello
12 GERALD T. COSTELLO
13 Deputy Prosecuting Attorney
14 WSB #15738
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28 INFORMATION - 3

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

NO. 94-1-04921-8

AFFIDAVIT FOR DETERMINATION
OF PROBABLE CAUSE



STATE OF WASHINGTON)
County of Pierce) ss
County of Pierce)

Kitty-Ann van Doorninck, being first duly sworn on oath, deposes and says:

That she is a deputy prosecuting attorney for Pierce County and is familiar with the police report and/or investigation conducted by the Tacoma Police Department, case number 94-3360783;

That this case contains the following upon which this motion for the determination of probable cause is made:

That in Pierce County, Washington, on or about the 2nd day of December, 1994, the defendant, ROEUTH AN aka "Poke", did act as an accomplice in committing three counts of Assault in the First Degree. An was the driver of a white Monte Carlo which he drove northbound on Martin Luther King Way. At the intersection of MLK way and 5th, An slowed the car down, so that the front seat passenger, Vichai Saly aka "Sok" (16 years old) could aim a semi-automatic 9mm and fire 4 shots at three bicyclists, Reginald Skinner, Ondry Thompson, and Johnny Cash. Cash was struck by one of the bullets. As the car slowed, Saly yelled "What's up blood?" immediately before firing the rounds.

Skinner was able to give a detailed description of the shooter and identified Saly in a show-up with four other males. Several other witnesses observed the car and the shooter leaning out of the window to shoot at the three victims.

AFFIDAVIT FOR DETERMINATION
OF PROBABLE CAUSE - 1

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

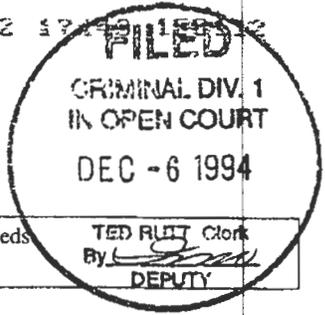
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After advisement and waiver of his rights, Saly admitted that he was the shooter and that it was in retaliation for an earlier drive-by shooting on the East Side. An admitted that he was the driver.

[Handwritten signature]

Acknowledged and sworn to before me this 5th day of December, 1994.

Michelle J. Jones
Notary Public in and for the State of Washington, residing at *Tacoma*
Commission Expires: 1-10-97



Superior District Municipal

Applicant Name Saly, Bichai Language Needs _____ TED RILEY Clerk By [Signature] DEPUTY

a.k.a. _____ 94-1-04921-8

- _____ (1) Felony - Class A+ _____ (5) Juvenile Felony A+ _____ (9) Dependency SEX M
- _____ (2) Felony - Class A _____ (6) Juvenile Felony A _____ (10) Civil Commitment
- _____ (3) Felony - Class B or C _____ (7) Juvenile Felony B or C _____ (11) Civil Contempt
- _____ (4) Misdemeanor _____ (8) Juvenile Misdemeanor _____ (12) Other (specify) _____ 4 yrs

Applicant's address 2506 C & G # 72 Tak WA 98405
 (Street) (City) (State) (Zip)

Applicant's Telephone (206) 383-7590 DOB 02-01-78 SS# _____

Occupation student Employer _____ Employed How Long? _____
 (Name) (Address) (Telephone)

Residing With Parents How long in Pierce County? 4 yrs

Family and/or community references: Romchuen + Veng Saly

Education/Training/Military (where and when) 9th grade

CHARGES	COURT	CAUSE #	DATE	TIME	TYPE
CO-DEFENDANTS (1)	(2)	(3)			
PRIOR ATTY	TALKED TO ATTY THIS CASE? WHO?	STILL REPRESENTING? YES <input type="checkbox"/> NO <input type="checkbox"/>			
PRIOR CONVICTIONS (OFFENSES/DATES)					

INTERVIEWER/DATE
AK 12/06/94

PROMISSORY NOTE \$

ASSIGNED TO:

II. Monthly Income

SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
 Certified By: Kevin Stock Pierce County Clerk, Washington

- a Monthly take-home pay \$ _____
- b Spouse's monthly take-home pay \$ _____
- c Contribution to defray basic living costs \$ _____
- d Interest, dividends, or other earnings \$ _____
- e Non-poverty based assistance (Unemployment, Social Security, etc.) \$ _____
- f Other income (specify) _____ \$ _____

D's parents supporting

TOTAL INCOME \$ 0

III. Support Obligations

Single Married _____ Separated _____ Divorced _____ Widowed _____
 Total Number of Dependents (include applicant) (1) If juvenile, does applicant live with parents N
 If Yes, Father's Name Veng Saly Mother's Name Romchuen Saly

(1 child - almost 1yr)

IV. Presumptive Eligibility (check all that apply)

- a Receives Public Assistance () AFDC () GAU: () Food Stamps () Medicaid: () SSI: () VA () Refugee Resettlement () Other specify _____
- b Committed to a public mental health facility
- c Annual income after taxes less than 125% of poverty level

(If Section IV, a,b, or c, applies, complete only Sections VIII, IX, and X below.)

V. Monthly Expenses (for applicant and dependents)

- a. Basic Living Expenses \$ _____
- b Court imposed obligations (specify) \$ _____
- c. Bail/Bond paid or anticipate (this offense) \$ _____
- d. Other (unusual) expenses (specify) \$ _____

SEE ABOVE

(Examples: medical bill, child care health insurance, child support, prior attorney fees, past due utility, rent, or mortgage payments, IRS payments, collection agency payments, union dues)

TOTAL EXPENSES \$ 0

VI. Total Income minus Total Expenses

DISPOSABLE NET MONTHLY INCOME \$ 0

VII. Liquid Assets

- a. Cash, savings, bank accounts (include joint accounts) Bank/Branch none \$ _____
- b Stocks, bonds, certificates of deposit \$ _____
- c. Equity in real estate \$ _____
- d Equity in motor vehicle not required for employment \$ _____
- e. Equity in additional Vehicles \$ _____
- f Personal property (boat, stereo, etc) \$ _____

no car
TOTAL LIQUID ASSETS \$ 0

VIII. Affidavit and Notification

I, _____ (print name) do hereby certify (or declare) under penalty of perjury under the Laws of the State of Washington that the foregoing is true and correct (RCW 9A 72 085) By my signature below I authorize the court or its designee to verify all information provided here Verification may include a credit report I further swear to immediately report any change in financial status to the court. I understand if bail is imposed in this matter or if my financial condition changes I may request a re-determination

Signed VICHAI SAIY Date 12-6-94 Place Sup Ct.

IX. Determination of Indigency

- a. Disposable Net Monthly Income \$ 0
- b Total Liquid Assets + \$ 0
- c **Total Available Funds** (a plus b) = \$ 1500 ?
- d. Anticipated Cost of Counsel \$ _____

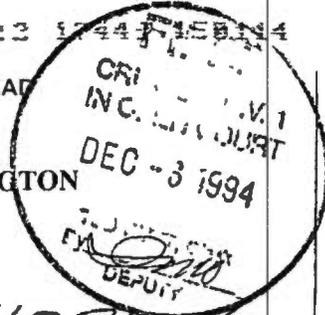
Other Considerations:

If (c) is zero (0) or less, person is INDIGENT. _____ If (c) is greater than (d), person is NOT INDIGENT.
 _____ If (c) is greater than zero (0) but less than (d), person is INDIGENT AND ABLE TO CONTRIBUTE

X. Finding Indigent _____ Not Indigent _____ Indigent and Able to Contribute _____

Assessment \$ _____

Judge or Judge's Designee JK Title PTS



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

STATE OF WASHINGTON,
Plaintiff,
vs.
Sally, Vicki Defendant.

NO. 94-1-04921-8
NOTICE TO LAW ENFORCEMENT
AUTHORITIES

TO: Pierce County Prosecuting Attorney, City of Tacoma Police Department, Pierce County Sheriff's Office, Washington State Patrol, any agents of the foregoing and (other) _____

YOU ARE PUT ON NOTICE THAT

1. The undersigned asserts his/her right to remain silent pursuant to Washington and Federal Law
2. The undersigned asserts his/her right to assistance of counsel pursuant to Washington and Federal Law
3. The undersigned does not wish to discuss or make statements of any kind regarding any subject matter, including, but not limited to, statements pertaining to any alleged or suspected criminal activity
4. The undersigned demands legal counsel to be present during any and all contacts by police authorities and/or their agents
5. The undersigned does not at any time desire to discuss waiver of any legal rights except in writing in the presence of legal counsel.
6. The undersigned is indigent.
7. The undersigned has requested representation and is represented at this time and until further notice by the Department of Assigned Counsel, 949 Market Street, Tacoma, Washington, 591-6062
8. The undersigned further requests that all future contacts be made only through his/her defense counsel

DATED: 12/6/94 VICKI SALLY
Defendant

NOTICE IS FURTHER GIVEN THAT the Department of Assigned Counsel, 949 Market Street, Tacoma, WA, business hours phone (206) 591-6062, after hours phone (206) 383-6875, hereby demands to be present during any and all contacts between the above-named defendant and any law enforcement/prosecution authorities and/or their agents

DATED: 12/6/94 [Signature]
Department of Assigned Counsel

DECLARATION OF SERVICE

The undersigned declares under penalty of the laws of the State of Washington that he/she is over the age of 18 years, and personally served a true copy of the above notice on (name) P-C-P-A- of (agency) _____ at _____ a.m./p.m. on (date) _____ and that said person(s) is known by the affiant to be a representative, employee or agent of said agency

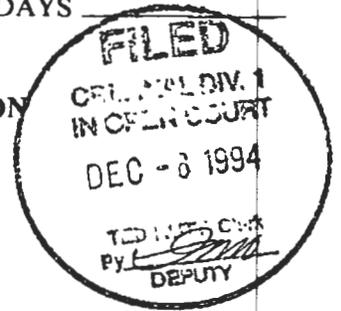
Date 12/6/94 [Signature]
Department of Assigned Counsel

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

60 DAYS _____

90 DAYS _____

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



STATE OF WASHINGTON

Plaintiff,

NO. 94-1-04921-8

vs.

VICHAI SALY

**ORDER TO APPEAR FOR
PRE-TRIAL HEARING**

Defendant(s).

The above named defendant is ordered to appear:

Date:

Time:

Room #:

County City-Building
Tacoma, Washington 98402

12-20-94

9:00 am

560

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At this time, your trial date and any other mandatory appearances will be set.

- Defendant will be represented by Department of Assigned Counsel (DAC);
- Defendant will hire own attorney who will appear on above date.

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

DATED:

12-6-94

[Signature]
JUDGE

COPY RECEIVED:

Defendant:

VICHAI SALY

Date: _____

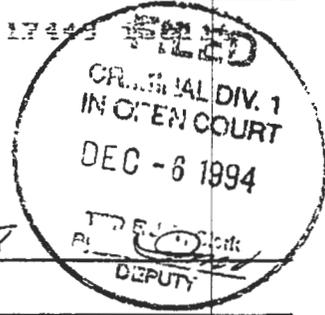
Attorney for Defendant:

MES 25878

Attorney for Plaintiff:

CAS 22294

Case Number: 94-1-04921-8 Date: February 7, 20
SerialID: 2B007E06-274E-4F55-93FC5-986B0FEAD
IN THE SUPERIOR COURT OF WASHINGTON
COUNTY OF PIERCE



STATE OF WASHINGTON,

Saly, Vickai
vs
Defendant

CAUSE: *94-1-04921-8*

CHARGE: *act. 10-30tc*

[] True Name: _____

[X] ARRAIGN [] EVIHRG (3.5, SUPPRESS) [] SENTHRG [] GPOH (PLEA) [] GPSH (PLEA & SENT) [] MTHRG (ALL OTHER)

State represented by: *Chaire Sussman* *2-1-1998* [X] Defendant appeared [X] In custody, Defendant represented by: *Mark Sutter*

[X] Defendant answers to true name as charged [X] Served with true copy of information [] Amended [] Read in open court
[X] Reading waived [X] Advised of civil and constitutional rights [] Released on PR [] Bail \$ *150.00* [] Other _____
[] Referred to TASC [] R.W.A. [X] DAC appointed [] NARC order signed [] Special Conditions _____

Notice to Law Enforcement Authorities - filed.

Defendant: [] stipulates to. [] denies violations. [] Court accepts stipulation [] Court finds defendant [] guilty [] not guilty of violations.

[] Court dismisses violations. [X] Court finds probable cause and schedules Revocation Hearing before Judge _____

Department No _____ Date _____ [] Disposition hearing scheduled before Judge _____

Department No _____ Disposition date: _____ at _____ am/pm

PLEA: [] Guilty [] Statement on plea of guilty signed [X] Not Guilty [] 60/90 - day rule waived Return date _____

[X] Set for trial date *Dec. 20-1994 9:00AM Rm 560* [] Omnibus hearing date _____ [] Presentence report requested/waived

[] Personal questionnaire to defendant [] Other _____

SENTENCING: It is the judgment and sentence of the Court that the defendant is guilty as charged and be sentenced to:

[] PCDC for _____ months/days [] with credit for _____ months/days served [] DOC for _____ months/years

Court finds: [] 1st time offender [] SOSA [] Exceptional sentence [] Other _____

[] Imposition of sentence suspended/deferred for _____ months/years on the following conditions:

[] _____ Hours Community Service [] _____ Months Community Supervision

Other _____

SPECIAL CONDITIONS: [] Costs \$ _____ [] CVPA \$ _____ DAC \$ _____ [] Fine \$ _____

[] PSCO/TPD/Other Drug Fund \$ _____ [] Restitution \$ _____ [] TBD by later order [] Other _____

[] Presence waived at signing of Judgment & Sentence by [] Defendant [] Defense Counsel

[] Judgment & Sentence signed in presence of [] Defendant [] Defense Counsel [] Defendant's fingerprints taken

[] Prints taken [] Advised of right to appeal [] Guilty verdict [] exceptional sentence

FREDERICK W. FLEMING
JUDGE

EVELYN PETERSON
COURT REPORTER

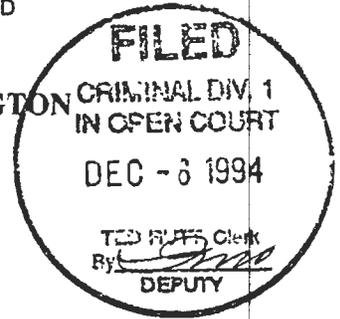
T. O'ROURKE
Deputy Clerk
JUDICIAL ASSISTANT

TUE DEC - 6 1994

DEPT *CD-1-RM 560* JOURNAL NO. _____ YEAR _____ PAGE _____

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

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



STATE OF WASHINGTON,
Plaintiff,
vs.
VICHAI SALY
Defendant.

NO. 94-1-04921-8
ORDER ESTABLISHING CONDITIONS
OF RELEASE PENDING TRIAL
PURSUANT TO CrR 3.2

ASLT 1 3x
WA02703

IT IS HEREBY ORDERED that the above-named defendant shall be released from the County Jail pending trial on the following conditions pursuant to CrR 3.2;

- On personal recognizance.
- The court having determined that such recognizance will not reasonably assure the presence of the defendant when required, imposes the following conditions:
 - To the supervision of _____
 - Travel, residence or associations are restricted as follows:
 - To reside only at _____
 - Travel restricted to Pierce, King, Thurston and Kitsap Counties.
 - On execution of an unsecured appearance bond in the amount of \$ _____
 - On execution of an appearance bond in the amount of \$ _____ and deposit in court in cash or other approved security 10 per cent thereof.
 - On execution of a surety bond or posting of cash in the amount of \$ 150,000⁰⁰
 - That the defendant return to custody during the hours of _____
 - That the defendant have no personal contact with the complaining witness or witnesses.

WHITE-SUPERIOR COURT CANARY-DEPARTMENT COPY PINK-JAIL GOLDENROD-ASSIGNED COUNCIL

ORDER ESTABLISHING CONDITIONS
OF RELEASE PENDING TRIAL - 1

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC57C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

That the defendant have no violation of the criminal laws of this state, any other state, any political subdivision of this state or any other state, or the United States, during the period of his release.

Remain in contact with defense attorney.

Attachment of additional conditions of release.

The said defendant is hereby committed to the custody of the arresting law enforcement agency to be detained by same until the above-stated conditions of release have been met.

DATED this 6th day of Dec., 1994.

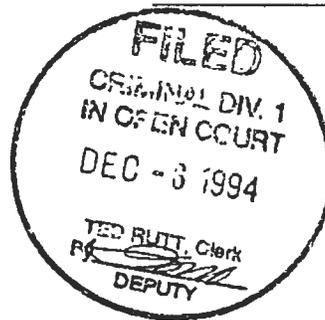
[Signature]
JUDGE

I agree and promise to appear before this court or any other place as this court may order upon notice delivered to me at my address stated below or upon notice to my attorney. I agree to appear for any court date set by my attorney and I give my attorney full authority to set such dates. I understand that my failure to appear for any type of court appearance will be a breach of these conditions of release and a bench warrant may be issued for my arrest. I further agree and promise to keep my attorney and the office of Prosecuting Attorney informed of any change of either my address or my telephone number.

I have read the above conditions of release and any other conditions of release that may be attached. I agree to follow said conditions and understand that a violation will lead to my arrest. FAILURE TO APPEAR AFTER HAVING BEEN RELEASED ON PERSONAL RECOGNIZANCE IS AN INDEPENDENT CRIME, PUNISHABLE BY 5 YEARS IMPRISONMENT OR \$10,000, OR BOTH (RCW 10.19).

Address: _____ Phone: _____

MICHAEL SALLY
DEFENDANT



DATE

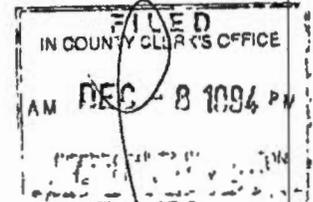
WHITE-SUPERIOR COURT CANARY-DEPARTMENT COPY PINK-JAIL GOLDENROD-ASSIGNED COUNCIL

5/18/2012 17443 158119

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

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

ASSLT 1



The State of Washington,

Plaintiff,

vs.

NO. 94-1-04921-8

NOTICE OF APPEARANCE

VICHAJ SALLY,

Defendant.

To the State of Washington, by and through the Pierce County Prosecuting Attorney.

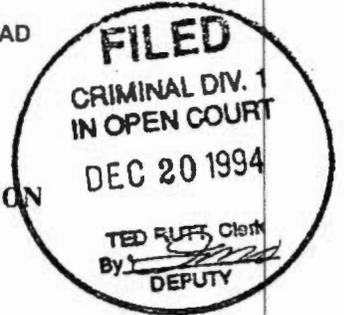
Please take notice that the above-named defendant hereby appears in the above-entitled action by and through
his appointed counsel LINDA R. SULLIVAN WSBA #12043

Dated this 7TH day of DECEMBER, 19 94



JOHN H. HILL
Director of Assigned Counsel
945 Market Street
Tacoma, Washington 98402

5 DEC - 9 1994



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

STATE OF WASHINGTON

Plaintiff,

NO. 94-1-04921-8

vs.

**SCHEDULING CONFERENCE ORDER
SETTING TRIAL DATE, OMNIBUS
HEARING AND**

Vichai Saly

Defendant(s)

The State and defendant having personally appeared before the court this date and the court having determined this case be classified for trial setting purposes under Differentiated Case Management (DCM) as:

A _____ (0-30 days), B (30-120 days), or C _____ (60-150 days), D _____ (other).

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant(s):

Omnibus hearing on: _____

1-5-95 PT
(Date)

9 AM
(Time)

Trial on: _____

1-30-95 PT
(Date)

9 AM
(Time)

[] _____ on: _____

(Date)

(Time)

[] _____ on: _____

(Date)

(Time)

[] _____ on: _____

(Date)

(Time)

2. The defendant(s) personally be present at these hearings and report to.

Criminal Division 1, Room 560.
 Criminal Division 2, Room 550.

Address 5th Floor
County-City Building
Tacoma, Washington 98402

Estimated length of trial: _____ Estimated length of hearings: _____

ARRAIGNMENT DATE: _____

NUMBER OF DAYS BEFORE TRIAL: _____

WAIVER ATTACHED? [] Yes [] No

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

DATED: 12-20-94

COPY RECEIVED:

[Signature]
JUDGE

Defendant: VICHAI SALY

Date: _____

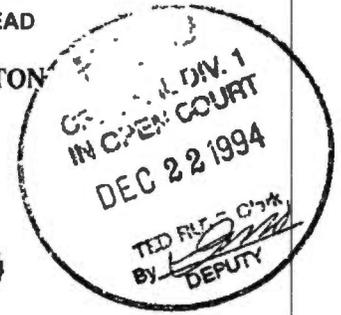
Attorney for Defendant: [Signature] #12043

Attorney for Plaintiff: WM Hurley #12802

Case Number: 94-1-04921-8 Date: February 7, 20
SerialID: 2B007E06-274E-4F55-93FC 86B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

ASLT 1

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



6 DEC 22 1994

The State of Washington,

Plaintiff,

vs.

VICHAI SALY,

Defendant.

NO. 94-1-04921-8

ORDER FOR WITHDRAWAL AND
SUBSTITUTION OF APPOINTED
COUNSEL

ORDER

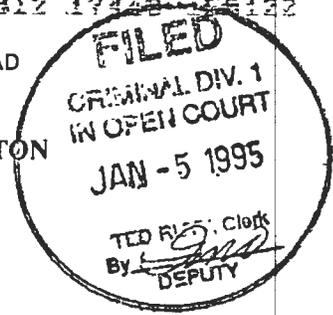
This matter having come on before the undersigned judge of the above-entitled court upon the application of John H. Hill, Pierce County Director of Assigned Counsel, and the court being fully advised, now, therefore,

IT IS HEREBY ORDERED that LINDA R. SULLIVAN WSBA #12043
be withdrawn as appointed counsel for the defendant herein, and that JOHN HICKMAN WSBA #08274
be substituted in his/her stead to act as counsel for the defendant herein.

Done in open court this 22 day of DECEMBER, 19 94

[Handwritten Signature]
JUDGE

Presented by:
John H. Hill
Director of Assigned Counsel



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

STATE OF WASHINGTON

Plaintiff,

NO. 94-1-04921-8

vs.

ORDER ON OMNIBUS HEARING
CHARGE

Vichai

TRIAL DATE: Jan 30 95

Sally

Defendant.

THIS MATTER having come before the court for an omnibus hearing, the state represented by:

Doug AMU

- defendant present and represented by Jan R. Blickman
- defendant not present, but represented by _____
- it is ORDERED that a waiver of the defendant's presence be filed
by _____, or a Bench

Warrant will be issued now, therefore,

IT IS ORDERED:

1. Regarding CUSTODIAL STATEMENTS by defendant:
 - No custodial statements will be offered in the State's case in chief, or in rebuttal.
 - The statements of defendant will be offered in the State's case in rebuttal only.
 - The statements referred to in the State's omnibus application will be offered and:
 - May be admitted into evidence without a pre-trial hearing, by stipulation of the parties.
 - A pre-trial hearing shall be held and is estimated to require _____ (mins./hrs.).
2. Regarding SUPPRESSION OF PHYSICAL EVIDENCE:
 - No motion to suppress physical evidence is involved.
 - The motion to suppress physical evidence as outlined defendant's omnibus application is to be set for hearing and will require 30 (mins./hrs.).
3. Regarding SUPPRESSION OF IDENTIFICATION:
 - No motion to suppress identification is involved.
 - The motion to suppress identification as outlined in defendant's omnibus application is to be set for hearing and will require _____ (mins./hrs.).

4. If the defendant testifies at trial, the prior record of convictions as outlined in the State's omnibus application will will not be acknowledged by this with the following exceptions, if any _____
 ~~Yes~~ prior convictions are known at this time; State is to advise by _____ of any (other) known prior convictions.
2 x 7M RWD
2 x VUCSA

5. Respective counsel are ordered to exchange.
NAMES, ADDRESSES, KNOWN CONVICTION OF WITNESSES;
WRITTEN STATEMENTS OR WRITTEN SUMMARIES OF ANTICIPATED TESTIMONY OF WITNESSES, including EXPERT REPORTS and TEST RESULTS, if any; and
MAKE AVAILABLE FOR INSPECTIONS ALL PHYSICAL AND DEMONSTRATIVE EVIDENCE
By 1-17-15

State is ordered to provide police follow-up reports, if any, By as received by PPA
6. Defendant is ordered to state general nature of defense by general denial
7. Rulings on additional motions are 3.5 Suppression

8. No additional motions are anticipated, except _____

9. Trial hearing on the MOTION(S) 3.5; suppress; suppress ID; dismiss
 other _____
is set for Jan 29 95 at 900 (am/pm) before criminal motion judge.
 trial department; Other _____

Affidavits and briefs of the moving party must be served and filed (with copy to criminal motion department) by _____; Responsive brief by _____. The hearing will last about _____ (mins./hrs.).
10. The trial will be jury non-jury, last about 4.5 days.

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

11. Other matters: Defence briefs
Jan 17 95

DONE IN OPEN COURT this 5 day of January, 19 95.

[Signature]
JUDGE

APPROVED

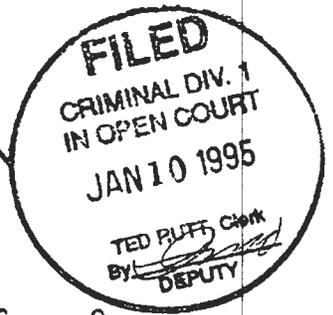
[Signature] 11850
Deputy Prosecuting Attorney

[Signature]
Defense Attorney

I approve my attorney's actions as indicated by this Order and I specifically agree with the computation of time under Criminal Rule 3.3 (the 60-90 day trial rule).

X VICHAI SALY
Defendant





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

STATE OF WASHINGTON

Plaintiff,

NO. 94-1-04921-8

vs.

Vichai Saly

SCHEDULING CONFERENCE ORDER
SETTING TRIAL DATE, OMNIBUS
HEARING AND

Defendant(s).

JAN 10 1995

The State and defendant having personally appeared before the court this date and the court having determined this case be classified for trial setting purposes under Differentiated Case Management (DCM) as:

A _____ (0-30 days), B _____ (30-120 days), or C _____ (60-150 days), D _____ (other).

IT IS HEREBY ORDERED that.

1 The following court dates are set for the defendant(s):

- [] Omnibus hearing on: _____ (Date) _____ (Time);
- [] Trial on. _____ (Date) _____ (Time);
- plea on. 1-13-95 (Date) 11:30 (Time);
- [] _____ on. _____ (Date) _____ (Time);
- [] _____ on. _____ (Date) _____ (Time);

2. The defendant(s) personally be present at these hearings and report to: Criminal Division 1, Room 560. Criminal Division 2, Room 550.

Address: 5th Floor
County-City Building
Tacoma, Washington 98402

Estimated length of trial: _____ Estimated length of hearings: _____

ARRAIGNMENT DATE: _____;

NUMBER OF DAYS BEFORE TRIAL: _____;

WAIVER ATTACHED? [] Yes [] No

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

DATED: 1/10/95

COPY RECEIVED:

Thomas Bluff
JUDGE

Defendant: _____ Date: _____

Attorney for Defendant: approved & ready by J.H.

Attorney for Plaintiff: Doug [Signature] 1/8/95



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

JAN 13 1995

STATE OF WASHINGTON,

Plaintiff,

vs.

VICHAI SALY,

Defendant.

CAUSE NO. 94-1-04921-8
AMENDED INFORMATION

I, JOHN W. LADENBURG, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse VICHAI SALY of the crime of ASSAULT IN THE SECOND DEGREE, committed as follows:

That VICHAI SALY, in Pierce County, Washington, on or about the 2nd day of December, 1994, did unlawfully and feloniously assault Reginald Skinner with a deadly weapon, to-wit: a gun, contrary to RCW 9A.36.021(1)(c), and against the peace and dignity of the State of Washington.

COUNT II

And I, JOHN W. LADENBURG, Prosecuting Attorney aforesaid, do accuse VICHAI SALY of the crime of ASSAULT IN THE SECOND DEGREE, a crime of the same or similar character, and/or so closely connected in

AMENDED INFORMATION - 1

ORIGINAL

94-1-04921-8

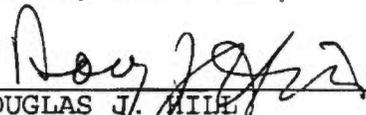
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place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

That VICHAI SALY, in Pierce County, Washington, on or about the 19th day of August, 1994, did unlawfully and feloniously intentionally and without permission of George Cole, the owner and person entitled to the possession thereof, take or drive away a motor vehicle, or with knowledge that such motor vehicle had been unlawfully taken, did voluntarily ride in and upon such motor vehicle, contrary to RCW 9A.56.070(1), and against the peace and dignity of the State of Washington.

DATED this 10th day of January, 1995.

JOHN W. LADENBURG
Prosecuting Attorney in and for
said County and State.

By: 
DOUGLAS J. HILL
Deputy Prosecuting Attorney
WSB #11850

mj

AMENDED INFORMATION - 3

FILED
CRIMINAL DIV 2
IN OPEN COURT
JAN 13 1995
TED RUT, Clerk
By MM
DEPUTY

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,)
)
) Plaintiff,)
)
) vs.)
) Victor Laly,)
))
) Defendant.)
)

NO. 94-1-04921-8
PROSECUTOR'S STATEMENT
RE: AMENDED INFORMATION

JAN 13 1995

The State requests the Court consider accepting a plea to the filing of an amended information pursuant to RCW 9.94A.090 for the following reasons:

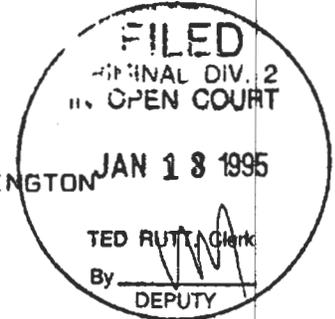
- difficulty in proving the intent to kill, particularly
as to each of the 3 victims

The victim has/has not been notified.

DATE:

Day [Signature]
Deputy Prosecuting Attorney

PROSECUTOR'S STATEMENT



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

STATE OF WASHINGTON,
Plaintiff,
vs.
VICHAI SALY,
Defendant.

CAUSE NO. 94-1-04921-8

WARRANT OF COMMITMENT

- 1) County Jail
- 2) Dept. of Corrections
- 3) Other - Custody

JAN 13 1995

THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

FILED
94-1-04921-8
CRIMINAL DIV. 2
IN OPEN COURT
JAN 13 1995
TED RUTT Clerk
By: *[Signature]*
DEPUTY

[] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 1/13/95

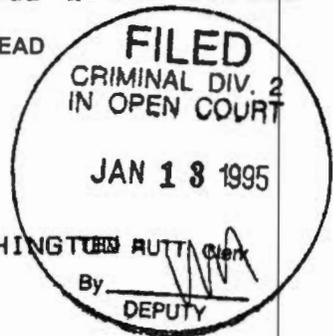
By direction of the Honorable
Vicki L. Hogan
JUDGE VICKI L. HOGAN

TED RUTT
Sandy Dyppa
By: _____
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF
Date JAN 13 1995 By Sandy Dyppa Deputy

STATE OF WASHINGTON, County of Pierce
ss: I, Ted Rutt, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this _____ day of _____, 19____.

TED RUTT, Clerk
By: _____ Deputy



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

STATE OF WASHINGTON,
Plaintiff,
vs.
VICHAI SALY,
Defendant.

CAUSE NO. 94-1-04921-8
JUDGMENT AND SENTENCE
(FELONY)

DOB: 2/1/78
SID NO.: WA15863558
LOCAL ID:

JAN 13 1995

I. HEARING

- 1.1 A sentencing hearing in this case was held on 4/13/95.
- 1.2 The defendant, the defendant's lawyer, JOHN HICKMAN, and the deputy prosecuting attorney, DOUGLAS J. HILL, were present. *John M. News for*

II. FINDINGS

There being no reason why judgment should not be pronounced, the court

FINDS:

2.1 CURRENT OFFENSES(S): The defendant was found guilty on January 1995 by

plea jury-verdict bench trial of:

Count No.: I
Crime: ASSAULT IN THE SECOND DEGREE, Charge Code: (E28)
RCW: 9A.36.021(1)(c)
Date of Crime: 12/2/94
Incident No.: TPD 94 336 0783

Count No.: II
Crime: ASSAULT IN THE SECOND DEGREE, Charge Code: (E28)
RCW: 9A.36.021(1)(c)
Date of Crime: 12/2/94
Incident No.: SAME

JUDGMENT AND SENTENCE
(FELONY) - 1

ENTERED
JUDGMENT #

95-9-00361-9

94-1-04921-8

Count No.: III
Crime: ASSAULT IN THE SECOND DEGREE, Charge Code: (E28)
RCW: 9A.36.021(1)(c)
Date of Crime: 12/2/94
Incident No.: SAME

Count No.: IV
Crime: TAKING A MOTOR VEHICLE WITHOUT PERMISSION,
Charge Code: (HHHS)
RCW: 9A.36.070(1)
Date of Crime: 8/19/94
Incident No.: TPD 94 231 0082

- Additional current offenses are attached in Appendix 2.1.
- A special verdict/finding for use of deadly weapon was returned on Count(s).
- A special verdict/finding of sexual motivation was returned on Count(s).
- A special verdict/finding of a RCW 69.50.401(a) violation in a school bus, public transit vehicle, public park, public transit shelter or within 1000 feet of a school bus route stop or the perimeter of a school grounds (RCW 69.50.435).
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400(1)):

2.2 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360):

<u>Crime</u>	<u>Sentencing Date</u>	<u>Adult or Juv. Crime</u>	<u>Date of Crime</u>	<u>Crime Type</u>
TMVWP	5/28/92	JUVI	4/27/92	
TMVWP	8/6/92	JUVI	7/14/92	
VUCSA	1/5/93	JUVI	1/5/93	
VUCSA	11/17/93	JUVI	11/17/93	

- Additional criminal history is attached in Appendix 2.2.

JUDGMENT AND SENTENCE
(FELONY) - 2

94-1-04921-8

Prior convictions served concurrently and counted as one offense in determining the offender score are (RCW 9.94A.360(11)):

2.3 SENTENCING DATA:

	Offender Score	Seriousness Level	Range Months	Maximum Years
Count No. I:	7	IV	43-57 mos	10yrs/\$20,000
Count No. II:	7	IV	43-57 mos	10yrs/\$20,000
Count No. III:	7	IV	43-57 mos	10yrs/\$20,000
Count No. IV:	5	I	4-12 mos	5yrs/\$10,000

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE:

Substantial and compelling reasons exist which justify a sentence above below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4.

2.5 RESTITUTION:

Restitution will not be ordered because the felony did not result in injury to any person or damage to or loss of property.
 Restitution should be ordered. A hearing is set for _____.
 Extraordinary circumstances exist that make restitution inappropriate. The extraordinary circumstances are set forth in Appendix 2.5.

2.6 ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS: The court has considered the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court specifically finds that the defendant has the ability to pay:

- no legal financial obligations.
- the following legal financial obligations:
 - crime victim's compensation fees.
 - court costs (filing fee, jury demand fee, witness costs,

JUDGMENT AND SENTENCE
(FELONY) - 3

94-1-04921-8

- sheriff services fees, etc.)
- county or interlocal drug funds.
- court appointed attorney's fees and cost of defense.
- fines.
- other financial obligations assessed as a result of the felony conviction.

A notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender, if a monthly court-ordered legal financial obligation payment is not paid when due and an amount equal to or greater than the amount payable for one month is owed.

2.7 SPECIAL FINDINGS PURSUANT TO RCW 9.94A.120:

- The defendant is a first time offender (RCW 9.94A.030(20)) who shall be sentenced under the waiver of the presumptive sentence range pursuant to RCW 9.94A.120(5).
- The defendant is a sex offender who is eligible for the special sentencing alternative under RCW 9.94A.120(7)(a). The court has determined, pursuant to RCW 9.94A.120(7)(a)(ii), that the special sex offender sentencing alternative is appropriate.

III. JUDGMENT

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

3.2 The court DISMISSES.

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 LEGAL FINANCIAL OBLIGATIONS. Defendant shall pay to the Clerk of this Court:

\$ _____, Restitution to:

JUDGMENT AND SENTENCE
(FELONY) - 4

94-1-04921-8

- 1
- 2
- 3 \$ 110, Court costs (filing fee, jury demand fee, witness
- 4 costs, sheriff service fees, etc.);
- 5 \$ 100, Victim assessment;
- 6 \$ _____, Fine; [] VUCSA additional fine waived due to
- 7 indigency (RCW 69.50.430);
- 8 \$ _____, Fees for court appointed attorney;
- 9 \$ _____, Washington State Patrol Crime Lab costs;
- 10 \$ _____, Drug enforcement fund of _____;
- 11 \$ _____, Other costs for: _____;
- 12 \$ 210, TOTAL legal financial obligations [] including
- 13 restitution [] not including restitution.

13 Payments shall not be less than \$ _____ per month. Payments shall

14 commence on AS SET BY LLD.

15 [] Restitution ordered above shall be paid jointly and severally with:

Name	Cause Number
_____	_____
_____	_____

17 The defendant shall remain under the court's jurisdiction and the

18 supervision of the Department of Corrections for a period up to ten

19 years from the date of sentence or release from confinement to assure

20 payment of the above monetary obligations.

21 Any period of supervision shall be tolled during any period of time the

22 offender is in confinement for any reason.

23 Defendant must contact the Department of Corrections at 755 Tacoma

24 Avenue South, Tacoma upon release of by _____.

25 [] Bond is hereby exonerated.

26
27
28 JUDGMENT AND SENTENCE
(FELONY) - 5

94-1-04921-8

4.2 CONFINEMENT OVER ONE YEAR: The court imposes the following sentence:

(a) CONFINEMENT: Defendant is sentenced to following term of total confinement in the custody of the Department of Corrections commencing IMMEDIATELY.

- 43 months on Count No. I concurrent consecutive
- 43 months on Count No. II concurrent consecutive
- 43 months on Count No. III concurrent consecutive
- 9 months on Count No. IV concurrent consecutive

Actual number of days of total confinement ordered is: 1305

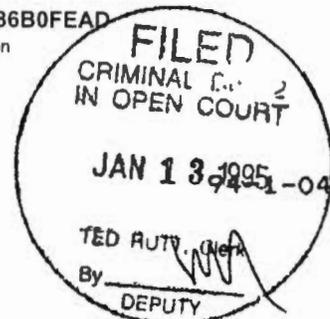
This sentence shall be concurrent consecutive with the sentence in _____;

Credit is given for 42 days served;

(b) COMMUNITY PLACEMENT (RCW 9.94A.120(8)(b)). The defendant is sentenced to community placement for one year two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer. The terms of community placement shall include the following conditions:

- (i) The defendant shall report to and be available for contact with the assigned community corrections officer as directed.
- (ii) The defendant shall work at Department of Corrections-approved education, employment and/or community service.
- (iii) The defendant shall not consume controlled substances except pursuant to lawfully issued prescriptions.
- (iv) The defendant shall not unlawfully possess controlled substances while in community custody.
- (v) The defendant shall pay supervision fees as determined by the Department of Corrections.

OTHER SPECIAL CONDITIONS AND CRIME RELATED PROHIBITIONS:



NO [initials] (circled)

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

(d) DNA TESTING. The defendant shall have a blood sample drawn for purpose of DNA identification analysis. The Department of Corrections shall be responsible for obtaining the sample prior to the defendant's release from confinement. (RCW 43.43.754)

[] PURSUANT TO 1993 LAWS OF WASHINGTON, CHAPTER 419, IF THIS OFFENDER IS FOUND TO BE A CRIMINAL ALIEN ELIGIBLE FOR RELEASE AND DEPORTATION BY THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, SUBJECT TO ARREST AND REINCARCERATION IN ACCORDANCE WITH THIS LAW, THEN THE UNDERSIGNED JUDGE AND PROSECUTOR CONSENT TO SUCH RELEASE AND DEPORTATION PRIOR TO THE EXPIRATION OF THE SENTENCE.

EACH VIOLATION OF THIS JUDGMENT AND SENTENCE IS PUNISHABLE BY UP TO 60 DAYS OF CONFINEMENT. (RCW 9.94A.200(2)).

ANY DEFENDANT CONVICTED OF A SEX OFFENSE MUST REGISTER WITH THE COUNTY SHERIFF FOR THE COUNTY OF THE DEFENDANT'S RESIDENCE WITHIN 24 HOURS OF DEFENDANT'S RELEASE FROM CUSTODY. RCW 9A.44.130.

PURSUANT TO RCW 10.73.090 AND 10.73.100, THE DEFENDANT'S RIGHT TO FILE ANY KIND OF POST SENTENCE CHALLENGE TO THE CONVICTION OR THE SENTENCE MAY BE LIMITED TO ONE YEAR.

Date: 1/13/95

Vicki L. Hogan
JUDGE
VICKI L. HOGAN

Presented by:

Approved as to form:

[Signature]
Deputy Prosecuting Attorney
WSB # 21322

[Signature]
Lawyer for Defendant
WSB # 824

SENTENCE OVER ONE YEAR - 2

FINGERPRINTS

Right Hand
Fingerprint(s) of: VICHAI SALY, Cause #94-1-04921-8

Attested by: Tea Dutt CLERK
By: DEPUTY CLERK ~~Valeri Mendez~~ Valeri Mendez Date: ~~1/3/95~~ 1/13/95

CERTIFICATE

OFFENDER IDENTIFICATION

I, _____
Clerk of this Court, certify that
the above is a true copy of the
Judgment and Sentence in this
action on record in my office.

State I.D. #WA15863558

Date of Birth 2/1/78

Sex MALE

Dated: _____

Race ASIAN

CLERK

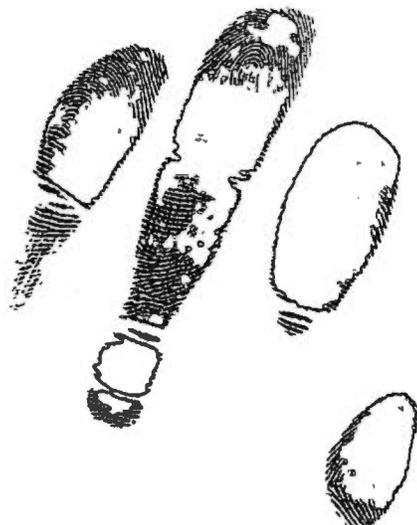
ORI _____

By: _____
DEPUTY CLERK

OCA _____

OIN _____

DOA _____



FINGERPRINTS

Case Number: 94-1-04921-8 Date: February 7, 20

Serial ID: 10015062745-000000010086B0FEAD

Certified By: [Signature] Pierce County Clerk, Washington

**SUPERIOR COURT OF WASHINGTON
FOR PIERCE COUNTY**

**CRIMINAL DIV. 2
IN OPEN COURT**

JAN 1 3 1995

THE STATE OF WASHINGTON,

Plaintiff

TED RUTT, Clerk
By [Signature]
DEPUTY

NO.

30 94-1-04921-8

vs.

**STATEMENT OF DEFENDANT ON
PLEA OF GUILTY**

PN _____

Vichai Saly

Defendant.

JAN 1 3 1995

1. My true name is Vichai Saly
2. My age is 21/78
3. I went through the 9 grade
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
I have the right to be represented by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is John R. HICKMAN

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:

- (a) The right to a speedy trial and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me.
- (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty.
- (f) The right to appeal a determination of guilt after a trial.

6. I am charged with the following: Assault 20

Count I Assault 20

Elements: In Pierce County on 12/2/94 def. did unlawfully with intent to inflict bodily injury assault Reginald Skinner with a firearm or acting as an accomplice with Roenthan.

Maximum Penalty 0-10 YRS Standard Range 43-57

Count II

ASSULT 2nd

Elements:

Same as one; victim ONDRY THOMPSON

Maximum Penalty

0-10 yrs

Standard Range

43-57 mo

Count III

Elements:

Same as count one but victim Johnny Cash

Maximum Penalty

0-10

Standard Range

43-57 mo

7. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) The standard sentencing range is based on the crime I am pleading guilty to and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes juvenile court convictions as follows. convictions for sex offenses, any class A juvenile felony only if I was 15 or older at the time the juvenile offense was committed, any class B and C juvenile felony convictions only if I was 15 or older at the time the juvenile offense was committed and I was less than 23 years old when I committed the crime to which I am now pleading guilty.
- (b) The prosecuting attorney's statement of my criminal history for sentencing is as follows:

5/28/92	TMVWOP	All Jury cases
8/6/92	"	"
1/5/93	VUCSA	"
11/17/93	" "	"

Unless I attach a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced I am obligated to tell the sentencing judge about those convictions

- (c) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this crime is binding on me. I cannot change my mind even if additional criminal history is discovered and even though the standard sentencing range and the prosecuting attorney's recommendation increase

(Handwritten signature/initials)

+ See 2nd page 2-4 counts

Case Number: 94-1-04921-8 Date: February 7, 2000
Serial# 2B007E06, 274E-4F55-93FC, 986B0FEAD
Controlled By: Kevin S. O'Connell, Pierce County Clerk, Washington

Count II - Count II Taking Motor Vehicle without Owner's

Elements: permission

def. that on or about 8/19/94 in
Pierce county took a motor vehicle with intent to deprive
owner of said vehicle or knowing vehicle was stolen did
steal in said vehicle.

Maximum Penalty 0-5 yrs Standard Range 9-12 mo

Count III

Elements:

Maximum Penalty ~~0-5 yrs~~ Standard Range

7. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

- (a) The standard sentencing range is based on the crime I am pleading guilty to and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes juvenile court convictions as follows: convictions for sex offenses, any class A juvenile felony only if I was 15 or older at the time the juvenile offense was committed, any class B and C juvenile felony convictions only if I was 15 or older at the time the juvenile offense was committed and I was less than 23 years old when I committed the crime to which I am now pleading guilty.
- (b) The prosecuting attorney's statement of my criminal history for sentencing is as follows:

Unless I attach a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced I am obligated to tell the sentencing judge about those convictions

- (c) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this crime is binding on me. I cannot change my mind even if additional criminal history is discovered and even though the standard sentencing range and the prosecuting attorney's recommendation increase.

Case Number: 94-1-04921-8 Date: February 7, 2000
SerialID: 2B007E06-274E-4F55-93FC-1C086B0FEAD

Certified By: Kevin Stock Pierce County Clerk, Washington

(d) In addition to sentencing me to confinement within the standard range, the judge will order me to pay \$100 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration up to \$50 per day. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.

(e) The prosecuting attorney will make the following recommendations to the judge:

(1) Standard range rec. on assault 2° counts 1-3
to run concurrent (2) standard range rec. on TMVP to
run concurrent with assault 2°
(3) low end of standard range, 43 mos DOC,
1yr comm. supervision, PVA test, 110 cost,
100 CVPA, fine at discretion of court.

[] The prosecuting attorney will make the recommendations set forth in the plea agreement which is incorporated herein by reference.

(f) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard sentencing range unless the judge finds substantial and compelling reasons not to do so. If the judge goes above or below the standard sentence range, either I or the State can appeal that sentence. If the sentence is within the standard sentence range, no one can appeal the sentence.

(g) I understand that if I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

8 IF ANY OF THE FOLLOWING BOXED PARAGRAPHS DO NOT APPLY THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE

<p>(a) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9 94A 030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training, and to maintain law abiding behavior.</p>	
<p>(b) I am being sentenced for two or more violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.</p>	
<p>(c) The crime of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence.</p>	

Case Number: 94-1-04921-8 Date: February 7, 2012

Serial ID: 2B007E06-274E-4F55-93FC-1C086B0FEAD

Certified By: Kevin Stock Pierce County Clerk, Washington

<p>(d) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge.</p>
<p>(e) In addition to confinement, the judge will sentence me to community placement for at least one year. During the period of community placement I will be under the supervision of the Department of Corrections and I will have restrictions placed on my activities.</p>
<p>(f) Because this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis.</p>
<p>(g) Because this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.</p>
<p>(h) Because this crime involves a sex offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release. If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections. If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 10 days of establishing my new residence. If I change my residence to a new county within this state, I must register with the sheriff of the new county and notify the sheriff of the county where I last registered, both within 10 days of establishing my new residence.</p>

9 I plead guilty to the crime(s) of Assault 2^o 3 counts TMVWOP 1 count
 as charged in the Amended information I have received a copy of the information.

10. I make this plea freely and voluntarily.

11 No one has threatened any harm to me or to any other person to cause me to enter this plea

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

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

TMVWOP: I WAS in motor vehicle in Pierce Count on or about
the 19th day of Aug. 1994 knowing the same to be stolen
ASSULT 2^o 3 counts I acted as an accomplice
with Roluth An in assaulting Reginald Skinner
Orndy Thompson & Johnny Cash with a firearm.

Case Number: 94-1-04921-8 Date: February 7, 1995
SerialID: 2B007E06-274E-4F55-93FC510986B0FEAD

- 14. Pursuant to RCW 10.73.090 and 10.73.100, I understand that my right to file any kind of post sentence challenge to the conviction or the sentence may be limited to one year
- 15. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask of the judge.

VICKHAI SALY
Defendant

FILED
CRIMINAL DIV 2
IN OPEN COURT
JAN 18 1995
TED RUMM Clerk
By _____
DEPUTY

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

John R. Hedeman
Attorney for Defendant

John M. Stutz 21322
Deputy Prosecuting Attorney

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that:

- (a) The defendant had previously read, or
- (b) The defendant's lawyer had previously read to him or her, or
- (c) An interpreter had previously read the entire statement above and that the defendant understood it in full.

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

DATED 1/13/95

Vicki L. Hogan
Judge VICKI L. HOGAN

*I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language which the defendant understands, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19____.

Interpreter

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Created By: Kevin Stock Pierce County Clerk, Washington
IN THE SUPERIOR COURT OF WASHINGTON
COUNTY OF PIERCE

FILED
CRIMINAL DIV. 2
IN OPEN COURT
JAN 13 1995
TED RUTK
By [Signature]
DEPUTY

STATE OF WASHINGTON,

Sally, Vickie vs
Defendant

CAUSE: 94 1 04921 8

CHARGE: Aslt 1 (3)

[] True Name: _____

[] ARRAIGN [] EVIHRG (3, 5, SUPPRESS) [] SENTHRG [] GPOH (PLEA) [] GPSE (PLEA & SENT) [] MTHRG (ALL OTHER)

State represented by: J. Nees [] Defendant appeared [] In custody, Defendant represented by: X. Heiman
[] Defendant answers to true name as charged [] Served with true copy of information Aslt 2 (3) / TMU WOP [] Amended [] Read in open court
[] Reading waived [] Advised of civil and constitutional rights [] Released on PR [] Bail \$ _____ [] Other _____
[] Referred to TASC [] R.W A _____ [] DAC appointed [] NARC order signed [] Special Conditions _____

Defendant [] stipulates to [] denies violations [] Court accepts stipulation. [] Court finds defendant [] guilty [] not guilty of violations.

[] Court dismisses violations. [] Court finds probable cause and schedules Revocation Hearing before Judge _____

Department No _____ Date _____ [] Disposition hearing scheduled before Judge R. M. 560

Department No ED1 Disposition date. _____, 19 95 at 9:00 am/pm

PLEA: [] Guilty [] Statement on plea of guilty signed [] Not Guilty [] 60/90 - day rule waived Return date _____

[] Set for trial date _____ [] Omnibus hearing date _____ [] Presentence report requested/waived

[] Personal questionnaire to defendant [] Other _____

SENTENCING: It is the judgment and sentence of the Court that the defendant is guilty as charged and be sentenced to:

[] PCDCC for _____ months/days [] with credit for 42 months/days served [] DOC for 43 months/years CHI, II, III

Court finds [] 1st time offender [] SOSA [] Exceptional sentence [] Other 9 CH IV

[] Imposition of sentence suspended/deferred for _____ All counts concurrent months/years on the following conditions

[] _____ Hours Community Service [] _____ 12 Months Community Supervision Placement

Other DNA Testing

SPECIAL CONDITIONS: [] Costs \$ 11000 [] CVPA \$ 10000 DAC \$ _____ [] Fine \$ _____

[] PSCO/TPD/Other Drug Fund \$ _____ [] Restitution \$ _____ [] TBD by later order [] Other _____

[] Presence waived at signing of Judgment & Sentence by [] Defendant [] Defense Counsel

[] Judgment & Sentence signed in presence of [] Defendant [] Defense Counsel [] Defendant's fingerprints taken

[] Prints taken [] Advised of right to appeal [] Guilty verdict [] exceptional sentence

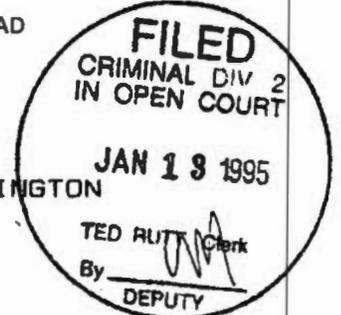
VICKI L. HOGAN
JUDGE

ALAN CAMPBELL
COURT REPORTER

VALERIE MEADE
DEPUTY CLERK
JUDICIAL ASSISTANT

DEPT _____ JOURNAL NO _____ YEAR _____ PAGE _____

31 JAN 13 1995



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

STATE OF WASHINGTON,

Plaintiff,

vs.

VICHAI SALY,

Defendant.

CAUSE NO. 94-1-04921-8

ORDER FOR BLOOD SAMPLE
DRAW FOR DNA
IDENTIFICATION ANALYSIS

JAN 13 1995

On the motion of the State of Washington, represented by Pierce County Deputy Prosecuting Attorney DOUGLAS J. HILL, the Court order the defendant VICHAI SALY, who is represented by counsel JOHN HICKMAN, to submit to a blood draw to be used for DNA identification analysis.

Pursuant to SSB No. 6729, defendant, having been convicted after July 1, 1990, of:

TYPE OF OFFENSE

A felony sex offense as defined by RCW 9.94A.030(29)(a),

and/or

A violent offense as defined by RCW 9.94A.030(35)(a), shall:

94-1-04921-8
CRIMINAL DIV.
IN OPEN COURT
JAN 13 1995
TED RUTTA Clerk
By [Signature]
DEPUTY

PLACE TO BE TESTED

- (Out-of-Custody) report immediately to the Pierce County Jail for a blood sample draw; or
- (In-Custody) submit to the blood sample draw by Department of Corrections.
- (In-Custody) one year or less and submit to blood sample draw by the Pierce County Jail.

DONE IN OPEN COURT this 13 day of JAN, 1995.

[Signature]
J U D G VICKI L. HOGAN

Presented by:

[Signature]
DOUGLAS J. HILL
Deputy Prosecuting Attorney

Approved as to Form:

[Signature]
JOHN HICKMAN
Attorney for Defendant

mj

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington



Pierce County

Office of the County Clerk

930 Tacoma Avenue South, Room 110
Tacoma, Washington 98402-2177
(253) 798-7455 • FAX (253) 798-3428

TED RUTT
Clerk of the Superior Court and
Director of Arbitration

December 22, 1999

MEMORANDUM

SARUN CHHUM
10927 SE 223RD #D
KENT, WA 98031

Re Pierce County Cause No 94-1-04821-8

STATE OF WASHINGTON vs VICHAI SALY

FROM: TED RUTT, Clerk of the Superior Court

SUBJECT: PAYMENT METHOD FOR CRIMINAL CASES

Effective July 1, 1988, the Clerk of the Superior Court Will no longer accept payment of the legal financial obligations by personal check in criminal case matters This action is being taken in response to Substitute House Bill No. 1424, Sec 2, Para 10, which requires that the Clerk of the Superior Court shall disburse funds to victims prior to any payment for other penalties

In the best interest of proper accounting procedures and to ensure timely crediting of obligations, all payments made toward criminal obligations after July 1, 1988, must be made by mail with a money order or cashier's check or in person by cash Any payments received after the above date in the form of personal checks will be returned to the sender for replacement with one of the above acceptable forms of payment. Please do not send cash through the mail.

NOTE: PAYMENTS MUST BE MADE PAYABLE TO PIERCE COUNTY CLERK



(pymtmthd lfo)

Sarun Chhum
(253) 852-7976
10927 SE 223rd #d
Kent, WA 98031

Date 12/16/99

107

Pay to the Order of STATE OF WASHINGTON DPT. OF Correction \$ 210.00

Two hundred ten and 00/100 Dollars



VALUED CLIENT SINCE 1996

23rd & Pacific Branch 021501 J
7250 Pacific Ave. S
Tacoma, WA 98408 19-2/1250

For Saly Vichai 732654

Chhum Sarun

⑆ 25000024⑆ 91129 304⑆ 1079

Case Number: 94-1-04921-8 Date: February 7, 2000
SerialID: 2B007E06-274E-4F55-93FC5-86B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

5

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
DIVISION OF COMMUNITY CORRECTIONS

Report to: HONORABLE V. HOGAN *12/21/00* Date: 11/12/2000

Name: VICHAJ SALY Number: 732654

Cause: PIERCE 941049218 *(A7)*

Crime: ASSAULT 2
TAK MTR VEH W/O ONR PRM

Sentence: MONETARY

Date of Sentence: 01/13/1995

Termination date: 06/19/2007

Location:
APT L
3430 RAINIER AVE S
SEATTLE, WA 98144

Status: ACTIVE-FLD

Classification: OMB

FILED
DEPT. 5
IN DISTRICT COURT
DEC 21 2000
Pierce County Clerk
By: *[Signature]*
DEPUTY

===== REQUEST FOR DISCHARGE 7 =====

I. FINANCIAL:

A. Legal Financial Obligations (LFOs) Assessed			
\$	110.00	Court Costs	\$ 100.00
\$.00	Restitution	\$.00
\$.00	Attorney Fees	\$.00
\$.00	Other	\$.00
		Victim Compensation	\$ 100.00
		Fines	\$.00
		Drug Fund	\$.00

TOTAL \$210.00 plus interest

B. Cost of Supervision (COS) Assessed

TOTAL \$.00

C. Date of last payment 10/31/2000 (LFO) and (COS)

D. Amount owed \$0.00 (LFO) and \$.00 (COS)

II. COMMUNITY SERVICE HOURS:

1. Number of hours ordered 0
2. Satisfactory completion date
 - A. Date of last contribution
3. Number of hours completed

All sentence requirements have been completed or previously addressed by the court.

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

Name: VICHAI SALY

Number: 732654
Cause: PIERCE 941049218

RECOMMENDATION:

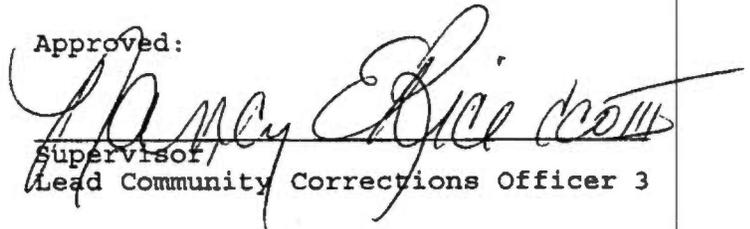
The court sign the attached Certificate and Order of Discharge.

Submitted by:



Community Corrections Office
LAKEWOOD OMMU
10918 BRIDGEPORT WAY SW
WT-07
LAKEWOOD, WA 98499-3500

Approved:



Supervisor
Lead Community Corrections Officer 3

Distribution:

Original: Court
cc: Defense Attorney
Presentation Officer
Prosecuting Attorney
File

Case Number: 94-1-04921-8 Date: February 7, 2018
SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD
Certified By: Kevin Stock Pierce County Clerk, Washington

732654: :LAKEWOOD OMB..

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

STATE OF WASHINGTON

Plaintiff

versus

Defendant

Cause: 941049218 (A)

CERTIFICATE AND ORDER OF DISCHARGE

VICHAI SALY
DOC: 732654

THIS MATTER having come on regularly before the above-entitled Court pursuant to RCW 9.94A.220, the Court having been notified by the Secretary of the Department of Corrections or his designee that the above-named defendant has completed the requirements of his/her sentence, and there appearing to be no reason why the defendant should not be discharged, and the Court having reviewed the records and file herein, and being fully advised in the premises, Now, Therefore,

IT IS HEREBY CERTIFIED that the defendant has completed the requirements of the sentence imposed and that all court-ordered monetary obligations, including any assessed interest, have been met to the Court's satisfaction.

IT IS HEREBY ORDERED, that this document be considered a satisfaction of judgment and that the defendant be DISCHARGED from the confinement and supervision of the Secretary of the Department of Corrections.

IT IS FURTHER ORDERED, that the defendant's civil rights lost by operation of law upon conviction be HEREBY RESTORED. This restoration of civil rights specifically may not include the right to ship, transport, possess or receive firearms. Legal advice should be obtained.

DONE IN OPEN COURT this _____ day of _____, 20____.

HONORABLE

Presented by:

Deputy Prosecuting Attorney

Distribution:

Original: Court
cc: Prosecuting Attorney
Defendant
File

732654 : LAKEWOOD

002086 2679

Case Number: 04-1949218 Date: February
SerialID: 2B007E06-274E-4F55-93 C986B0FEAD

Certified By: Kevin Stock Pierce County Clerk, Washington

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

STATE OF WASHINGTON

Plaintiff

versus

Defendant

Cause: 941049218 (A)

CERTIFICATE AND ORDER OF DISCHARGE

VICHAI SALY
DOC: 732654

THIS MATTER having come on regularly before the above-entitled Court pursuant to RCW 9.94A.220, the Court having been notified by the Secretary of the Department of Corrections or his designee that the above-named defendant has completed the requirements of his/her sentence, and there appearing to be no reason why the defendant should not be discharged, and the Court having reviewed the records and file herein, and being fully advised in the premises, Now, Therefore,

IT IS HEREBY CERTIFIED that the defendant has completed the requirements of the sentence imposed and that all court-ordered monetary obligations, including any assessed interest, have been met to the Court's satisfaction.

IT IS HEREBY ORDERED, that this document be considered a satisfaction of judgment and that the defendant be DISCHARGED from the confinement and supervision of the Secretary of the Department of Corrections.

IT IS FURTHER ORDERED, that the defendant's civil rights lost by operation of law upon conviction be HEREBY RESTORED. This restoration of civil rights specifically may not include the right to ship, transport, possess or receive firearms. Legal advice should be obtained.

DONE IN OPEN COURT this _____ day of 1/3/01, 20____.

HONORABLE

Presented by:

[Signature]
Deputy Prosecuting Attorney

Distribution:

- Original: Court
- cc: Prosecuting Attorney
- Defendant
- File

3 JAN 05 2001

FILED
IN COUNTY CLERK'S OFFICE
AM JAN 05 2001 PM.
PIERCE COUNTY WASHINGTON
TED RUTT, COUNTY CLERK
BY _____ DEPUTY

State of Washington, County of Pierce ss: I, Kevin Stock, Clerk of the
aforementioned court do hereby certify that this foregoing instrument is
a true and correct copy of the original now on file in my office.
IN WITNESS WHEREOF, I herunto set my hand and the Seal of said
Court this 07 day of February, 2018



Kevin Stock, Pierce County Clerk

By /S/Rebecca Ahquin, Deputy.

Dated: Feb 7, 2018 12:33 PM



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

<https://linxonline.co.pierce.wa.us/linxweb/Case/CaseFiling/certifiedDocumentView.cfm>,
enter SerialID: 2B007E06-274E-4F55-93FC51C986B0FEAD.

This document contains 48 pages plus this sheet, and is a true and correct copy of the original that is of record in the Pierce County Clerk's Office. The copy associated with this number will be displayed by the Court.

APPENDIX "B"

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

STATE OF WASHINGTON,
Respondent,
v.
VICHAI SALY
Petitioner.

NO. 94-1-04921-8
DECLARATION OF COUNSEL

The undersigned, being first duly sworn upon oath, declares:

1. I am an attorney licensed to practice in the State of Washington and currently employed by the Pierce County Prosecutor's Office.
2. I am the deputy assigned to work on the response brief in this matter.
3. I have been advised by Raelene Semago, presently the Managing Court Reporter for the Pierce County Superior Court that the transcript of petitioner's January 13, 1994 plea and sentence hearing is not available because the court reporter's notes were destroyed in 2009 pursuant to law.

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



Mark von Wahlde
January 11, 2018
Tacoma, Washington

APPENDIX "C"

**CERTIFIED
COPY**

FILED
KING COUNTY, WASHINGTON
SEP 20 2013
SUPERIOR COURT...
BY STEPHANIE WALTON
DEPUTY

COPY TO COUNTY JAIL SEP 23 2013

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

Vs.

VICHAI SALY

Defendant,

No. 03-C-00863-⁶KNT

Amended
JUDGMENT AND SENTENCE
FELONY (FJS)

*Nunc Pro Tunc
to 6/29/2005*

I. HEARING

I.1 The defendant, the defendant's lawyer, Marvin McCoy, and the deputy prosecuting attorney were present at the sentencing hearing conducted today. Others present were: Det. Ron Carrigan

II. FINDINGS

There being no reason why judgment should not be pronounced, the court finds:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 05/26/2005 by jury verdict of:

Count No.: <u>I</u>	Crime: <u>Murder in the First Degree</u>
RCW <u>9A.32.030(1)(a) and (c)</u>	Crime Code: <u>00128</u>
Date of Crime: <u>03/31/2003</u>	Incident No. _____
Count No.: _____	Crime: _____
RCW _____	Crime Code: _____
Date of Crime: _____	Incident No. _____
Count No.: _____	Crime: _____
RCW _____	Crime Code: _____
Date of Crime: _____	Incident No. _____
Count No.: _____	Crime: _____
RCW _____	Crime Code: _____
Date of Crime: _____	Incident No. _____

[] Additional current offenses are attached in Appendix A

SPECIAL VERDICT or FINDING(S):

- (a) While armed with a firearm in count(s) 1 RCW 9.94A.533(3).
- (b) While armed with a deadly weapon other than a firearm in count(s) _____ RCW 9.94A.533(4).
- (c) With a sexual motivation in count(s) _____ RCW 9.94A.835.
- (d) A V.U.C.S.A offense committed in a protected zone in count(s) _____ RCW 69.50.435.
- (e) Vehicular homicide Violent traffic offense DUI Reckless Disregard.
- (f) Vehicular homicide by DUI with _____ prior conviction(s) for offense(s) defined in RCW 46.61.5055, RCW 9.94A.533(7).
- (g) Non-parental kidnapping or unlawful imprisonment with a minor victim. RCW 9A.44.128, .130.
- (h) Domestic violence as defined in RCW 10.99.020 was pled and proved for count(s) _____.
- (i) Current offenses encompassing the same criminal conduct in this cause are count(s) _____ RCW 9.94A.589(1)(a).
- (j) Aggravating circumstances as to count(s) _____: _____

2.2 OTHER CURRENT CONVICTION(S): Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): _____

2.3 CRIMINAL HISTORY: Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.525):

- Criminal history is attached in Appendix B.
- One point added for offense(s) committed while under community placement for count(s) _____

2.4 SENTENCING DATA:

Sentencing Data	Offender Score	Seriousness Level	Standard Range	Enhancement	Total Standard Range	Maximum Term
Count 1	6	XV	312 to 416	60 Months	372 to 476 Months	Life and/or \$50,000

- Additional current offense sentencing data is attached in Appendix C.

2.5 EXCEPTIONAL SENTENCE

- Findings of Fact and Conclusions of Law as to sentence above the standard range:
 - Finding of Fact: The jury found or the defendant stipulated to aggravating circumstances as to Count(s) _____.
 - Conclusion of Law: These aggravating circumstances constitute substantial and compelling reasons that justify a sentence above the standard range for Count(s) _____. The court would impose the same sentence on the basis of any one of the aggravating circumstances.
- An exceptional sentence above the standard range is imposed pursuant to RCW 9.94A.535(2) (including free crimes or the stipulation of the defendant). Findings of Fact and Conclusions of Law are attached in Appendix D.
- An exceptional sentence below the standard range is imposed. Findings of Fact and Conclusions of Law are attached in Appendix D.

The State did did not recommend a similar sentence (RCW 9.94A.480(4)).

III. JUDGMENT

IT IS ADJUDGED that defendant is guilty of the current offenses set forth in Section 2.1 above and Appendix A.

- The Court DISMISSES Count(s) _____

IV. ORDER

IT IS ORDERED that the defendant serve the determinate sentence and abide by the other terms set forth below.

4.1 RESTITUTION, VICTIM ASSESSMENT, AND DNA FEE:

- Defendant shall pay restitution to the Clerk of this Court as set forth in attached Appendix E.
- Defendant shall not pay restitution because the Court finds that extraordinary circumstances exist, and the court, pursuant to RCW 9.94A.753(5), sets forth those circumstances in attached Appendix E.
- Restitution to be determined at future restitution hearing on (Date) _____ at _____ m.
- Date to be set.
- Defendant waives right to be present at future restitution hearing(s).
- Restitution is not ordered.

Defendant shall pay Victim Penalty Assessment in the amount of \$500 (RCW 7.68.035 - mandatory).
Defendant shall pay DNA collection fee in the amount of \$100 (RCW 43.43.7541 - mandatory).

4.2 OTHER FINANCIAL OBLIGATIONS: Having considered the defendant's present and likely future financial resources, the Court concludes that the defendant has the present or likely future ability to pay the financial obligations imposed. The Court waives financial obligation(s) that are checked below because the defendant lacks the present and future ability to pay them. Defendant shall pay the following to the Clerk of this Court:

- (a) \$ _____, Court costs (RCW 9.94A.030, RCW 10.01.160); Court costs are waived;
- (b) \$ _____, Recoupment for attorney's fees to King County Public Defense Programs (RCW 9.94A.030); Recoupment is waived;
- (c) \$ _____, Fine; \$1,000, Fine for VUCSA; \$2,000, Fine for subsequent VUCSA (RCW 69.50.430); VUCSA fine waived;
- (d) \$ _____, King County Interlocal Drug Fund (RCW 9.94A.030); Drug Fund payment is waived;
- (e) \$ _____, \$100 State Crime Laboratory Fee (RCW 43.43.690); Laboratory fee waived;
- (f) \$ _____, Incarceration costs (RCW 9.94A.760(2)); Incarceration costs waived;
- (g) \$ _____, Other costs for: _____

4.3 PAYMENT SCHEDULE: The TOTAL FINANCIAL OBLIGATION set in this order is \$ 500.00. Plus Restitution
 Restitution may be added in the future. The payments shall be made to the King County Superior Court Clerk according to the rules of the Clerk and the following terms: Not less than \$ _____ per month;
 On a schedule established by the defendant's Community Corrections Officer or Department of Judicial Administration (DJA) Collections Officer. Financial obligations shall bear interest pursuant to RCW 10.82.090. The Defendant shall remain under the Court's jurisdiction to assure payment of financial obligations: for crimes committed before 7/1/2000, for up to ten years from the date of sentence or release from total confinement, whichever is later; for crimes committed on or after 7/1/2000, until the obligation is completely satisfied. Pursuant to RCW 9.94A.7602, if the defendant is more than 30 days past due in payments, a notice of payroll deduction may be issued without further notice to the offender. Pursuant to RCW 9.94A.760(7)(b), the defendant shall report as directed by DJA and provide financial information as requested.
 Court Clerk's trust fees are waived.
 Interest is waived except with respect to restitution.

4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: immediately; (Date): _____ by _____m.

372 months/~~on~~ on count I; _____ months/days on count _____; _____ months/day on count _____
_____ months/days on count _____; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts _____ are consecutive concurrent.

The above terms shall run consecutive concurrent to cause No.(s) _____

The above terms shall run consecutive concurrent to any previously imposed sentence not referred to in this order.

In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: 60 months

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98.)

The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles.)

The TOTAL of all terms imposed in this cause is 432 months.

Credit is given for time served in King County Jail or EHD solely for confinement under this cause number pursuant to RCW 9.94A.505(6): _____ day(s) or days determined by the King County Jail.
 For nonviolent, nonsex offense, credit is given for days determined by the King County Jail to have been served in the King County Supervised Community Option (Enhanced CCAP) solely under this cause number.
 For nonviolent, nonsex offense, the court authorizes earned early release credit consistent with the local correctional facility standards for days spent in the King County Supervised Community Option (Enhanced CCAP).

4.5 NO CONTACT: For the maximum term of Life years, defendant shall have no contact with Sherron Oney, John Goodale, Nathan S. (Eric)

4.6 DNA TESTING. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing, as ordered in APPENDIX G.

HIV TESTING: The defendant shall submit to HIV testing as ordered in APPENDIX G.
RCW 70.24.340.

4.7 (a) COMMUNITY CUSTODY for qualifying crimes committed before 7-1-2000, is ordered for one year (for a drug offense, assault 2, assault of a child 2, or any crime against a person where there is a finding that defendant or an accomplice was armed with a deadly weapon); 18 months (for any vehicular homicide or for a vehicular assault by being under the influence or by operation of a vehicle in a reckless manner); two years (for a serious violent offense).

(b) COMMUNITY CUSTODY for any SEX OFFENSE committed after 6-5-96 but before 7-1-2000, is ordered for a period of 36 months.

(c) **COMMUNITY CUSTODY** - for qualifying crimes committed after 6-30-2000 is ordered for the following established range or term:

Sex Offense, RCW 9.94A.030 - 36 months—when not sentenced under RCW 9.94A.507

Serious Violent Offense, RCW 9.94A.030 - 36 months

--- If crime committed prior to 8-1-09, a range of 24 to 36 months.

Violent Offense, RCW 9.94A.030 - 18 months

Crime Against Person, RCW 9.94A.411 or Felony Violation of RCW 69.50/52 - 12 months

If crime committed prior to 8-1-09, a range of 9 to 12 months.

_____ months (applicable mandatory term reduced so that the total amount of incarceration and community custody does not exceed the maximum term of sentence).

Sanctions and punishments for non-compliance will be imposed by the Department of Corrections or the court.

APPENDIX H for Community Custody conditions is attached and incorporated herein.

APPENDIX J for sex offender registration is attached and incorporated herein.

4.8 **WORK ETHIC CAMP:** The court finds that the defendant is eligible for work ethic camp, is likely to qualify under RCW 9.94A.690 and recommends that the defendant serve the sentence at a work ethic camp. Upon successful completion of this program, the defendant shall be released to community custody for any remaining time of total confinement, subject to the conditions set out in Appendix H.

4.9 **ARMED CRIME COMPLIANCE, RCW 9.94A.475, 480.** The State's plea/sentencing agreement is attached as follows:

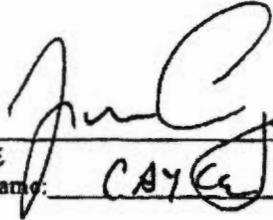
The defendant shall report to an assigned Community Corrections Officer upon release from confinement for monitoring of the remaining terms of this sentence.

Date: _____

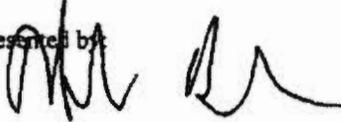
9/20/13

JUDGE

Print Name: _____


CAYCE

Presented by:

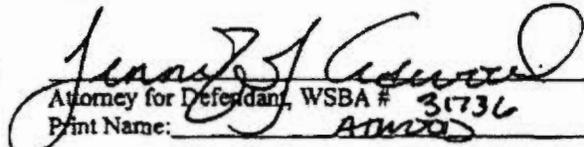


Deputy Prosecuting Attorney, WSBA# _____

Print Name: _____

20420
Hayden Barber

Approved as to form:


Attorney for Defendant, WSBA # 31736
Print Name: ATWOOD

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

VICHAI SALY

Defendant,

No. 03-C-00863-⁶KNT

JUDGMENT AND SENTENCE,
(FELONY) - APPENDIX B,
CRIMINAL HISTORY

2.2 The defendant has the following criminal history used in calculating the offender score (RCW 9.94A.525):

Crime	Sentencing Date	Adult or Juv. Crime	Cause Number	Location
Assault 2	01/13/1995	Adult	941049218	Pierce Co
Assault 2	01/13/1995	Adult	941049218	Pierce Co
Assault 2	01/13/1995	Adult	941049218	Pierce Co

[] The following prior convictions were counted as one offense in determining the offender score (RCW 9.94A.525(5)):

Date:

9/20/13

JUDGE, KING COUNTY SUPERIOR COURT

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

VICHAJ SALY

Defendant,

No. 03-C-00863-⁶SKNT

APPENDIX G
ORDER FOR BIOLOGICAL TESTING
AND COUNSELING

(1) DNA IDENTIFICATION (RCW 43.43.754):

The Court orders the defendant to cooperate with the King County Department of Adult Detention, King County Sheriff's Office, and/or the State Department of Corrections in providing a biological sample for DNA identification analysis. The defendant, if out of custody, shall promptly call the King County Jail at 296-1226 between 8:00 a.m. and 1:00 p.m., to make arrangements for the test to be conducted within 15 days.

(2) HIV TESTING AND COUNSELING (RCW 70.24.340):

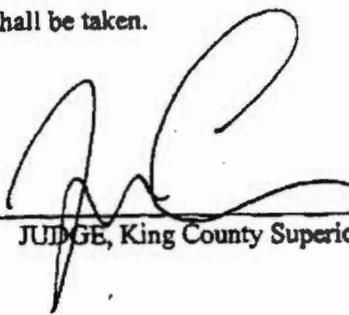
(Required for defendant convicted of sexual offense, drug offense associated with the use of hypodermic needles, or prostitution related offense.)

The Court orders the defendant contact the Seattle-King County Health Department and participate in human immunodeficiency virus (HIV) testing and counseling in accordance with Chapter 70.24 RCW. The defendant, if out of custody, shall promptly call Seattle-King County Health Department at 205-7837 to make arrangements for the test to be conducted within 30 days.

If (2) is checked, two independent biological samples shall be taken.

Date:

9/20/13



JUDGE, King County Superior Court

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

vs.

VICHAJ SALY

Defendant,

No. 03-C-00863-8 KNT

JUDGMENT AND SENTENCE
APPENDIX H
COMMUNITY CUSTODY

The Defendant shall comply with the following conditions of community custody, effective as of the date of sentencing unless otherwise ordered by the court.

- 1) Report to and be available for contact with the assigned community corrections officer as directed;
- 2) Work at Department of Corrections-approved education, employment, and/or community restitution;
- 3) Not possess or consume controlled substances except pursuant to lawfully issued prescriptions;
- 4) Pay supervision fees as determined by the Department of Corrections;
- 5) Receive prior approval for living arrangements and residence location; and
- 6) Not own, use, or possess a firearm or ammunition. (RCW 9.94A.706)
- 7) Notify community corrections officer of any change in address or employment;
- 8) Upon request of the Department of Corrections, notify the Department of court-ordered treatment;
- 9) Remain within geographic boundaries, as set forth in writing by the Department of Corrections Officer or as set forth with SODA order.

The defendant shall not consume any alcohol.

Defendant shall have no contact with: _____

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

The court finds that the defendant has a chemical dependency (alcohol other substance) that has contributed to his or her offense. Treatment is reasonably related to the circumstances of this crime and reasonably necessary or beneficial to the defendant and the community. (RCW 9.94A.607) Therefore, the defendant shall participate in the following treatment:

The defendant shall comply with the following crime-related prohibitions:

Other conditions may be imposed by the court or Department during community custody.

Community Custody shall begin upon completion of the term(s) of confinement imposed herein, or at the time of sentencing if no term of confinement is ordered. The defendant shall remain under the supervision of the Department of Corrections and follow explicitly the instructions and conditions established by that agency. The Department may require the defendant to perform affirmative acts deemed appropriate to monitor compliance with the conditions and may issue warrants and/or detain defendants who violate a condition.

Date: 9/20/13

JUDGE 

FINGERPRINTS



RIGHT HAND
FINGERPRINTS OF:

DEFENDANT'S SIGNATURE: Vichai Saly
DEFENDANT'S ADDRESS: D.O.C.

VICHAJ SALY

DATED: 9/20/13
[Signature]
JUDGE, KING COUNTY SUPERIOR COURT

ATTESTED BY: BARBARA MINER,
SUPERIOR COURT CLERK
BY: [Signature]
DEPUTY CLERK

CERTIFICATE

I, _____,
CLERK OF THIS COURT, CERTIFY THAT
THE ABOVE IS A TRUE COPY OF THE
JUDGEMENT AND SENTENCE IN THIS
ACTION ON RECORD IN MY OFFICE.
DATED: _____

OFFENDER IDENTIFICATION

S.I.D. NO. WA15863558
DOB: FEBRUARY 1, 1978
SEX: M
RACE: A

CLERK

BY: _____
DEPUTY CLERK

STATE OF WASHINGTON } ss.
County of King

I, BARBARA MINER, Clerk of the Superior Court of the State of Washington, for the County of King, do hereby certify that I have compared the foregoing copy with the original instrument as the same appears on file and of record in my office, and that the same is a true and perfect transcript of said original and of the whole thereof IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Superior Court at my office at Seattle this _____ day of _____ 20 **FEB 07 2018**

BARBARA MINER, Superior Court Clerk

By _____

Deputy Clerk



PIERCE COUNTY PROSECUTING ATTORNEY

February 08, 2018 - 4:06 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 50884-2
Appellate Court Case Title: Personal Restraint Petition of Vichai Saly
Superior Court Case Number: 94-1-04921-8

The following documents have been uploaded:

- 508842_Personal_Restraint_Petition_20180208160538D2185698_4165.pdf
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