

FILED  
COURT OF APPEALS  
DIVISION II  
2019 APR 19 PM 12:57  
STATE OF WASHINGTON  
BY    HJB     
DEPUTY

**Court of Appeals, Div. II,  
of the State of Washington**

Richard Alan Lucas, Jr.,  
Petitioner.

No. \_\_\_\_\_

**Personal Restraint Petition**

**1. Status of Petitioner**

I, Richard Lucas, apply for relief from confinement. I am now in custody serving a sentence upon conviction of a crime.

1. The court in which I was sentenced is Pierce County Superior Court.
2. I was convicted of the crimes of Unlawful Possession of a Stolen Vehicle, Making or Possessing Motor Vehicle Theft Tools, and Bail Jumping.
3. I was sentenced after trial on June 15, 2018. The judge who imposed sentence was Judge Garold E. Johnson.
4. My lawyer at trial court was Michael Maltby.
5. I appealed from the decision of the trial court. I appealed to Court of Appeals, Division II. My lawyer on appeal was Kevin Hochhalter. The decision of the appellate court is still pending.

6. Since my conviction I have not asked a court for some relief from my sentence other than I have already written above.

## **2. Grounds for Relief**

I claim that I have two reasons for this court to grant me relief from the conviction and sentence described in Part 1.

### **2.1 First Ground**

1. I should be given a new trial or released from confinement because:

Judicial misconduct by Judge Sorensen in drug court and then in my second trial, which he declared a mistrial, leading to a third trial that violated double jeopardy.

2. The following facts are important when considering my case:

Judge Sorensen handled my case in drug court. I chose to opt out. In the hearing in which he granted my request to opt out, Judge Sorensen said, on the record, "you're going to be back on the trial track, which means that [the state is] going to be, hopefully, seeking to prosecute you to the fullest extent of the law." This statement that he hoped the state would prosecute me to the fullest extent of the law, demonstrated Judge Sorensen's bias against me and that he could not be a fair judge in my case.

On January 16, 2018, when I came to trial, I saw that Judge Sorensen would be presiding over my trial. I told my

lawyer, Michael Maltby, that I didn't want Judge Sorensen as my judge because he was biased against me, demonstrated by his remarks in drug court.

My lawyer filed an "Affidavit of Disqualification." Judge Sorensen denied it.

I told my lawyer and the judge that the judge said, at drug court, "I hope that you get charged to the full extent of the law." I told them the judge's remarks were recorded and they should listen to the tapes. The judge refused to review the recording and denied the motion.

The judge continued with jury selection. At the end of the day, the jury was sworn in. The trial had begun.

The next morning, before bringing in the jury, the judge played the recording from drug court. We all heard that the recording said what I said it would say. The judge asked the lawyers for comments.

Mr. Maltby asked the judge for permission to speak with me in the hall. The only thing he said to me was that he was going to ask the judge to recuse. He didn't explain to me what my rights were. He didn't explain the significance of the fact that the jury had already been sworn in. He didn't ask me if I wanted the judge to recuse or if I wanted to keep going with the jury that had been selected. He didn't ask for my consent for what he was about to do.

When we went back into the courtroom, the judge said he would recuse himself if we ask him to. Mr. Maltby asked him to recuse. The judge did not explain that I had a right to proceed with the jury that had been selected. He did not ask if I knowingly and intelligently waived that right. He immediately declared a mistrial.

Judge Sorensen should not have started jury selection after he was told on the record about his biased remarks from drug court. He should have immediately listened to the recording to see if what I said was true, which it was. He should have done this immediately to make sure my right to a fair trial would be preserved. It was unreasonable for him to deny my motion and start the trial when his impartiality had been reasonably called into question. He could not give me a fair trial and should not have started. He should not have sworn in a jury. After the jury was sworn in, he should not have declared a mistrial without making sure I was aware of my rights.

3. The following reported court decisions (include citations if possible) in cases similar to mine show the error I believe happened in my case:

*State v. Jones*, 97 Wn.2d 159, 162, 641 P.2d 708 (1982).

4. The following statutes and constitutional provisions should be considered by the court (If none are known, state "None known".):

Wash. Const., art. I, § 9

U.S. Const., Amend. V

Code of Judicial Conduct Rule 1.2, Rule 2.2, Rule 2.3, Rule 2.11

5. This petition is the best way I know to get the relief I want, and no other way will work as well because:

There are facts in this petition that are not in the record on direct appeal.

## **2.2 Second Ground**

1. I should be given a new trial or from confinement because:

Ineffective assistance of counsel

2. The following facts are important when considering my case:

**Guarav Sharma:**

Mr. Sharma was my first attorney. My first court date was 3-2-17. I came to the courthouse and met with Mr. Sharma. He told me that it was okay for me to leave and to come back for the omnibus hearing on 3-15-17. So I left.

Then I found out that the court put out a warrant on me for failure to appear. I returned to court on 3-15-17 to quash the warrant. The State added a charge of bail jumping.

When I saw Mr. Sharma again, I asked him why he had told me to come back on 3-15-17. He said nothing, stood up, and walked away. At the next court date, Mr. Sharma asked the judge to let him withdraw. This came as a surprise to me, but I agreed to it. In my mind I thought it was good because I did not want to be lied to again.

The only reason for the bail jumping charge is because Mr. Sharma told me that I was free to leave on 3-2-17. What he told me was not true. If he hadn't told me I was free to leave, I would have stayed and appeared as scheduled. His advice to me was ineffective assistance of counsel that caused me great prejudice by adding a felony charge that increased my sentence in this case.

**Michael Maltby:**

In the second trial, after the judge refused to review the tapes and denied my request that he recuse, Mr. Maltby asked for the court's permission to withdraw as my lawyer. This communicated to me that Mr. Maltby had no interest in my case and would not truly fight for me. My worry came true as the third trial was held.

At the beginning of the third trial, on page 12 of the transcript dated 1-29-18, it notes "(Discussion off the Record)." This discussion was between me and Mr. Maltby. I asked him to file a motion for change of venue because I was worried that the bias shown by Judge Sorensen in his comments at drug court would also infect this third trial. Mr. Maltby refused to make the motion for me.

Also before the third trial I had asked Mr. Maltby if I could plea out on this charge with a DOSA and a global resolution (including charges under a different case number). He originally said yes, but at the next court date he wouldn't honor my request. I tried to fire him because he was refusing to advocate for my positions.

On page 96 of the trial transcript dated 1-30-18 there is another "(Discussion off the Record)." This was another discussion between me and Mr. Maltby. I told Mr. Maltby that Deputy Charles Roberts had contradicted himself while testifying. I wrote down the contradictions on paper and asked Mr. Maltby to address them in cross-examination. Mr. Maltby read the paper and then, in full view of the judge and jury, crumpled up the paper and threw it in my face, saying, "I'm going to do this my way." Surely the jury's decision was affected by seeing my own lawyer assault me in open court.

Here are the contradictions that I wanted Mr. Maltby to address: On page 40 of the transcript, Deputy Roberts testified that he got a return that the license plates were stolen and then did a U-turn to go back to where the car was parked. When he returned to the car, he encountered me and told me to get into the car because "Your tabs are just expired." He testified that he lied to me because "I didn't want him to know that I suspected." Page 43. He said "suspected," not "knew." Then he quickly corrected himself and said, "I didn't want him to know that I knew that the plates were coming back stolen." Page 43-44. I wanted Mr. Maltby to explore why Deputy Roberts changed from "suspected" to "knew."

Moments later, Deputy Roberts testified that after he told me to get in the car, "Then, because I hadn't had the time, with the U-turn and waiting for the return, I was calling out to Dispatch: 'Hey, I'm here. I'm on this call. This is what I got. Run this plate for me. Verify it.'" Page 44. This sounds like Deputy Roberts actually didn't know that the plates were stolen until after he contacted and detained me. If that's true, he didn't have probable cause to stop me. I wanted Mr. Maltby to explore this possibility and straighten out Deputy Roberts' story. Mr. Maltby not only refused, but assaulted me in open court in front of the judge and jury.

Mr. Maltby made no effort to exclude the “shaved keys” as evidence. The tow truck driver who impounded the car had entered the vehicle and moved at least one ring of keys from the seat to the floor board. It is unknown what else he may have tampered with. Due to this break in the chain of custody of the evidence, all of the keys should have been excluded, but Mr. Maltby did not even try.

I testified at the trial. A key part of my defense was that this was a case of mistaken identity. I had never driven or been in the stolen car before. I just happened to be walking by when Deputy Roberts came looking for the driver, who had already escaped around the back of the house by the time Deputy Roberts got there. Because I had never been in the car, I was confused when Deputy Roberts ordered me to get “back” into the car. He ordered me at gunpoint, so I got into the car.

Mr. Maltby knew that I had never been in the car. He knew that I wasn’t getting “back” into the car because I had never been in it before. Yet when he was questioning me on the topic, he asked, “Then you got back in the car?” I had to correct him, “No. I got in the car,” but the damage was already done. My own lawyer was trying to make me look like a liar in front of the jury.

When I testified about my meeting with Guarav Sharma at the courthouse on 3-2-17, the judge would not allow me to

talk about what Mr. Sharma told me, ruling that it was hearsay. It was essential that the jury understand that because of what Mr. Sharma told me, I honestly believed I was free to leave. I did not know that I had any further obligation to appear in front of a judge that day. But Mr. Maltby failed to ask me the right questions to get that information in around the hearsay rule. All he asked me was if I went to court that day. I said I did because that was the truth. But without the other information, this just opened the door for the prosecutor to bring in the bench warrant and transcripts from the warrant quash hearing, which would be presented in a way to make me look like a liar again. Mr. Maltby failed to get this evidence excluded.

I was astounded. I tried to talk to Mr. Maltby. I was excited and the judge kept telling me to keep it quiet. The judge let me go out in the hall to talk to Mr. Maltby. Mr. Maltby would not listen to me. After all of the things that had gone wrong in my case, the biased threats from Judge Sorensen, my lawyer not looking out for my interests or doing anything I asked him to do, assaulting me in open court, and making me look like a liar in front of the jury, I made the wrong decision and left the trial. At the time, in my mind, I thought I had a better chance if I ran away than to stay for the end of that trial. It was the wrong choice and I'm sorry, but I was not getting a fair trial.

Mr. Maltby withdrew just before sentencing on 6-8-18. I pleaded with him to just finish the case, but he refused. After all the times the judge would not let him withdraw and would not let me fire him, this time the judge let him go when I wanted him to finish the case so I wouldn't be stuck with a new lawyer who didn't know the case.

3. The following reported court decisions (include citations if possible) in cases similar to mine show the error I believe happened in my case:

4. The following statutes and constitutional provisions should be considered by the court (If none are known, state "None known".):

U.S. Const. Amend. VI (right to counsel)

5. This petition is the best way I know to get the relief I want, and no other way will work as well because:

There are facts in this petition that are not in the record on direct appeal.

53242-5-II

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STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY CLERK

**3. Statement of Finances**

*If you cannot afford to pay the filing fee or cannot afford to pay an attorney to help you, fill this out. If you have enough money for these things, do not fill out this part of the form.*

1. I do X do not \_\_\_ ask the court to file this without making me pay the filing fee because I am so poor I cannot pay the fee.

2. I have a spendable balance of \$ 0 in my prison or institution account.

3. I do X do not \_\_\_ ask the court to appoint a lawyer for me because I am so poor I cannot afford to pay a lawyer.

4. I am X am not \_\_\_ employed.

If yes, My salary or wages amount to \$ 50<sup>th</sup> a month.

My employer is \_\_\_\_\_

\_\_\_\_\_  
(name and address)

5. During the past 12 months I did \_\_\_ did not X get any money from a business, profession or other form of self employment. (If I did, it was \_\_\_\_\_

\_\_\_\_\_ and the total income I got was \$ \_\_\_\_\_.)  
(kind of self employment)

6. During the past 12 months, I

did  did not

get any rent payments. If so, the total amount I got was \$\_\_\_\_\_.

get any interest. If so, the total amount I got was \$\_\_\_\_\_.

get any dividends. If so, the total amount I got was \$\_\_\_\_\_.

get any other money. If so, the amount of money I got was \$\_\_\_\_\_.

7. During the past 12 months, I

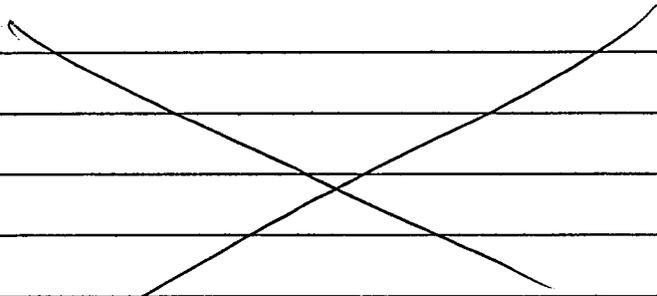
did  did not

have any cash except as said in answer 2. If so, the total amount of cash I have is \$\_\_\_\_\_.

have any savings accounts or checking accounts. If so, the amount in all accounts is \$3700.

own stocks, bonds, or notes. If so, their total value is \$\_\_\_\_\_.

8. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what each item of property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
	

9. I am  am not  married. If I am married, my wife or husband's name and address is \_\_\_\_\_

\_\_\_\_\_

10. All of the persons who need me to support them are listed here.

Name and Address	Relationship	Age
_____ _____ _____ _____ _____		

11. All the bills I owe are listed here.

Name of creditor you owe money to	Address	Amount

**4. Request for Relief**

I want this court to:

vacate my conviction and give me a new trial

vacate my conviction and dismiss the criminal charges

against me without a new trial

other (specify): \_\_\_\_\_

\_\_\_\_\_

**5. Oath of Petitioner**

STATE OF WASHINGTON )  
 ) ss.  
County of \_\_\_\_\_ )

After being first duly sworn, on oath, I depose and say:  
That I am the petitioner, that I have read the petition, know its  
contents, and I believe the petition is true.

Richard A Lucas JR  
[sign here]

SUBSCRIBED AND SWORN to before me this 12<sup>th</sup> day  
of April 2019.

Michael Scott Odem  
Notary Public in and for the State  
of Washington, residing at Walla Walla County

\_\_\_\_\_  
If a notary is not available, explain why none is available  
and indicate who can be contacted to help you find a notary:

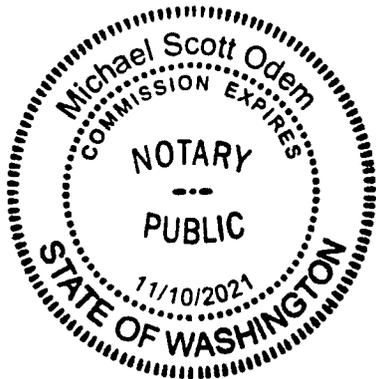
\_\_\_\_\_  
\_\_\_\_\_

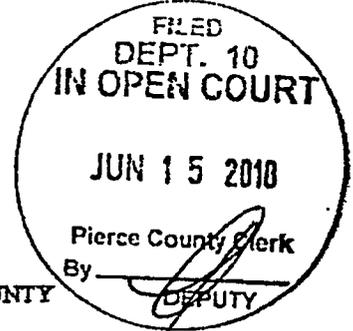
Then sign below:

I declare that I have examined this petition and to the  
best of my knowledge and belief it is true and correct.

\_\_\_\_\_ [date].

\_\_\_\_\_ [sign here]





SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 17-1-00537-3

vs

JUDGMENT AND SENTENCE (FJS)

RICHARD ALAN LUCAS JR

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: WA17068766  
DOB: 06/11/1978

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 2/2 2018  
by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	UNLAWFUL POSSESSION OF A STOLEN VEHICLE (BBB13)	9A.56.068 9A.56.140	NONE	02/02/17	PCSD 1703300464
III	BAIL JUMPING (EE7D)	9A.76.70(1)(3)(c)	NONE	02/02/17	PCSD 1703300464

02:05  
11:11  
16:18  
19/2018

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hcm, 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 FOUND GUILTY BY JURY.

- 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):

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 2		KING CO. SUPERIOR COURT	08-10-1993	J	MV
2	ATT TMVWOP	04-03-1995	KING CO. SUPERIOR COURT	07-17-1994	J	MISD
3	THEFT 2	04-03-1995	SUPERIOR CT - KING COUNTY	08-10-1993	J	MISD
4	UPCS/NEGLIGENT DRIVING		FIFE MUNICIPAL COURT	06-25-1996	A	MISD
5	DUI		MILTON MUNICIPAL COURT	07-22-1996	A	MISD
6	UPCS/DRUG PARA		KITSAP COUNTY DISTRICT CT	01-11-1997	A	MISD
7	DWLS		DISTRICT COURT I (TACOMA)	05-28-1997	A	MISD
8	OBSTRUCTING		FIFE MUNICIPAL COURT	03-06-1998	A	MISD
9	ASSAULT IN THE THIRD DEGREE	09-07-1999	SUPERIOR CT - PIERCE CTY	08-10-1999	A	MISD
10	ATTEMPTED HARMING A POLICE DOG	09-07-1999	SUPERIOR CT - PIERCE CTY	08-10-1999	A	MISD
11	DWLS		BOHNEY LAKE MUNI COURT	11-03-2000	A	MISD
12	CRIM TRESPASS	06-04-2001	TACOMA MUNICIPAL COURT	05-16-2001	A	MISD
13	DWLS 1	01-10-2002	FEDERAL WAY MUNI	01-09-2002	A	MISD
14	VEH PROWL 2	06-23-2003	KITSAP CO. SUPERIOR COURT	04-07-2003	A	MISD
15	DWLS 1	08-15-2006	FIFE MUNICIPAL COURT	04-12-2005	A	MISD
16	MAL MISCH 3		PUYALLUP MUNICIPAL COURT	10-14-2005	A	MISD
17	DWLS 1		DISTRICT COURT I (TACOMA)	04-16-2006	A	MISD
18	MAKE FALSE STMNT		PUYALLUP MUNICIPAL COURT	07-03-2006	A	MISD
19	MAKING OR HAVING VEH PROWL/THFT		PUYALLUP MUNICIPAL COURT	07-03-2006	A	MISD
20	PSP 3		PUYALLUP MUNICIPAL COURT	07-03-2006	A	MISD
21	DWLS 1		TACOMA MUNICIPAL COURT	05-12-2008	A	MISD

<del>22</del>	<del>CRIM TRSP 1</del>		PUYALLUP MUNICIPAL COURT	07-22-2000	A	MISD
23	DWLS 1	3/24/11	TACOMA MUNICIPAL COURT	03-11-2010	A	MISD
24	DWLS 3	1/29/17	DISTRICT COURT 1 (TACOMA)	06-27-2015	A	MISD
25	ASSAULT IN THE THIRD DEGREE	09-07-1999	SUPERIOR CT - PIERCE CTY	08-10-1999	A	NV
26	ASSAULT IN THE THIRD DEGREE	02-17-2000	SUPERIOR CT - PIERCE CTY	01-01-2000	A	NV
27	THEFT IN THE SECOND DEGREE	04-07-2000	SUPERIOR CT - PIERCE CTY	02-19-2000	A	NV
28	THEFT IN THE SECOND DEGREE	07-20-2000	SUPERIOR CT - PIERCE CTY	06-21-2000	A	NV
29	UPCS - METH	02-22-2001	SUPERIOR CT - PIERCE CTY	02-01-2001	A	NV
30	MAL MIS 2	04-07-2003	KITSAP CO. SUPERIOR COURT	04-07-2003	A	NV
31	ATT TO ELUDE POLICE VEH	11-17-2006	KING CO. SUPERIOR COURT	03-20-2006	A	
32	ASSLT 3	11-17-2006	KING CO. SUPERIOR COURT	03-20-2006	A	NV
<del>33</del>	<del>ATTEMPT TO ELUDE</del>		KING CO. SUPERIOR COURT	03-20-2006	A	NV

[ ] 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+	II	43-57 MONTHS	NONE	43-57 MONTHS	5 YRS/ \$10,000
III	9+	III	51-60 MONTHS	NONE	51-60 MONTHS	5 YRS/ \$10,000

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):

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

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

RTNRJN \$ WIC Restitution to: WOC

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

PCV \$ 500.00 Crime Victim assessment

DNA \$ 100.00 DNA Database Fee WAIVED

PUB \$ \_\_\_\_\_ Court-Appointed Attorney Fees and Defense Costs

FRC \$ 200.00 Criminal Filing Fee WAIVED

FCM \$ \_\_\_\_\_ Fine

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_  
\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_  
\$ 500 TOTAL

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

shall be set by the prosecutor.

is scheduled for \_\_\_\_\_

RESTITUTION. Order Attached

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

All payments shall be made in accordance with the policies of the clerk, commencing immediately, unless the court specifically sets forth the rate herein: Not less than \$ prostate per month commencing prostate. RCW 9.94.760. If the court does not set the rate herein, the defendant shall report to the clerk's office within 24 hours of the entry of the judgment and sentence to set up a payment plan. 1 month after release

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

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

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

~~judgment~~ 2 months from now  
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 \$ \_\_\_\_\_.

4.2  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.

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 Santiago Fernandez (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 10 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.

Empty rectangular box for notes or details regarding property return.

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):

Handwritten notes: 57 months on Count I, 60 months on Count II. Includes lines for additional counts and months.

Actual number of months of total confinement ordered is: 60 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:

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:

1  
2 Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_

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

6 4.6 [ ] COMMUNITY PLACEMENT (pre 7/1/00 offenses) is ordered as follows:

7 Count \_\_\_\_\_ for \_\_\_\_\_ months;

8 Count \_\_\_\_\_ for \_\_\_\_\_ months;

9 Count \_\_\_\_\_ for \_\_\_\_\_ months;

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

12 The defendant shall be on community custody for:

13 Count(s) \_\_\_\_\_ 36 months for Serious Violent Offenses

14 Count(s) \_\_\_\_\_ 18 months for Violent Offenses

15 Count(s) \_\_\_\_\_ 12 months (for crimes against a person, drug offenses, or offenses  
16 involving the unlawful possession of a firearm by a  
17 street gang member or associate)

18 Note: combined term of confinement and community custody for any particular offense cannot exceed the  
19 statutory maximum. RCW 9.94A.701.

20 (B) While on community placement or community custody, the defendant shall: (1) report to and be  
21 available for contact with the assigned community corrections officer as directed; (2) work at DOC-  
22 approved education, employment and/or community restitution (service); (3) notify DOC of any change in  
23 defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully  
24 issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) not  
25 own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform  
26 affirmative acts as required by DOC to confirm compliance with the orders of the court; (9) abide by any  
27 additional conditions imposed by DOC under RCW 9.94A.704 and .705 and (10) for sex offenses, submit  
28 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  
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: \_\_\_\_\_

[ ] remain [ ] within [ ] outside of a specified geographical boundary, to wit: \_\_\_\_\_

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

[ ] participate in the following crime-related treatment or counseling services: \_\_\_\_\_

[ ] undergo an evaluation for treatment for [ ] domestic violence [ ] substance abuse

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

[ ] comply with the following crime-related prohibitions: \_\_\_\_\_

[ ] Other conditions: \_\_\_\_\_

[ ] 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.**  
 Defendant waives any right to be present at any restitution hearing (sign initials): RL
- 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, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.7 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200.  
 N/A
- 5.8  The court finds that Count F 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.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.

FILED  
DEPT. 10  
IN OPEN COURT

JUN 15 2018

Pierce County Court

DONE IN OPEN COURT and in the presence of the defendant this date: 6/15/18

JUDGE

Print name

Garold E. Johnson

Deputy Prosecuting Attorney

Print name:

R-L LEECH

WSB #

24449

Attorney for Defendant

Print name:

MARY MARTIN

WSB #

15984

Richard Lusey

Defendant

Print name:

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations.

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

Defendant's signature: Richard Lusey

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**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 17-1-00537-3

I, KEVIN STOCK Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: \_\_\_\_\_

Clerk of said County and State, by: \_\_\_\_\_, Deputy Clerk

**IDENTIFICATION OF COURT REPORTER  
LESLIE THOMPSON**

\_\_\_\_\_  
Court Reporter

IDENTIFICATION OF DEFENDANT

SID No. WA17068766  
(If no SID take fingerprint card for State Patrol)

Date of Birth 06/11/1978

FBI No. 317635WA8

Local ID No. CHRI#961780014

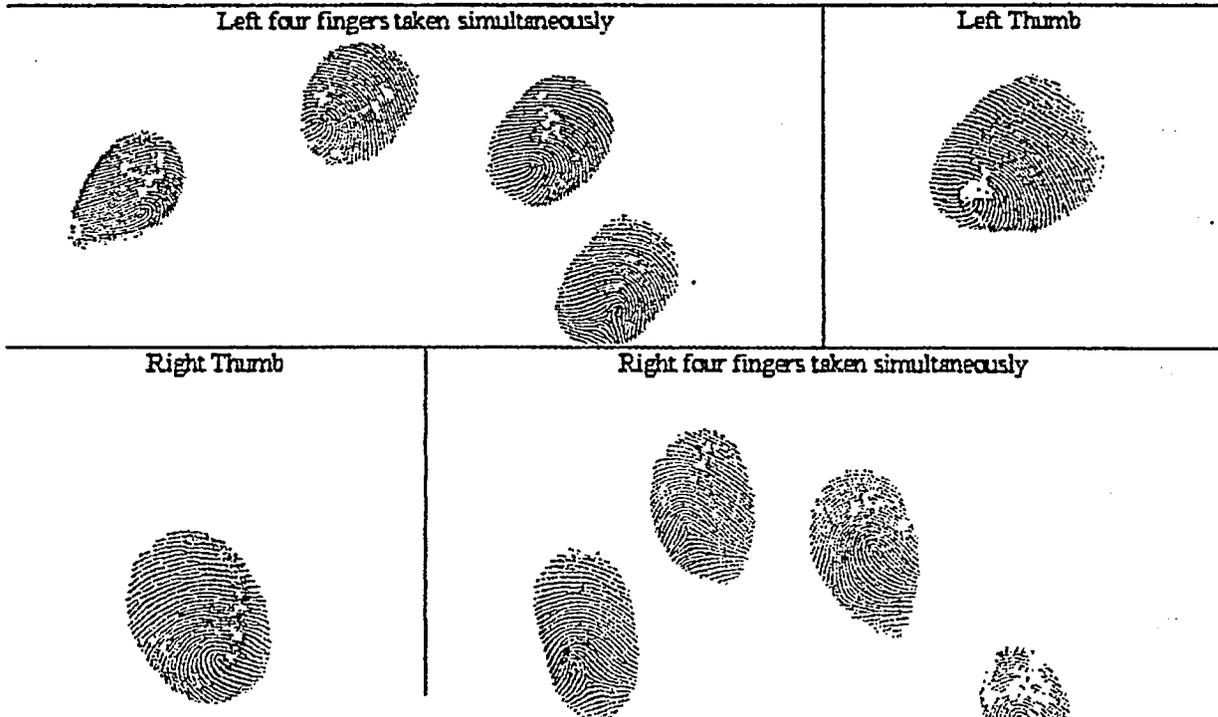
PCN No. S41764330

Other

Alias name, SSN, DOB:

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

FINGERPRINTS



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, Maia Schuman Dated: 6/15/18

DEFENDANT'S SIGNATURE: Richard Lee

DEFENDANT'S ADDRESS: \_\_\_\_\_

0216  
6168  
6/19/2018

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.

FILED to the  
CLERK OF SUPERIOR COURT  
IN OPEN COURT  
JUN 15 2018

Bail is hereby exonerated.

Signed this 15 day of June, in the presence of said Defendant.  
By [Signature] DEPUTY  
JUDGE/COMMISSIONER

**CERTIFICATE**  
Entered Jour. No. \_\_\_\_\_ Page No. \_\_\_\_\_ Department No. \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_

I, Garold E. Johnson, County Clerk and Clerk of the Superior Court of the State of Washington, in and for the County of Pierce, do hereby certify that the foregoing is a fully, true and correct copy of the judgment, sentence, and commitment in this cause as the name appears of record in my office.

WITNESS my hand and seal of said Superior Court this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
County Clerk and Clerk of Superior Court.

By \_\_\_\_\_  
Deputy Clerk

Presented by:

[Signature]  
R. BRIAN LEECH, WSB # 24449  
Deputy Prosecuting Attorney

Approved as to Form:

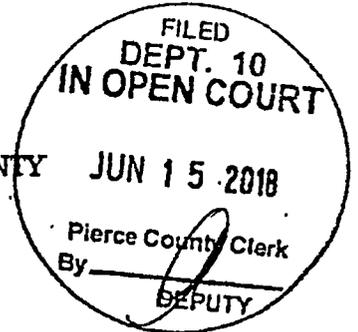
[Signature] 15989  
Michael Malthy, WSB# 24754  
Attorney for Defendant

[Signature]  
RICHARD ALAN LUCAS, JR  
Defendant

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17-1-00537-3 51489369 JDOSSG 06-19-18



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 17-1-00537-3

vs.

RICHARD ALAN LUCAS, JR,

Defendant.

JUDGMENT AND SENTENCE  
(Misd. and/or Gross Misd.)

Plea of Guilty  
 Found Guilty by Jury  
 Found Guilty by Court  
SUSPENDED

DOB: 06/11/78  
RACE: WHITE  
SEX: MALE  
AGENCY: WA02700  
INCIDENT #: 1703300464  
PCN: 541764330

THIS MATTER coming on regularly for hearing in open court on the 15<sup>th</sup> day of JUNE, 18, the defendant RICHARD ALAN LUCAS, JR and his attorney Michael Malby appearing, and the State of Washington appearing by R. BRIAN LEECH Prosecuting Attorney for Pierce County, following a verdict of guilty by jury by the court on the 2nd day of FEBRUARY, 2018.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED That said Defendant is guilty of the crime(s) of MAKING OR POSSESSING MOTOR VEHICLE THEFT TOOLS, Charge Code: (HHH14), as charged in the Amended Information herein, and that he shall be punished by confinement in the Pierce County Jail for a term of not more than 264 days w/ 184 days suspended, consecutive to Army sentence

( ) The State has pleaded and proved that the crime charged in Count(s) \_\_\_\_\_ involve(s) domestic violence.

Said sentence shall be (suspended) on the attached conditions of (suspended) sentence and that the Defendant pay the prescribed crime victim compensation penalty assessment as per RCW 7.68.035, in the amount of \$ 500 (concurrent with CYPA in Army judgment & sentence)

The said Defendant is now hereby committed to the custody of the sheriff of sforesaid county to be detained.

Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason.



1 \$ \_\_\_\_\_ Fine;

2 \$ \_\_\_\_\_ Other: \_\_\_\_\_

3 \$ 11K Restitution to be forwarded to: \_\_\_\_\_

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 Restitution hearing set for \_\_\_\_\_

7  
8 \$ DOC TOTAL payable at the rate of \$ 25 per month commencing

9 \$ 500 1 month after release (concurrent w/  
Alimony CRPA)

10 Revocation of this probation for nonpayment shall occur only if defendant wilfully fails to make the  
11 payments having the financial ability to do so or wilfully fails to make a good faith effort to acquire  
12 means to make the payment.

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

16 **RESTITUTION HEARING.**

17  Defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_

18 THE FINANCIAL OBLIGATIONS IMPOSED IN THIS JUDGMENT SHALL BEAR INTEREST FROM THE  
19 DATE OF THE JUDGMENT UNTIL PAYMENT IN FULL, AT THE RATE APPLICABLE TO CIVIL  
20 JUDGMENTS. RCW 10.82.090. AN AWARD OF COSTS ON APPEAL AGAINST THE DEFENDANT MAY  
21 BE ADDED TO THE TOTAL LEGAL FINANCIAL OBLIGATIONS. RCW 10.73.

22 Any period of supervision shall be tolled during any period of time the offender is in confinement for  
23 any reason.

24  Further Conditions as follows:

25 180 days in custody, consecutive to  
Alimony sentence, credit for time  
served to be determined by DOC, less  
any sanction time

26 IT IS FURTHER ORDERED that, upon completion of any incarceration imposed the defendant  
27 shall be released from the custody of the Sheriff of Pierce County and report to the authorized Probation  
28 Officer of this district, to receive his instructions: Bail is hereby exonerated.

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16/19/2019

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6/19/2018

1  
2 [ ] PURSUANT TO 1993 LAWS OF WASHINGTON, CHAPTER 419, IF THIS  
3 OFFENDER IS FOUND TO BE A CRIMINAL ALIEN ELIGIBLE FOR RELEASE AND  
4 DEPORTATION BY THE UNITED STATES IMMIGRATION AND  
5 NATURALIZATION SERVICE, SUBJECT TO ARREST AND RE-INCARCERATION  
6 IN ACCORDANCE WITH THIS LAW, THEN THE UNDERSIGNED JUDGE AND FILED  
7 PROSECUTOR CONSENT TO SUCH RELEASE AND DEPORTATION PRIOR TO DEPT. 10  
8 THE EXPIRATION OF THE SENTENCE.

DONE IN OPEN COURT this 15 day of June 2018.

IN OPEN COURT

JUN 15 2018

Pierce County Clerk

By [Signature] DEPUTY

JUDGE/COMMISSIONER

9 Presented by:

10 [Signature]  
11 R. BRIAN LEECH  
12 Deputy Prosecuting Attorney  
13 WSB # 24449

Garold E. Johnson

14 Approved as to Form:

15 [Signature] Mary J. Martin  
16 ~~Michael Malby~~ Mary C. Martin  
17 Attorney for Defendant  
18 WSB # 24754

19 [Signature]  
20 RICHARD ALAN LUCAS, JR, Defendant

21 kgg

FILED

Court of Appeals  
Division II  
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10/3/2018 4:22 PM

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE  
DEPARTMENT 19

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	Pierce County
	)	Superior Court
vs.	)	No. 17-1-00537-3
	)	
RICHARD ALAN LUCAS, JR.,	)	Appellate Court
	)	No. 52022-2-II
Defendant.	)	
	)	

VERBATIM REPORT OF PROCEEDINGS  
VOLUME I

January 16, 2018  
Pierce County Courthouse  
Tacoma, Washington  
before the  
HONORABLE PHILIP K. SORENSEN

1 JANUARY 16, 2018

2 MORNING SESSION

3 \* \* \* \* \*

4 THE COURT: Mr. Leech, Mr. Maltby.

5 MR. LEECH: Good morning, Your Honor.

6 MR. MALTBY: Good morning.

7 THE COURT: Good morning. We are here for  
8 State of Washington versus Richard Lucas, Jr.; Cause  
9 Number 17-1-00537-3.

10 Ready for trial? Mr. Leech, is the State  
11 ready?

12 MR. LEECH: It is.

13 THE COURT: Mr. Maltby?

14 MR. MALTBY: Your Honor, did you get my  
15 affidavit of -- I don't want to say "prejudice," but  
16 disqualification?

17 THE COURT: I haven't, but I've heard about  
18 it.

19 MR. MALTBY: Apparently, Mr. Leech is  
20 objecting to that.

21 MR. LEECH: Correct.

22 THE COURT: Seems to me, Mr. Maltby, I've made  
23 some discretionary rulings in this case.

24 MR. MALTBY: My thought is it was for drug  
25 court. Have you made them other than in the drug court

1 context, because my understanding was it went back to the  
2 status quo, was restored, and I think that would include  
3 any kind of rulings in terms of drug court.

4 THE COURT: Really?

5 MR. MALTBY: Well, yeah, that's my --

6 THE COURT: I think the status of being in  
7 trial is restored, that you are back in a pretrial status,  
8 but I don't think that means that anything that some judge  
9 has done during the pendency of getting to ground zero  
10 goes away. I mean, I accepted a plea in this case. The  
11 very end of the plea form says, "I find" --

12 MR. MALTBY: Well, I understand that, but I --  
13 from my perspective, drug court is a unique situation, and  
14 I believe it's -- the defendant would go back to prior to  
15 even entering drug court, a plea, and everything else.

16 THE COURT: He's back in a pretrial status --  
17 I will grant you that -- but I don't see that there's any  
18 reason to believe -- I mean, on some level, I made  
19 discretionary rulings throughout. I accepted his plea, I  
20 accepted him into drug court, and I allowed him to  
21 withdraw his plea subject to a contract, but he entered  
22 into the contract because I allowed him to enter into the  
23 contract.

24 MR. MALTBY: No, I'm not suggesting you didn't  
25 have anything to do with Mr. Lucas or his case and

1 everything else, but from my perspective and on behalf of  
2 Mr. Lucas, I would argue that he ought to be back to the  
3 status quo. And I think in this context, any  
4 discretionary rulings wouldn't apply in this unique  
5 situation.

6 Beyond that and on behalf of Mr. Lucas, he  
7 indicates that things he heard at the drug court hearing  
8 would suggest that he believes that you could not be fair  
9 and impartial.

10 THE COURT: I don't know what that means.

11 MR. MALTBY: Well, perhaps you could --

12 THE DEFENDANT: There's tapes of it.

13 MR. MALTBY: What it means is that he believes  
14 he heard things that you said -- and I'm not sure exactly  
15 what -- but he suggests that based on things that he  
16 heard, he believes that you couldn't be impartial and  
17 fair.

18 THE DEFENDANT: He said, "I hope that you get  
19 charged or you get with the full extent of the law -- you  
20 get charged to the full extent of the law." That's what  
21 he said to me.

22 MR. MALTBY: Well --

23 THE DEFENDANT: Go get the tapes, man. I  
24 heard him.

25 THE COURT: Mr. Leech, sorry, I haven't let

1           you weigh in on this.

2                       MR. LEECH: That's fine, Your Honor. I was  
3 waiting for defense to make their argument. I do oppose  
4 the notice of disqualification, is what it's called now.  
5 I do believe the Court has made discretionary rulings that  
6 go beyond simply administrative rulings on the case. You  
7 did exercise your discretion to allow the defendant to  
8 enter into drug court. You exercised your discretion when  
9 you accepted his guilty plea, as well as when you allowed  
10 him to withdraw the guilty plea. As a result, I think  
11 that makes it not appropriate, or it's inappropriate for  
12 him to attempt to disqualify you at this point.

13                      I can't comment on the allegations the  
14 defendant is making about your impartiality. I wasn't  
15 present in drug court when the statements were alleged to  
16 have been made. I don't think that there's a factual  
17 basis to support a motion for you to recuse yourself. I'd  
18 ask the Court to proceed.

19                      THE COURT: Okay. Mr. Maltby.

20                      MR. MALTBY: I don't have anything more to say  
21 on the subject.

22                      THE COURT: Okay. I am going to deny the  
23 defense motion.

24                      MR. MALTBY: Thank you, Your Honor. Your  
25 Honor, I have another motion.

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THE COURT: Okay.

MR. MALTBY: I've never made this motion, but I am asking to withdraw from this case. The level of communication between Mr. Lucas is nonexistent and not good in many respects. He doesn't want me as his attorney. He's made that very clear. And although I'm ready to go to trial, I do not feel comfortable, I will tell you that.

THE COURT: Okay.

MR. MALTBY: And I really can't, you know, play out our interactions, but I totally am not comfortable being in this chair representing him based on our contact -- our interactions.

THE COURT: Mr. Leech.

MR. LEECH: I would respectfully oppose that motion, as well. Unfortunately, Mr. Lucas has availed himself to four attorneys in this case at this point. Mr. Maltby is the fourth attorney. Attorney Gaurav Sharma was originally on the case. He was removed from the case, I don't know why. Then Nick Andrews came on the case. Mr. Andrews then withdrew, and then Jim Halstead was assigned the case. Mr. Halstead started a trial with me on this case, and a mistrial was declared after defense counsel's motion. Mr. Lucas expressed dissatisfaction with Mr. Halstead's representation at that point in time,

1 leading to Mr. Maltby.

2 So, unfortunately, this is pretty much par for  
3 the course for Mr. Lucas. He is the only common  
4 denominator between all four of these attorneys, and a  
5 conflict between Mr. Lucas and his attorneys have resulted  
6 in multiple attorneys withdrawing. I don't anticipate  
7 that there would be any change in Mr. Lucas's behavior.

8 THE COURT: I see that Mr. Ryan was involved  
9 in this case for a period of time, as well, which would --

10 MR. LEECH: That may have occurred before I  
11 was assigned the file.

12 THE COURT: Which might be five, Mr. Maltby  
13 being the fifth attorney on this case.

14 MR. LEECH: Okay. You know, the last thing I  
15 want to do is ask a defense attorney to be in an  
16 uncomfortable position, but unfortunately, this case is  
17 approaching a year old now, and it's largely due to the  
18 defendant's conduct. He has repeatedly had conflict with  
19 each of the attorneys that he's had in the past. They  
20 have been allowed to withdraw, and he has entered pleas,  
21 withdrawn pleas, entered drug court, withdrawn, scheduled  
22 subsequent pleas, decided not to plead. He's playing the  
23 system, quite frankly. It's time for this case to proceed  
24 to trial.

25 I will certainly do my best to provide

1 Mr. Lucas a fair trial. I think this Court will as well,  
2 but I don't believe that there will be any change should  
3 another attorney be appointed. I believe that the same  
4 issues would arise, so we would simply be in another  
5 holding pattern in this case and simply be months older  
6 down the road.

7 Mr. Maltby has indicated he is prepared for  
8 trial. He's an experienced trial lawyer. I have every  
9 confidence that he can do an effective job representing  
10 Mr. Lucas on this case, and I would oppose the motion.  
11 Thank you.

12 THE COURT: Okay. Mr. Maltby, it's your  
13 motion. Anything else you wanted to say?

14 MR. MALTBY: No, Your Honor.

15 THE COURT: Okay. Mr. Maltby, I am going to  
16 deny your motion; not because I don't have empathy for  
17 your situation, but unfortunately, you seem to be the last  
18 man standing.

19 MR. LEECH: I'd also note that under State vs.  
20 Hampton, I don't think the Court could make a finding  
21 under Hampton that a withdrawal at this point in time  
22 would be appropriate.

23 THE COURT: Well, I'm finding that there  
24 hasn't been a reason articulated that I am willing to  
25 accept as a basis to allow Mr. Maltby to withdraw at this

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE  
DEPARTMENT 19

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STATE OF WASHINGTON,	)
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Plaintiff,	)
	)
vs.	)
	)
RICHARD ALAN LUCAS, JR.,	)
	)
Defendant.	)
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	)
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Pierce County  
Superior Court  
No. 17-1-00537-3  
Appellate Court  
No. 52022-2-II

VERBATIM REPORT OF PROCEEDINGS  
VOLUME II

January 18, 2018  
Pierce County Courthouse  
Tacoma, Washington  
before the  
HONORABLE PHILIP K. SORENSEN

1 JANUARY 18, 2018

2 MORNING SESSION

3 \* \* \* \* \*

4 (The following proceedings were held  
5 outside the presence of the jury:)

6 THE COURT: Mr. Leech, Mr. Maltby, Mr. Lucas.

7 MR. MALTBY: Good morning.

8 MR. LEECH: Good morning.

9 THE COURT: On Monday, Mr. Lucas had concerns  
10 about what I had said during the withdrawal of his plea  
11 from drug court. I've arranged to have that transcript  
12 prepared. We can listen to it. Actually, it's the audio  
13 recording. It's not a transcript. We can listen to it if  
14 you'd like to.

15 Mr. Maltby, would that be --

16 MR. MALTBY: Thank you, Your Honor. Yes,  
17 Mr. Lucas has concerns about what he believes you said  
18 when he withdrew his guilty plea at drug court. I know  
19 you -- you asked me and Mr. Leech to come back into your  
20 chambers so you could say -- because, apparently, before I  
21 got here, efforts had been made in terms of getting a  
22 transcript of the recording, and you were of the mind that  
23 we could just play it so we could hear it and not  
24 speculate. That's what the conversation was about, and we  
25 were all -- I'm in agreement, and I know Mr. Lucas would

1       like to hear the tape. So --

2                   THE COURT: Okay.

3                   THE DEFENDANT: That's not all. That is not  
4 all. Just bring the jury out so they can hear it, too.  
5 That ain't much, is it?

6                   MR. MALTBY: Just for the record, Mr. Lucas  
7 believes --

8                   THE DEFENDANT: It is --

9                   MR. MALTBY: -- that this recording, which I  
10 have not heard yet, is something that he would like to be  
11 played in front of the jury, and he would like that to be  
12 used as evidence in this trial. I am not of the same  
13 opinion. I believe it's not -- it's not relevant, and I  
14 haven't even heard it. I can't imagine it would be  
15 relevant in this trial. It might be relevant to other  
16 things, if somehow something was on there, but I haven't  
17 heard it, so that's Mr. -- I believe that's Mr. Lucas's  
18 concern.

19                   THE COURT: Okay. Well, on Monday, Mr. Lucas  
20 mentioned a couple of times, I think, that he believed I  
21 had found him guilty. In fact, I never found Mr. Lucas  
22 guilty. I agreed to accept his guilty plea, where he told  
23 me that he was guilty. I didn't make any finding, other  
24 than the facts that were presented in a statement that  
25 Mr. Lucas provided to me as his statement and were

1 sufficient to support his plea that he was guilty.

2 I then allowed him to withdraw his guilty plea  
3 and put him back in the trial track and advised him that  
4 the Prosecutor's Office would now have the option of  
5 prosecuting him to the full extent of the law, if that's  
6 what they choose to do.

7 THE DEFENDANT: That's not what was said.

8 THE COURT: Okay. Let's play it so that we  
9 don't have to speculate.

10 Mr. Leech, any objection to that?

11 MR. LEECH: No objection. I would just note  
12 that Monday was a holiday. You mentioned Monday, but it  
13 was Tuesday.

14 THE COURT: Tuesday --

15 MR. LEECH: Yes.

16 THE COURT: -- the 16th.

17 It runs about 12 minutes; is that correct?

18 THE JUDICIAL ASSISTANT: Around that. I can't  
19 tell exactly.

20 THE DEFENDANT: I opted out, and then he said  
21 it, so --

22 THE JUDICIAL ASSISTANT: It's playing.

23 THE DEFENDANT: Go ahead, I have been wanting  
24 to hear it. I still want this as evidence.

25 THE COURT: We will mark it as an exhibit.

1 THE JUDICIAL ASSISTANT: It will be marked as  
2 Exhibit Number 18.

3 (Exhibit Number 18 played in open court and  
4 not reported at the direction of the Court.)

5 MR. MALTBY: Can you play that part back?

6 (Exhibit Number 18 continued to be played in  
7 open court.)

8 THE COURT: Mr. Leech, Mr. Maltby, I think  
9 I've heard enough.

10 THE JUDICIAL ASSISTANT: Would you like me to  
11 stop it?

12 THE COURT: For my purposes, I think we can  
13 stop it.

14 MR. MALTBY: Yes.

15 THE COURT: Mr. Leech, anything you want to  
16 say?

17 MR. LEECH: No, Your Honor.

18 THE COURT: Mr. Maltby?

19 MR. MALTBY: Could I confer with Mr. Lucas out  
20 in the hall?

21 THE COURT: Yes.

22 (Pause in proceedings.)

23 THE COURT: Mr. Maltby, I will tell you right  
24 now that if Mr. Lucas wants me to, I'm going to recuse  
25 myself.

1 MR. MALTBY: That's what I am going to ask.

2 THE COURT: I am going to declare a mistrial,  
3 and I will leave it at that. I think, based on at least  
4 an appearance of fairness, it's inappropriate for me to  
5 continue with this trial.

6 Mr. Leech, I apologize for wasting the State's  
7 time. Mr. Maltby, I apologize for wasting your time.  
8 Mr. Lucas, I apologize for wasting your time.

9 I am going to dismiss the jury. Please bring  
10 them out.

11 MR. MALTBY: Your Honor, you have no need to  
12 apologize. I don't feel you have wasted our time, just  
13 for the record.

14 THE COURT: I actually listened to that once  
15 before, and I didn't hear the word "hopefully."

16 MR. MALTBY: Yes.

17 THE COURT: I didn't, and I listened to it  
18 just a few minutes ago, and I didn't hear that.

19 Anyway, we can excuse the jury. I will let  
20 the parties go after that.

21 MR. LEECH: We will go back to CDPJ, I  
22 imagine?

23 THE COURT: Yes.

24 THE DEFENDANT: Now can I do what I was asking  
25 for yesterday? Ask the next judge or whatever -- I will

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Court of Appeals

Division II

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
State of Washington

10/4/2018 11:27 AM  
IN AND FOR THE COUNTY OF PIERCE

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STATE OF WASHINGTON, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 17-1-00537-3  
 )  
RICHARD ALAN LUCAS, JR., ) COA No. 52022-2-II  
 )  
Defendant. )

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VERBATIM REPORT OF PROCEEDINGS

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[January 29, 2018; February 2, 2018; June 15, 2018]  
Honorable GAROLD E. JOHNSON  
Department No. 10  
Pierce County Superior Court

APPEARANCES

For the Plaintiff: Brian Leech  
Deputy Prosecuting Attorney

For the Defendant: Michael Maltby  
Mary Martin  
Attorneys at Law

The Defendant: Richard Alan Lucas, Jr.

LESLIE J. THOMPSON, CCR  
OFFICIAL COURT REPORTER  
PIERCE COUNTY SUPERIOR COURT  
930 TACOMA AVE S., #334  
TACOMA, WA 98402  
(253) 798-2979

1 MR. LEECH: 20 to 30 minutes.

2 THE COURT: 20 minutes.

3 Counsel, 20 minutes each.

4 MR. MALTBY: 10 minutes.

5 THE COURT: 10 minutes? All right, I'll give  
6 you 20 minutes each.

7 Jury selection, I allow two rounds. How long do you  
8 need the first round?

9 MR. LEECH: I'd ask each round be 20.

10 THE COURT: 20 again.

11 MR. LEECH: Yes.

12 THE COURT: Two rounds of 20 each.

13 Anything else to take up?

14 MR. MALTBY: Could I have just a second, Your  
15 Honor.

16 [Discussion off the record.]

17 THE DEFENDANT: I don't want this guy as my  
18 lawyer at all. He's fired.

19 THE COURT: The basis of that is?

20 THE DEFENDANT: Because he won't fill out  
21 paperwork I want him to fill out for me. He won't --  
22 I've asked him to do a couple things. He won't do it for  
23 me. I just asked him now.

24 THE COURT: Counsel, you can explain to your  
25 client -- he's still your client, you haven't withdrawn

1 yet -- understand that if you fire your lawyer at this  
2 stage, you'll be proceeding on your own.

3 THE DEFENDANT: I guess so.

4 THE COURT: This day.

5 THE DEFENDANT: I guess so.

6 THE COURT: I want to quote to you what Abraham  
7 Lincoln said. Listen to me for a second. Are you  
8 listening carefully?

9 THE DEFENDANT: Yes. All ears.

10 THE COURT: A person who represents himself has  
11 a fool for a client.

12 THE DEFENDANT: Okay.

13 THE COURT: And probably in that fact pattern, a  
14 fool for an attorney as well.

15 You don't want to represent yourself in a criminal  
16 matter. I'm telling you, this is a technical world.

17 You know what, I drive a car every day. Doesn't mean  
18 I should be flying an airplane, does it.

19 Listen to me. Your head is going all over the place.  
20 You're looking all over the room. Listen to people who  
21 are talking to you. This is a dead serious decision.

22 THE DEFENDANT: I know.

23 THE COURT: If you don't have a counsel  
24 representing you, you understand you're held to the same  
25 standards as a lawyer. Do you understand that?

1 THE DEFENDANT: What's that mean?

2 THE COURT: That's exactly my point. That's  
3 exactly my point. You have no --

4 THE DEFENDANT: What am I supposed to do?

5 THE COURT: You have an attorney sitting next to  
6 you. You can go forward if you wish. If not, you're  
7 going to go on your own.

8 THE DEFENDANT: He won't even do the stuff I  
9 asked him to do.

10 THE COURT: It's up to you. You have about two  
11 seconds for me to decide whether or not to let counsel  
12 withdraw. But I wouldn't at this stage.

13 THE DEFENDANT: What stage do I do it at?

14 THE COURT: Long before now.

15 THE DEFENDANT: I asked him to do it 12 times.

16 THE COURT: I'm not going to listen to your  
17 argument. I'm telling you, those are your options.

18 THE DEFENDANT: I'm not arguing with you.

19 THE COURT: I beg your pardon?

20 THE DEFENDANT: I'm pleading with you. I'm not  
21 arguing with you.

22 THE COURT: I'm not going to have him withdraw  
23 and then you sit there by yourself unless you're prepared  
24 to represent yourself in this trial.

25 THE DEFENDANT: I ain't prepared for nothing

1           like that.

2                   THE COURT: Then we're going to go forward with  
3 counsel in trial.

4           Ready to bring the jury up?

5           Anything else? Motions in limine?

6                   MR. LEECH: I was going to propose we do those  
7 after the jury selection unless you wanted to do it now.  
8 It's up to you.

9                   THE COURT: Is there anything in the motions in  
10 limine, anything unusual about this?

11           MR. MALTBY: No.

12           THE COURT: Is there a 3.5 on this one?

13           MR. LEECH: There's no 3.5.

14           MR. MALTBY: Nothing unusual.

15           THE COURT: Is there agreed motions in limine?  
16 The only reason, sometimes it comes up in your --

17           MR. LEECH: I can go ahead and outline them now.  
18 Won't take long.

19           THE COURT: Let's do it real quick.

20           MR. LEECH: So the standard motion to exclude  
21 witnesses.

22           THE COURT: That will be granted.

23           MR. LEECH: Exclude testimony of any witnesses  
24 who haven't previously been disclosed to this stage.

25           THE COURT: Counsel, tell me if you have an

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

THE HONORABLE GAROLD E. JOHNSON DEPARTMENT 10

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STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	COA NO. 52022-2-II
	)	
vs.	)	NO. 17-1-00537-3
	)	
RICHARD ALAN LUCAS JR.,	)	
	)	
Defendant.	)	

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VERBATIM REPORT OF PROCEEDINGS  
VOLUME 1  
PAGES 1 - 183

JANUARY 30, 2018

DIANNE JOHNSON, RPR, CCR 2198  
Official Court Reporter (253) 798-6774  
930 Tacoma Avenue South, Department 22  
Tacoma, Washington 98402  
dianne.johnson@piercecountywa.gov

1 by slowly and watched it for as long as I could.

2 Q. Okay. What did you see happen while you were  
3 watching the vehicle?

4 A. As I was passing by, I looked over my shoulder  
5 and I saw a male getting out of the driver's seat.

6 Q. Okay. And what did you do next?

7 A. Then I got a return. It makes a ringing noise  
8 when you get returns on it. I hit the button, the F2  
9 button, and I saw the stolen plate, and I did a U-turn  
10 and went back.

11 Q. And when you saw the person exit the vehicle,  
12 did you have a clear view of the person at that point  
13 in time?

14 A. I had a clear view of the out- -- not the  
15 outline. I couldn't see his face clearly because as I  
16 was -- as I'm looking through my partition -- So here's  
17 the passenger-side window. Then I got my partition,  
18 which is glass. Then I got the rear passenger window.  
19 Unfortunately, either the day prior or sometime,  
20 somebody hit the side and smashed their face against my  
21 partition and it was smeared with face oil, so I  
22 couldn't see crisp detail but I saw a figure getting  
23 out of the vehicle.

24 Q. And when you saw the figure getting out of the  
25 vehicle did you see the clothing that person was

1 wearing?

2 A. I can't recall the clothing.

3 Q. Now, when you turned around, how long did it  
4 take you for you to turn around, turn your vehicle  
5 around, and turn back?

6 A. For as long -- as fast as a really fast U-turn  
7 takes, so it wasn't long at all.

8 Q. And how far did you go past the vehicle before  
9 the U-turn?

10 A. Maybe half a block, less than half a block.

11 Q. And when you -- After your U-turn what did you  
12 do next?

13 A. I did a U-turn, and I pulled in up to the --  
14 to the driveway. And I was hanging halfway into the  
15 street. And I saw the driver walk away from the  
16 vehicle.

17 Q. Okay. So was he still in the driveway at that  
18 point in time?

19 A. He was at the very end of the driveway heading  
20 out towards actual McKinley. So he was at the rear  
21 passenger side of the Sentra, maybe three or four, five  
22 feet away, trying to go southbound.

23 Q. So he was on the opposite side of the vehicle  
24 but near the --

25 A. Right.

1 Q. -- the passenger side?

2 A. Right.

3 Q. And when you saw him when you pulled your  
4 vehicle in, did you recognize him?

5 A. Yes, I did.

6 Q. Okay. And how did you recognize him?

7 A. Because I just saw him on 104th Street with  
8 his hands on the drive -- the steering wheel.

9 Q. So you recognized him based on seeing him  
10 driving the vehicle moments earlier?

11 A. Correct.

12 Q. And did you activate your emergency lights or  
13 anything like that?

14 A. I did.

15 Q. Okay. And how did the defendant respond when  
16 he saw you?

17 A. He stopped. And I said, "Hold on a second."  
18 And he was looking around like -- He was looking  
19 around, like looking for the best place to go. And I  
20 didn't feel like being in a foot chase, so I told him  
21 to get back in his car.

22 Q. Okay. So based on his demeanor, you felt he  
23 might try to run?

24 A. I did.

25 MR. MALTBY: Objection; leading.

1 THE COURT: Sustained. The jury will  
2 disregard.

3 Q. (By Mr. Leech) Based on his demeanor what did  
4 you conclude?

5 A. Based on his demeanor I felt like he was  
6 looking for the best place to take a hike.

7 MR. MALTBY: Your Honor, I'm going to  
8 object. This calls for speculation and characterizing  
9 actions or observations.

10 THE COURT: One-word objections, please.  
11 The objection is overruled. You can answer.

12 Q. (By Mr. Leech) You can answer.

13 A. I felt like he was going to go. I felt like  
14 he was going to run and he was going to go.

15 Q. Okay. And based on that, what did you do?

16 A. I told him to step back into his vehicle.

17 Q. Okay. Did you say that -- Is that how you  
18 said it to him?

19 A. I told him it wasn't a big deal. I kind of  
20 fibbed a little bit, and I said, "Your tabs are just  
21 expired, not a big deal. Get back in your vehicle.  
22 I'll cut you a ticket and we're done."

23 Q. Why did you approach it that way?

24 A. Because I didn't want him to run and I didn't  
25 want him to know that I suspected. I didn't want him

1 to know that I knew that the plates were coming back  
2 stolen.

3 Q. Okay.

4 A. I wanted to minimize it.

5 Q. And after you told him to get back in his car  
6 what did he do?

7 A. He got back in the car.

8 Q. In the same beige Nissan?

9 A. The same vehicle.

10 Q. You didn't tell him to get back in the beige  
11 Nissan?

12 A. No. I said, "Get back in your car."

13 Q. And after that happened, what happened next?

14 A. Then, because I hadn't had the time, with the  
15 U-turn and waiting for the return, I was calling out to  
16 Dispatch: "Hey, I'm here. I'm on this call. This is  
17 what I got. Run this plate for me. Verify it."

18 Q. Okay. And did they do that?

19 A. They did.

20 Q. Did you get a report back verifying the plate  
21 was stolen?

22 A. They said the license plate was coming back  
23 stolen.

24 Q. Now, what happened after you learned that the  
25 plates were stolen?

1 because putting a shaved key in the ignition just  
2 proves that a shaved key fits in the ignition.

3 Q. Well, you'd have -- What if you turned the  
4 shaved key in the ignition and you turned the ignition  
5 switch?

6 A. There a decent chance it would start, because  
7 that's what shaved keys are for.

8 Q. But you didn't do that?

9 A. No, I didn't.

10 Q. So you don't know if any of those keys would  
11 start that?

12 A. I certainly don't.

13 Q. Now, there was some issue about some of the  
14 keys from when you originally saw them on the driver's  
15 seat. I think you had written in your report that you  
16 saw these keys on your driver's seat and later they  
17 were moved?

18 A. Right.

19 Q. Okay.

20 A. Correct.

21 Q. And do you have any reason to suspect how they  
22 were moved?

23 A. I asked the tow driver if he moved the keys at  
24 any point or touched the keys. And he said he moved a  
25 set of keys so that he could put the vehicle in gear, I

1 believe, or start the vehicle or whatever it was the  
2 tow driver has to do to make sure the vehicle can be  
3 pulled up onto a tow truck.

4 Q. Did you ask him whether or not he moved  
5 anything else?

6 A. I did not.

7 Q. So he could have moved other stuff?

8 A. He could have.

9 Q. All right.

10 A. He could have. But the question to him I  
11 believe was "Did you move anything?" and he said, "Yes,  
12 a set of keys." So he didn't say any other items.

13 Q. So this driver of this Nissan, they would have  
14 seen you? Is there any way they wouldn't have seen you  
15 as they drove by?

16 A. The driver of the stolen Nissan?

17 Q. Yes.

18 A. I suppose unless they were completely  
19 inattentive they would have seen me, yes.

20 Q. And so then they necessarily would have known  
21 you were behind them, right, or him, or her or whoever  
22 was driving?

23 A. I would definitely assume they would have  
24 known.

25 Q. And there was certainly enough time that a

1 driver pulling into that driveway could have got out  
2 and gone elsewhere other than McKinley Avenue?

3 A. Are you talking about from the time that I  
4 made my U-turn?

5 Q. Yes, from the time you --

6 A. When he disappeared from my view?

7 Q. Yes.

8 A. Yeah. Lots of things could have happened.

9 Q. Yeah.

10 MR. MALTBY: Could I just have one minute,  
11 your Honor?

12 (Discussion off the record.)

13 Q. (By Mr. Maltby) What did you do before you  
14 were a police officer?

15 A. I spent four years in the Marine Corps, and  
16 then I spent the rest of my time in the United States  
17 Army Special Forces, the 1st Special Forces Group, as a  
18 weapons sergeant.

19 MR. MALTBY: No other questions.

20 THE COURT: Redirect, counsel?

21 MR. LEECH: Yes, your Honor. Thank you.

22 REDIRECT EXAMINATION

23 BY MR. LEECH:

24 Q. Deputy Roberts, could you take a different  
25 color marker and indicate roughly where the bus was

1           A. I was on the road, pretty much. I don't walk  
2 on the road. I was walking on the gravel next to the  
3 road.

4           Q. Okay. So the police contacted you?

5           A. Yeah.

6           Q. Okay. Prior to the police contacting you, had  
7 you ever seen that Nissan Sentra before?

8           A. I had seen some like it, yeah.

9           Q. No, that particular --

10          A. No, no, no.

11          Q. Okay. What happened after the police  
12 contacted you?

13          A. He said, "Stop. Why don't you just get back  
14 in your car."

15                 And I said, "What car?"

16                 And he said -- He said -- That's when he  
17 pulled his pistol on me, and he pretty much made me get  
18 into the car. He did make me get into the car,  
19 actually. He forced me three different times, not  
20 forced but yelling at me three different times, "Get in  
21 the car," and louder each time.

22                 So I said, "I don't want no problems," and I  
23 got in the car.

24          Q. Was there any other cars around there that he  
25 could have been talking about?

1           A.   Not -- No.   There was vehicles.   There was no  
2 one else out there.

3           Q.   Okay.   Well, was he pointing to the Nissan, or  
4 was there other cars he could have been referring to?

5                   MR. LEECH:   I'm going to object to the  
6 leading questions.

7                   THE COURT:   I'll allow the answer.

8                   You may answer.   The objection is overruled.  
9 You may answer.

10           A.   He wasn't pointing anywhere but a gun in my  
11 face.   That's the only thing he was pointing.

12           Q.   (By Mr. Maltby)   And is the only car -- Is it  
13 fair to say -- I'm just asking; I wasn't there -- it's  
14 the only car that you could have got into?

15           A.   I don't know.   But I was figuring that he  
16 meant that car because I saw some dude jump out of it.

17           Q.   Okay.

18           A.   You know what I mean?   I don't know.

19           Q.   All right.

20           A.   I was scared at that point.

21           Q.   Okay.

22           A.   He was mad.   He was yelling at me.

23           Q.   Okay.   Then you got back in the car?

24           A.   Back in the car?

25           Q.   Or you got --

1 A. No. I got in the car.

2 Q. You got in the car?

3 A. Yeah.

4 Q. Okay. Then what happened?

5 A. When I opened the door, I had to move some  
6 keys out of my way, and that's -- I had them in my  
7 hands still. You know what I mean? Whenever the --

8 Q. Where were the keys?

9 A. On the seat.

10 Q. Okay. Did you have to take them -- So he had  
11 to -- Did you have to move them so you could sit down  
12 in this car?

13 A. Yeah, yeah.

14 Q. All right. Then what happened?

15 A. He then told me to get back -- Well, first he  
16 maneuvered his car backwards. He pulled backwards and  
17 put it right behind that car.

18 Q. Mm-hm.

19 A. And he said -- Or he turned on his overhead  
20 lights. Then he said, "Get out of the car" with his  
21 gun on me again.

22 Q. Okay. Then what happened?

23 A. Like four other cop cars came, and then there  
24 was like cops everywhere, and -- and then I went to  
25 jail.

1 Q. So you -- Had you driven that car before that  
2 point?

3 A. No.

4 Q. Had you ever been in that car before the  
5 police officer asked you to get in?

6 A. No.

7 Q. All right. Now, you've heard a lot of --  
8 There was Mr. Zink testified about you not showing up  
9 for court?

10 A. Yes, sir.

11 Q. Back on March 2nd?

12 A. Yes, sir.

13 Q. At 8:45?

14 A. Yes, sir.

15 Q. Did you show up at court?

16 A. Yes, sir.

17 Q. And what happened after you got to court?

18 A. I talked to my lawyer.

19 Q. Do you know when you got to court?

20 A. Not exactly, no. I didn't -- I knew I was  
21 going to be there.

22 Q. So you don't know the exact time. What did  
23 you do?

24 A. I didn't look at the clock.

25 Q. How did you know to go to court?

1 could leave, or did you think you could leave?

2 A. I thought I could leave because my lawyer  
3 said -- he told me to come back on the 15th and --

4 MR. LEECH: Objection; hearsay.

5 THE COURT: Hold on. There's an  
6 objection. The objection is sustained.

7 THE WITNESS: Huh?

8 THE COURT: The objection is hearsay. The  
9 objection is sustained.

10 THE WITNESS: Hearsay?

11 THE COURT: You are not to answer the  
12 question.

13 Next question, please.

14 Q. (By Mr. Maltby) Okay. But you talked to your  
15 lawyer?

16 A. Yeah.

17 Q. And do you know, do you recall who your lawyer  
18 was?

19 A. He has a weird name. I don't remember that  
20 either. Sterropops, Stronren, or something. I don't  
21 know. It was really weird.

22 Q. So you talked to your lawyer, and then you  
23 what?

24 A. I left. He said it was okay to go.

25 MR. LEECH: Objection.

1 THE COURT: The jury will disregard.

2 MR. LEECH: Move to strike.

3 THE COURT: Objection sustained. The jury  
4 will disregard.

5 Next question, please.

6 MR. MALBY: I don't have any other  
7 questions.

8 THE COURT: Court will be at recess.  
9 We'll start Thursday morning at 9 o'clock.

10 (Proceedings concluded.)

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Personal Restraint petition

Coa no. 52022-2-II

enclosed is I Richard A Lucas, Personal Restraint petition  
To Be filed on Behalf of above Coa no, if possible  
I would like this prp To Be put with my Direct  
Appeal so my Appeal lawyer can use parts of the  
Transcript that were Blocked out By The State  
saying it was lawyer client Confidentiality.

Thank you

Richard A Lucas JR

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STATE OF WASHINGTON