

FILED
Court of Appeals
Division II
State of Washington
10/15/2018 10:53 AM
No. 51558-0-II

COURT OF APPEALS, DIVISION II
STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

vs.

SHAWN DEE MORGAN,

Appellant.

On Appeal from the Pierce County Superior Court
Cause No. 16-1-03330-1
The Honorable John Hickman, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

STEPHANIE C. CUNNINGHAM
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I. SUPPLEMENTAL ASSIGNMENT OF ERROR

Appellant's Judgment and Sentence contains cost provisions that are no longer authorized after enactment of House Bill 1783.

II. SUPPLEMENTAL ISSUE PERTAINING TO THE ASSIGNMENT OF ERROR

Should Appellant's case be remanded to the trial court to amend the Judgment and Sentence to strike cost provisions that are no longer authorized after enactment of House Bill 1783?

III. SUPPLEMENTAL STATEMENT OF THE CASE

Shawn Dee Morgan was sentenced on February 23, 2018. (A copy of the Judgment and Sentence is attached in the Appendix) The trial court imposed the then-mandatory \$500.00 crime victim assessment fee, \$100.00 DNA database collection fee, and \$200.00 criminal filing fee. (CP 102) The Judgment and Sentence also includes a provision stating that "[t]he financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full[.]" (CP 103) The trial court found that Morgan did not have the financial resources to pay for his appeal and signed an Order of Indigency. (CP 139-40)

II. SUPPLEMENTAL ARGUMENT & AUTHORITIES

Engrossed Second Substitute House Bill 1783, 65th Leg., Reg. Sess. (Wash. 2018) (House Bill 1783) amended the legal

financial obligation (LFO) system in Washington State. As recently noted by our State Supreme Court:

House Bill 1783's amendments modify Washington's system of LFOs, addressing some of the worst facets of the system that prevent offenders from rebuilding their lives after conviction. For example, House Bill 1783 eliminates interest accrual on the nonrestitution portions of LFOs, it establishes that the DNA database fee is no longer mandatory if the offender's DNA has been collected because of a prior conviction, and it provides that a court may not sanction an offender for failure to pay LFOs unless the failure to pay is willful. Laws of 2018, ch. 269, §§ 1, 18, 7. ... House Bill 1783 amends the discretionary LFO statute, former RCW 10.01.160, to prohibit courts from imposing discretionary costs on a defendant who is indigent at the time of sentencing. Laws of 2018, ch. 269, § 6(3). It also prohibits imposing the \$200 filing fee on indigent defendants. *Id.* § 17.

State v. Ramirez, ___ Wn.2d ___, ___ P.3d ___ (95249-3) (2018 WL 4499761 at *6) (Sept. 20, 2018).

In Ramirez, the Court held that these amendments applied prospectively to Ramirez's case because it was still on appeal and his judgment was not yet final. ___ Wn.2d at ___ (2018 WL 4499761 at *6). The Court remanded his case for the trial court to amend the judgment and sentence to strike the criminal filing fee and other improperly imposed LFOs. ___ Wn.2d at ___ (2018 WL 4499761 at *8). Similarly, Morgan's case is on appeal and his judgment is not yet final, so House Bill 1783's amendments apply to his case.

The trial court imposed a \$100.00 DNA collection fee. (CP 102) But Morgan has previously been convicted of a felony, so DNA has previously been collected. (CP 99) See RCW 43.43.7541 (mandatory DNA fee upon felony conviction).

The trial court imposed a \$200.00 criminal filing fee, which can no longer be imposed on indigent defendants. (CP 102) Morgan was found indigent at sentencing. (CP 139-40)

Finally, the Judgment and Sentence states that interest shall begin accruing immediately. (CP 103) But House Bill 1783 eliminates interest accrual on all non-restitution portions of LFOs.

Like Ramirez, Morgan was sentenced before House Bill 1783 was enacted in 2018, and his case is still on direct appeal. Like Ramirez, Morgan was subjected to LFOs that are no longer authorized under House Bill 1783. Morgan's case should be remanded to the trial court to amend the judgement and sentence to strike the improper fees and the interest accrual provision.

III. CONCLUSION

Morgan is entitled to relief from the statutory changes of House Bill 1783. Morgan's case should be remanded for the trial court to amend the judgment and sentence.

DATED: October 15, 2018

Stephanie Cunningham

STEPHANIE C. CUNNINGHAM

WSB #26436

Attorney for Appellant Shawn D. Morgan

CERTIFICATE OF MAILING

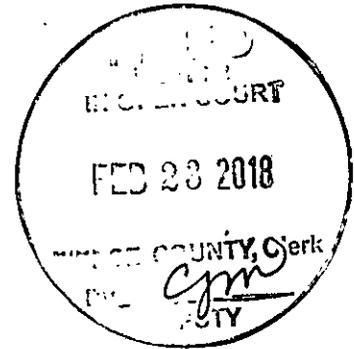
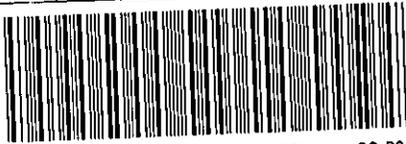
I certify that on 10/15/2018, I caused to be placed in the mails of the United States, first class postage pre-paid, a copy of this document addressed to: Shawn D. Morgan, DOC# 880281, Coyote Ridge Corrections Center, P.O. Box 769, Connell, WA 99326-0769.

Stephanie Cunningham

STEPHANIE C. CUNNINGHAM, WSBA #26436

APPENDIX

JUDGMENT AND SENTENCE



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 16-1-03330-1

vs

SHAWN DEE MORGAN,

Defendant.

WARRANT OF COMMITMENT

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

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

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

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

① 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).

Vertical text on the left margin: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28

[] 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).

JOHN R. HICKMAN

Dated: 2/23/18

By direction of the Honorable

Kevin Stock

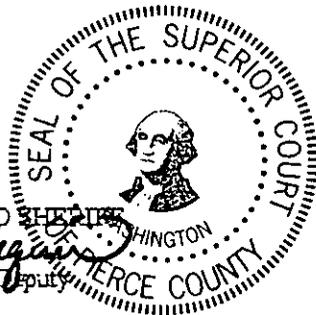
JUDGE

KEVIN STOCK

CLERK

By: *Bucky Ohgauer*

DEPUTY CLERK



CERTIFIED COPY DELIVERED TO THE CLERK OF THE COURT
Date FEB 23 2018 By *Bucky Ohgauer* Deputy

STATE OF WASHINGTON

ss:

County of Pierce

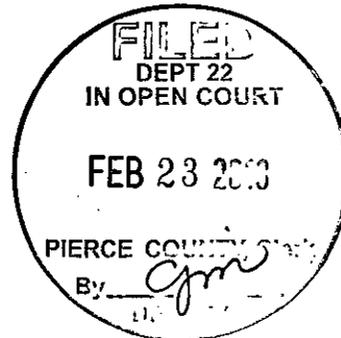
I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

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

KEVIN STOCK, Clerk

By: _____ Deputy

cad





SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 16-1-03330-1

vs.

JUDGMENT AND SENTENCE (FJS)

SHAWN DEE MORGAN

Defendant.

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

SID: WA15802019
DOB: 05/17/1972

I. HEARING

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 12/20/17 by [X] plea [] jury-verdict [] bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951
II	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
III	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951
IV	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951
V	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951
VI	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951
VII	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951
VIII	POSSESSION OF MINOR ENGAGED IN SEXUALLY EXPLICIT CONDUCT IN THE FIRST DEGREE (187)	9.68A.011(4)(a) through (e) 9.68A.070(1)		01/01/15-02/16/16	PCSD 1532900951

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

as charged in the AMENDED Information

- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): *See Section 2.2 items 31-48*

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

	CRIME	DATE OF SENTENCE	SENTENCING COURT	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	THEFT 3RD DEGREE	05-08-1986	YAKIMA COUNTY SUPERIOR	02-08-1986	J	MISD
2	TRESPASS	04-02-1990	KING CO. SUPERIOR COURT	08-26-1988	J	MISD
3	OBSTRUCTION	04-02-1990	KING CO. SUPERIOR COURT	08-26-1988	J	MISD

4	CWMIP	04-06-1987	YAKIMA COUNTY SUPERIOR	06-01-1985	J	MISD
5	CWMIP	04-06-1987	YAKIMA COUNTY SUPERIOR	06-01-1985	J	MISD
6	MAL MISCHIEF 2ND DEGREE	08-26-1986	YAKIMA COUNTY SUPERIOR	10-19-1985	J	NV
7	TMVWOP	04-06-1987	YAKIMA COUNTY SUPERIOR	04-28-1986	J	NV
8	CCW		TACOMA MUNICIPAL COURT	02-23-1992	A	MISD
9	FTR		FEDERAL WAY DIV, KCDC	04-22-1992	A	MISD
10	FTR		DISTRICT COURT 1 (TACOMA)	06-26-1992	A	MISD
11	FTC 2+		FEDERAL WAY DIV, KCDC	10-07-1992	A	MISD
12	FTC		DISTRICT COURT 1 (TACOMA)	02-06-1993	A	MISD
13	FTC		AUKEEN DIV KING CTY DIST CT	07-04-1993	A	MISD
14	UPCS	08-07-1997	DISTRICT COURT 1 (TACOMA)	08-05-1997	A	MISD
15	UUDP	08-07-1997	DISTRICT COURT 1 (TACOMA)	08-05-1997	A	MISD
16	RECKLESS DRIVING	04-02-2002	DISTRICT COURT 1 (TACOMA)	01-08-2002	A	MISD
17	DWLS 3RD DEGREE	11-22-2002	DISTRICT COURT 1 (TACOMA)	05-30-2002	A	MISD
18	DWLS	11-22-2002	DISTRICT COURT 1 (TACOMA)	06-01-2002	A	MISD
19	DWLS 3RD DEGREE		GRAYS HARBOR DIST CT 2	08-17-2002	A	MISD
20	ASSAULT IN THE FOURTH DEGREE	02-06-2003	DISTRICT COURT 1 (TACOMA)	11-15-2002	A	MISD
21	ASSAULT IN THE FOURTH DEGREE	02-05-2003	DISTRICT COURT 1 (TACOMA)	11-15-2002	A	MISD
22	VPO = DV		GRAYS HARBOR DIST CT 2	01-12-2003	A	MISD
23	RECK DRIVING		LAKEWOOD MUNI COURT	08-01-2003	A	MISD
24	NO VALID OPERATOR'S LICENSE - DRIVER'S LICENSE REQUIRED	01-28-2005	DISTRICT COURT 1 (TACOMA)	10-16-2004	A	MISD
25	NVOL	01-28-2005	DISTRICT COURT 1 (TACOMA)	01-22-2005	A	MISD
26	MAL MISCHIEF 3RD DEG	03-05-2013	THURSTON CO. SUPERIOR COURT	01-27-2012	A	MISD
27	VEH PROWL 2ND DEGREE	03-05-2013	THURSTON CO. SUPERIOR COURT	01-27-2012	A	MISD
28	UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE	03-02-2005	SUPERIOR CT - PIERCE CTY	04-08-2004	A	NV
29	ENDANGERMENT WITH A CONTROLLED SUBSTANCE	03-02-2005	SUPERIOR CT - PIERCE CTY	04-08-2004	A	NV
30	THEFT 2ND DEGREE	03-05-2013	THURSTON CO. SUPERIOR COURT	01-27-2012	A	NV
31	OTHER CURRENT: 16-1-00709-2		PIERCE, WA	02/16/15-02/16/16	A	NV

	UNL MAN CONT SUB					
39	OTHER CURRENT: 16-1-01561-3 RAPE CHILD 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
40	OTHER CURRENT: 16-1-01561-3 RAPE CHILD 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
41	OTHER CURRENT: 16-1-01561-3 RAPE CHILD 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
42	OTHER CURRENT: 16-1-01561-3 RAPE CHILD 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
43	OTHER CURRENT: 16-1-01561-3 RAPE CHILD 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
44	OTHER CURRENT: 16-1-01561-3 CHILD MOL 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
45	OTHER CURRENT: 16-1-01561-3 CHILD MOL 1/DV		PIERCE, WA	06/01/13- 10/10/15	A	V
45	OTHER CURRENT: 16-1-01561-3 CHILD MOL 1		PIERCE, WA	01/01/12- 06/11/12	A	V
47	OTHER CURRENT: 16-1-01561-3 CHILD MOL 1		PIERCE, WA	01/01/09- 12/31/12	A	V
48	OTHER CURRENT: 16-1-01561-3 CHILD MOL 1		PIERCE, WA	01/01/09- 12/31/12	A	V

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

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
II	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
III	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
IV	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
I	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
VI	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
VII	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000
VIII	9+	VI	77-102 MONTHS		77-102 MONTHS	10 YRS/ \$20,000

2.4 [] **EXCEPTIONAL SENTENCE.** Substantial and compelling reasons exist which justify an exceptional sentence:

- [] within [] below the standard range for Count(s) _____.
- [] above the standard range for Count(s) _____.

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

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

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

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

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

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

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

[] The court considered the following factors:

- [] the defendant's criminal history.
- [] whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.
- [] evidence of the defendant's propensity for violence that would likely endanger persons.
- [] other: _____

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

III. JUDGMENT

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

3.2 [] The court **DISMISSES** Counts _____ [] The defendant is found **NOT GUILTY** of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of this Court: (Pierce County Clerk, 930 Tacoma Ave #110, Tacoma WA 98402)

JASS CODE

1
2 RTNRJN \$ _____ Restitution to: _____

3 \$ _____ Restitution to: _____
(Name and Address--address may be withheld and provided confidentially to Clerk's Office).

4 PCV \$ 500.00 Crime Victim assessment

5 DNA \$ 100.00 DNA Database Fee

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

7 FRC \$ 200.00 Criminal Filing Fee

8 FCM \$ _____ Fine

9 **OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)**

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____

10 \$ 800.00 TOTAL

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

13 [] shall be set by the prosecutor.

14 [] is scheduled for _____

15 [] RESTITUTION. Order Attached

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

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

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

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

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

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

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

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

7
0087
2/26/2018 11:44:98

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

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

4.3 NO CONTACT

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

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

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

No contact with minors
Compliance with conditions in Appendices H and F
Compliance with all conditions set by Department of Corrections
Psychosexual assessment and follow-up treatment
Register as sex offender per law

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

4.4b BOND IS HEREBY EXONERATED

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

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

<u>102</u> months on Count	<u>I</u>	<u>102</u> months on Count	<u>VI</u>
<u>102</u> months on Count	<u>II</u>	<u>102</u> months on Count	<u>VII</u>
<u>102</u> months on Count	<u>III</u>	<u>102</u> months on Count	<u>VIII</u>
<u>102</u> months on Ct	<u>IV</u>	<u>102</u> months on Ct	<u>VIII</u>

Actual number of months of total confinement ordered is: 102 months

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

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

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

Concurrent with 16-1-01561-3 & 16-1-00709-2

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

Confinement shall commence immediately unless otherwise set forth here: _____

(c) **Credit for Time Served.** The defendant shall receive credit for eligible time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served. DOC to calculate

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

Count _____ for _____ months;

Count _____ for _____ months;

Count _____ for _____ months;

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

The defendant shall be on community custody for:

- * Count(s) I, II, III, IV, V, VI, VII, VIII 36 months for Serious Violent Offenses + sex offenses (up to statutory maximum)
- Count(s) _____ 18 months for Violent Offenses
- Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

* On all counts, community custody period is at least 18 months plus all accrued early release time at the time of release. *State v. Bruch, 182 Wash 2d 854 (2015); RCW Note: combined term of confinement and community custody for any particular offense cannot exceed the 9.94A.724(5) statutory maximum. RCW 9.94A.701.*

(B) While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706 and (10) for sex offenses, submit to electronic monitoring if imposed by DOC. The defendant's residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the

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statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

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

consume no alcohol.

have no contact with: minors

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

per Department of Corrections

not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age

participate in the following crime-related treatment or counseling services: psychosexual

assessment and compliance with recommended treatment

undergo an evaluation for treatment for domestic violence substance abuse

mental health anger management and fully comply with all recommended treatment.

comply with the following crime-related prohibitions: _____

Other conditions:

Comply with all conditions in Appendices H and F

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

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

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

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

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

V. NOTICES AND SIGNATURES

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

5.2 **LENGTH OF SUPERVISION.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505. The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

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

5.4 **RESTITUTION HEARING.**

~~I~~ Defendant waives any right to be present at any restitution hearing (sign initials):

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

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

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

1. General Applicability and Requirements: Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW) where the victim is a minor defined in RCW 9A.44.130, you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. You must register immediately upon being sentenced unless you are in custody, in which case you must register at the time of your release and within three (3) business days from the time of release.

2. Offenders Who Leave the State and Return: If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within three (3) business days after moving to this state. If you are under the jurisdiction of this state's Department of Corrections, you must register within three (3) business days after moving to this state. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within

three (3) business days after starting school in this state or becoming employed or carrying out a vocation in this state.

3. Change of Residence Within State and Leaving the State: If you change your residence within a county, you must provide, by certified mail, with return receipt requested or in person signed written notice of your change of residence to the sheriff within three (3) business days of moving. If you change your residence to a new county within this state, you must register with that county sheriff within three (3) business days of moving, and must, within three (3) business days provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address in the new county to the county sheriff with whom you last registered. If you move out of Washington State, you must send written notice within three (3) business days of moving to the county sheriff with whom you last registered in Washington State.

4. Additional Requirements Upon Moving to Another State: If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within three (3) business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within three (3) days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State.

5. Notification Requirement When Enrolling in or Employed by a Public or Private Institution of Higher Education or Common School (K-12): If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within three (3) business days prior to arriving at the institution. If you become employed at a public or private institution of higher education, you are required to notify the sheriff for the county of your residence of your employment by the institution within three (3) business days prior to beginning to work at the institution. If your enrollment or employment at a public or private institution of higher education is terminated, you are required to notify the sheriff for the county of your residence of your termination of enrollment or employment within three (3) business days of such termination. If you attend, or plan to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW, you are required to notify the sheriff of the county of your residence of your intent to attend the school. You must notify the sheriff within three (3) business days prior to arriving at the school to attend classes. The sheriff shall promptly notify the principal of the school.

6. Registration by a Person Who Does Not Have a Fixed Residence: Even if you do not have a fixed residence, you are required to register. Registration must occur within three (3) business days of release in the county where you are being supervised if you do not have a residence at the time of your release from custody. Within three (3) business days after losing your fixed residence, you must provide signed written notice to the sheriff of the county where you last registered. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county within three (3) business days after entering the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. You may be required to provide a list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

7. Application for a Name Change: If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within three (3) business days of the entry of the order. RCW 9A.44.130(7).

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

APPENDIX "F"

The defendant having been sentenced to the Department of Corrections for a:

- sex offense
- serious violent offense
- assault in the second degree
- any crime where the defendant or an accomplice was armed with a deadly weapon
- any felony under 69.50 and 69.52

The offender shall report to and be available for contact with the assigned community corrections officer as directed:

The offender shall work at Department of Corrections approved education, employment, and/or community service;

The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

An offender in community custody shall not unlawfully possess controlled substances;

The offender shall pay community placement fees as determined by DOC:

The residence location and living arrangements are subject to the prior approval of the department of corrections during the period of community placement.

The offender shall submit to affirmative acts necessary to monitor compliance with court orders as required by DOC.

The Court may also order any of the following special conditions:

(I) The offender shall remain within, or outside of, a specified geographical boundary: _____

per Department of Corrections

(II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: _____

minors

(III) The offender shall participate in crime-related treatment or counseling services;

(IV) The offender shall not consume alcohol; _____

(V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(VI) The offender shall comply with any crime-related prohibitions.

(VII) Other: Psychosocial assessment and follow-up treatment;

comply with all conditions in Appendix H

APPENDIX F

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IDENTIFICATION OF DEFENDANT

SID No. WA15802019
(If no SID take fingerprint card for State Patrol)

Date of Birth 05/17/1972

FBI No. 359908PA9

Local ID No. CHRI#920540005

PCN No. 541553762

Other

Alias name, SSN, DOB: MORGAN, SHAWN LEE; BUTLER, SHAWN D

Race:		Ethnicity:		Sex:	
<input type="checkbox"/> Asian/Pacific Islander	<input type="checkbox"/> Black/African- American	<input checked="" type="checkbox"/> Caucasian	<input type="checkbox"/> Hispanic	<input checked="" type="checkbox"/> Male	
<input type="checkbox"/> Native American	<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> Non- Hispanic	<input type="checkbox"/> Female		

FINGERPRINTS

Left four fingers taken simultaneously



Left Thumb



Right Thumb



Right four fingers taken simultaneously



I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto. Clerk of the Court, Deputy Clerk, _____

Dated: _____

DEFENDANT'S SIGNATURE:

Shawn D. Morgan

DEFENDANT'S ADDRESS:

DOC

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2/26/2018

October 15, 2018 - 10:53 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 51558-0
Appellate Court Case Title: State of Washington, Respondent v. Shawn Morgan, Appellant
Superior Court Case Number: 16-1-03330-1

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