

**FILED
Court of Appeals
Division II
State of Washington
12/24/2018 10:54 AM**

NO. 52627-1-II

**IN THE COURT OF APPEALS OF THE STATE OF
WASHINGTON,**

DIVISION II

STATE OF WASHINGTON,

Respondent,

vs.

AARON WALLACE TROTTER,

Appellant.

RESPONSE TO PERSONAL RESTRAINT PETITION

**THOMAS A. LADOUCEUR
W.S.B.A #19963
Chief Criminal Deputy Prosecutor**

**Hall of Justice
312 SW First
Kelso, WA 98626
(360) 577-3080**

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I. ANSWER TO PETITION

The restraint of the petitioner Aaron Trotter is lawful.

II. AUTHORITY FOR RESTRAINT OF PETITIONER

Petitioner is being restrained pursuant to the Judgment and Sentence entered on May 3, 2016 in Cowlitz County Superior Court Cause No. 15-1-00616-6. In this case he was sentenced to a total of 39 months, upon conviction of assault in the second degree, domestic violence with a firearm enhancement. (Judgment and Sentence attached as exhibit A.)

III. PROCEDURAL BACKGROUND

By Information filed on June 9, 2015, defendant was charged in count 1 with assault in the second degree, domestic violence, and in count 2 with assault in the second degree, domestic violence with a firearm enhancement. (Information attached as exhibit B.) The two counts were not charged as alternative means of committing a single assault. Count 1 alleged that defendant, on or about May 31, 2015, did intentionally assault Shantell Zimmerman, a family or household member, by strangulation. Count 2 alleged that defendant, on or about May 31, 2015, *at a time separate and distinct from count 1*, did intentionally assault Shantell Zimmerman, a family or household member, with a firearm, to-wit: an AR 15 rifle.

A jury trial was held, beginning August 13, 2015. The jury returned a verdict of not guilty as to count 1, but was unable to reach a unanimous

verdict as to count 2. (Verdict forms attached as exhibit C.) A mistrial was declared. A second jury trial was held on January 5, 2016, on count 2 of the original Information - assault in the second degree, domestic violence with a firearm enhancement. This trial also resulted in a mistrial, not as a result of a deadlocked jury. The third and last jury trial was held on March 30, 2016. The defendant was found guilty of the single count of assault in the second degree, domestic violence with a firearm enhancement. Again, this was count 2 of the original Information.

IV. ARGUMENT

DEFENDANT'S CONVICTION AND SENTENCE FOR ASSAULT IN THE SECOND DEGREE, DOMESTIC VIOLENCE WITH A FIREARM ENHANCEMENT, UPON RETRIAL AFTER A DEADLOCKED JURY ON THAT SAME CHARGE DOES NOT VIOLATE DOUBLE JEOPARDY.

LEGAL PRINCIPLES

The United States Constitution and the Washington State Constitution protect individuals from being twice put in jeopardy for the same offense. U.S. Const. amend. V (“nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb”); Wash. Const. art. I, § 9 (“No person shall ... be twice put in jeopardy for the same offense.”). “The double jeopardy doctrine protects a criminal defendant

from being (1) prosecuted a second time for the same offense after acquittal, (2) prosecuted a second time for the same offense after conviction, and (3) punished multiple times for the same offense.” “The prohibition against double jeopardy applies when (1) jeopardy previously attached, (2) jeopardy was terminated, and (3) the defendant is again prosecuted for the same offense.” Double jeopardy claims are reviewed de novo. *State v. Fuller*, 185 Wash. 2d 30, 33–34, 367 P.3d 1057, 1059 (2016), citing *State v. Linton*, 156 Wash.2d 777, 783, 132 P.3d 127 (2006), *State v. George*, 160 Wn.2d 727, 741, 158 P.3d 1169 (2007), *State v. Jackman*, 156 Wn.2d 736, 746, 132 P.3d 136 (2006).

The constitutional double jeopardy provisions do not bar retrial following a mistrial granted because a jury was unable to reach a verdict. *State v. Ahluwalia*, 143 Wash. 2d 527, 538, 22 P.3d 1254, 1259 (2001), citing *See Arizona v. Washington*, 434 U.S. 497, 505, 98 S.Ct. 824, 54 L.Ed.2d 717 (1978) (“retrial is not automatically barred when a criminal proceeding is terminated without finally resolving the merits of the charges against the accused.”); *State v. Carson*, 128 Wash. 2d 805, 821–22, 912 P.2d 1016, 1024–25 (1996) (“when a jury is discharged because it is unable to reach a verdict on a criminal charge, ... that event does not bar retrial on the charge under double jeopardy clauses.”); *State v. Russell*, 101 Wash. 2d 349, 351, 678 P.2d 332, 335 (1984) (“neither this court nor the United States

Supreme Court has ever held that a hung jury bars retrial under the double jeopardy clauses of either the Fifth Amendment or Const. art. 1, § 9. (Citations omitted).

ANALYSIS

Petitioner argues that his restraint is unlawful because he was placed in double jeopardy for the "same offense." His rendition of the facts is incomplete, inaccurate, and misleading. He states he was charged "with *the offense* of second degree assault" on May 31, 2015. This assertion implies that he was charged with *only* a single count of second degree assault, which is inaccurate. His assertion that on August 14, 2015, he was found not guilty for "the charge" of second degree assault, leaves out the fact that there was a deadlocked jury as to count 2 which resulted in a mistrial. His assertion that after his acquittal he was tried and convicted of the very same charge is misleading and false. The premise of petitioner's argument, that he was convicted for a charge which he had been previously acquitted of, is not true.

The procedural facts are simple and straightforward. Petitioner was charged with two separate counts of assault in the second degree. The first trial resulted in an acquittal as to count 1, and a mistrial as to count 2. He was later retried and convicted of the charge (count 2) which the first jury

deadlocked on, not the charge (count 1) which the jury acquitted him of. Thus, his conviction and sentence does not violate double jeopardy, and his restraint is not unlawful.

V. CONCLUSION

Based on the preceding argument, respondent requests the Court deny the petition.

Respectfully submitted this 21 day of December, 2018.

By



Tom Ladouceur, WSBA #19963
Chief Criminal Deputy Prosecuting Attorney

Exhibit A

FILED
SUPERIOR COURT

2016 MAY 3 PM 4 22

COWLITZ COUNTY
STACI L. MYKLEBUST, CLERK

BY MK

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON, Plaintiff,

No. 15-1-00616-6

vs.

**Felony Judgment and Sentence --
Prison
(FJS)**

AARON WALLACE TROTTER
Defendant.
DOB: 7/17/1988
PCN:
SID: WA23812269

- Clerk's Action Required, para 2.1, 4.1, 4.3, 4.8 5.2, 5.3, 5.5 and 5.7
- Defendant Used Motor Vehicle

16 9 00712 7 MK

I. Hearing

1.1 The court conducted a sentencing hearing this date 05/03/2016; the defendant, the defendant's lawyer, and the (deputy) prosecuting attorney were present.

II. Findings

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

- guilty plea (date) _____
- jury-verdict (date) 3/31/16
- bench trial (date) _____

by MHE

Count	Crime	RCW (w/subsection)	Class	Date of Crime
II	ASSAULT IN THE SECOND DEGREE, DOMESTIC VIOLENCE WITH A FIREARM ENHANCEMENT	9A.36.021(1)(c), 9.41.010, 9.94A.825, 9.94A.533(3)	FB	05/31/15

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

The **burglary** in Count _____ involved theft or intended theft.

For the crime(s) charged in Count II, **domestic violence** was pled and proved. RCW 10.99.020.

The defendant used a **firearm** in the commission of the offense in Count II. RCW 9.94A.825, 9.94A.533.

The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____ RCW 9.94A.825, 9.94A.533.

Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center

Felony Judgment and Sentence (FJS) (Prison)(Nonsex Offender)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (07/2013))

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designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

- In count _____ the defendant committed a robbery of a pharmacy as defined in RCW 18.64.011(21), RCW 9.94A._____.
- The offense in Count _____ was committed in a county jail or state correctional facility. RCW 9.94A.535(5).
- The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count _____ . RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- Count _____ is a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- Count _____ is the crime of unlawful possession of a firearm and the defendant was a criminal street gang member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A.829.
- The defendant committed vehicular homicide vehicular assault proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- In Count _____, the defendant had (number of) _____ passenger(s) under the age of 16 in the vehicle. RCW 9.94A.533.
- Count _____ involves attempting to elude a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- In Count _____ the defendant has been convicted of assaulting a law enforcement officer or other employee of a law enforcement agency who was performing his or her official duties at the time of the assault, as provided under RCW 9A.36.031, and the defendant intentionally committed the assault with what appeared to be a firearm. RCW 9.94A.831, 9.94A.533.
- Count _____ is a felony in the commission of which the defendant used a motor vehicle. RCW 46.20.285.
- The defendant has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- In Count _____, assault in the 1st degree (RCW 9A.36.011) or assault of a child in the 1st degree (RCW 9A.36.120), the offender used force or means likely to result in death or intended to kill the victim and shall be subject to a mandatory minimum term of 5 years (RCW 9.94A.540).
- Counts _____ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

	<i>Crime</i>	<i>Cause Number</i>	<i>Court (county & state)</i>	<i>DV* Yes</i>
1.				
2.				

* DV: Domestic Violence was pled and proved.

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

2.2 Criminal History (RCW 9.94A.525):

Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv.	Type of Crime	DV* Yes
1 SEE APPX 2.2						
2						
3						
4						
5						

* DV: Domestic Violence was pled and proved.

Additional criminal history is attached in Appendix 2.2.

The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

The prior convictions listed as number(s) _____, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

The prior convictions listed as number(s) _____, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
1	0	IV	3-9M	36 6 MONTH (FIREARM ENH)	3-9M 39 months 45 months	10 YEARS

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (RPh) Robbery of a pharmacy, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude, (ALF) assault law enforcement with firearm, RCW 9.94A.533(12), (P16) Passenger(s) under age 16.

Additional current offense sentencing data is attached in Appendix 2.3.

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

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

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

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

AARON WALLACE TROTTER,

Defendant.

Cause No. 15-1-00616-6

**PROSECUTOR'S STATEMENT
OF DEFENDANT'S CRIMINAL
HISTORY**

Crime	Sentencing Date	Adult / Juv.	Date of Crime	Cause Number
FELONIES – NONE				
PRIOR DV HISTORY – INFORMATIONAL ONLY				
03/02/07 - DISORDERLY CONDUCT – DV , COWLITZ CO., WA PC0074155				

**Prior convictions counted as one offense in determining the offender score. RCW 9.94A.525(5)(a)(i).*

DATE: 6/5/2015

SIGNED:

- The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
 - Aggravating factors were stipulated by the defendant, found by the court after the defendant waived jury trial, found by jury, by special interrogatory.
 - within the standard range for Count(s) _____, but served consecutively to Count(s) _____.
- Findings of fact and conclusions of law are attached in Appendix 2.4. Jury's special interrogatory is attached. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 Legal Financial Obligations/Restitution. The court has considered the total amount owing, the defendant's present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. (RCW 10.01.160). The court makes the following specific findings:

- The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): _____
- The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.
- (Name of agency) _____ 's costs for its emergency response are reasonable. RCW 38.52.430 (effective August 1, 2012).

- 2.6 Felony Firearm Offender Registration.** The defendant committed a felony firearm offense as defined in RCW 9.41.010.
- 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 and Appendix 2.1.
- 3.2 The defendant was found NOT GUILTY of Count I in the charging document on August 14, 2015.

IV. Sentence and Order

It is ordered:

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

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

39 months on Count II _____ months on Count _____
 _____ months on Count _____ months on Count _____
 _____ months on Count _____ months on Count _____

- The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- The confinement time on Count II includes 36 months as enhancement for firearm deadly weapon VUCSA in a protected zone manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 39

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

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

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

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

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

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

Count(s) _____ 36 months for Serious Violent Offenses
Count(s) II 18 months for Violent Offenses
Count(s) _____ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

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

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

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

- consume no alcohol or marijuana.
 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: _____

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.

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

JASS CODE

<i>PCV</i>	\$ <u>500.00</u>	Victim assessment	RCW 7.68.035
<i>PDV</i>	\$ _____	Domestic Violence assessment	RCW 10.99.080
<i>CRC</i>	\$ <u>200.00</u>	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$ <u>200.00</u>	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/WRF
		Jury demand fee \$ 250.00	JFR <i>ME</i>
		Extradition costs \$ _____	EXT
		Incarceration Fee \$ _____	JLR
		Other \$ _____	
<i>PUB</i>	\$ _____	Fees for court appointed attorney	RCW 9.94A.760
<i>WFR</i>	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760
<i>FCM/MTH</i>	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA chapter 69.50 RCW, <input type="checkbox"/> VUCSA additional fine deferred due to indigency RCW 69.50.430	
<i>CDF/LDI/PCD</i>	\$ _____	Drug enforcement fund of Cowlitz County Prosecutor.	RCW 9.94A.760
<i>NTF/SAD/SDI</i>	\$ _____	DUI fines, fees and assessments	
<i>CLF</i>	\$ _____	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
	\$ <u>100.00</u>	DNA collection fee	RCW 43.43.7541
<i>FPV</i>	\$ _____	Specialized forest products	RCW 76.48.140
<i>MTH</i>	\$ _____	Meth/Amphetamine Clean-up fine \$3000. 69.50.401(a)(1)(ii).	RCW 69.50.440,
	\$ _____	Other fines or costs for: _____	
<i>DEF</i>	\$ _____	Emergency response costs (\$1000 maximum, \$2,500 max. effective Aug. 1, 2012.) RCW 38.52.430 Agency: _____	
	\$ <u>TBD</u>	Restitution to: _____	
<i>RTN/RJN</i>	\$ _____	Restitution to: _____	
	\$ _____	Restitution to: _____	
		(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)	
	\$ <u>800.00</u>	Total	RCW 9.94A.760

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

shall be set by the prosecutor.
 is scheduled for _____ (date).

The defendant waives any right to be present at any restitution hearing (sign initials): _____.

Restitution ordered above shall be paid jointly and severally with:

Name of other defendant Cause Number (Amount-\$)

RJN

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

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25.00 per month commencing _____.
RCW 9.94A.760.

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

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

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

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

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

4.5 No Contact:

The defendant shall not have contact with SHANTELL ZIMMERMAN (9-8-86) (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until MAY 3, 2026 (which does not exceed the maximum statutory sentence).

The defendant is excluded or prohibited from coming within 100 YARDS (distance) of:
 SHANTELL ZIMMERMAN (name of protected person(s))'s
 home/ residence work place school (other location(s)) _____, or
 other location: _____,
until MAY 3, 2026 (which does not exceed the maximum statutory sentence).

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

4.6 Other: _____

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

4.8 Forfeiture: The Court hereby forfeits these items: AR-15 RIFLE to CCSO a law enforcement agency.

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

V. Notices and Signatures

- 5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). **You are required to contact the Cowlitz County Collections Deputy, 312 SW First Avenue, Kelso, WA 98626, (360) 414-5532 with any change in address or employment or as directed. Failure to make the required payments or advise of any change in circumstances is a violation of the sentence imposed by the Court and may result in the issuance of a warrant and a penalty of up to 60 days in jail.** The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 Community Custody Violation.**
- (a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.
 - (b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.
- 5.5a Firearms.** You may not own, use or possess any firearm, and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. **You must immediately surrender any concealed pistol license.** (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.5b Felony Firearm Offender Registration.** The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.
- 5.6 Reserved**
- 5.7 Department of Licensing Notice:** The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. **Clerk's Action**—The clerk shall forward an Abstract of Court Record (ACR) to the DOL, which must revoke the Defendant's driver's license. RCW 46.20.285. **Findings for DUI, Physical Control, Felony DUI or Physical Control, Vehicular Assault, or Vehicular Homicide (ACR information) (Check all that apply):**
- Within two hours after driving or being in physical control of a vehicle, the defendant had an alcohol concentration of breath or blood (BAC) of ____.
 - No BAC test result.
 - BAC Refused. The defendant refused to take a test offered pursuant to RCW 46.20.308.
 - Drug Related. The defendant was under the influence of or affected by any drug.
 - THC level was ____ within two hours after driving.
 - Passenger under age 16. The defendant committed the offense while a passenger under the age of sixteen was in the vehicle.

Vehicle Info.: Commercial Veh. 16 Passenger Veh. Hazmat Veh.

5.8 IF AN APPEAL IS PROPERLY FILED AND APPEAL BOND POSTED, THE DEFENDANT WILL REPORT TO THE DEPARTMENT OF CORRECTIONS, WHO WILL MONITOR THE DEFENDANT DURING THE PENDENCY OF THE APPEAL, SUBJECT TO ANY CONDITIONS IMPOSED BY DOC AND/OR INCLUDED IN THIS JUDGMENT AND SENTENCE AND NOT SPECIFICALLY STAYED BY THE COURT.

5.9 FAILURE TO COMPLY WITH THE CONDITIONS OF THIS JUDGMENT & SENTENCE, INCLUDING ANY REPORTING CONDITIONS OR CONDITIONS OF COMMUNITY CUSTODY, MAY RESULT IN A FORFEITURE OF YOUR RIGHT TO APPEAL AND DISMISSAL OF ANY PENDING APPEAL OR COLLATERAL ATTACK.

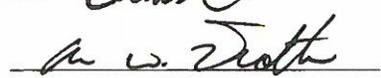
5.10 Other: _____

Done in Open Court and in the presence of the defendant this date: 5-3-2016


Judge/Print Name: Evans


Deputy Prosecuting Attorney
WSBA No. 19963
Print Name: TOM LADOUCEUR

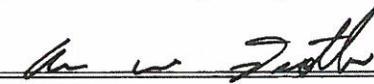

Attorney for Defendant
WSBA No. 29272
Print Name: KEVIN BLONDIN


Defendant
Print Name: AARON WALLACE TROTTER

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: 

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

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

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

Interpreter Print Name

VI. Identification of the Defendant

SID No. WA23812269
(If no SID complete a separate Applicant card
(form FD-258) for State Patrol)

Date of Birth: 7/17/1988

FBI No.: 791745PC2

Local ID No. _____

PCN No. _____

Other _____

Alias name, DOB: _____

Race:

- Asian/Pacific Islander Black/African-American Caucasian
 Native American Other: _____

Ethnicity:

- Hispanic Male
 Non-Hispanic Female

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

Clerk of the Court, Deputy Clerk, [Signature] Dated: 5-3-16

I, _____, 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 the Court of said county and state, by: [Signature], Deputy Clerk.

The defendant's signature:

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



Exhibit B

FILED
SUPERIOR COURT

2015 JUN -9 A 8:40

COWLITZ COUNTY
STACI L. MYKLEBUST, CLERK

BY: 

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,
Plaintiff,

- vs. -

AARON WALLACE TROTTER,
Defendant.

No. 15-1-00616-6

INFORMATION CHARGING:

**COUNT I - ASSAULT IN THE
SECOND DEGREE, DOMESTIC
VIOLENCE**

**COUNT II - ASSAULT IN THE
SECOND DEGREE, DOMESTIC
VIOLENCE WITH A FIREARM
ENHANCEMENT**

COMES NOW, RYAN JURVAKAINEN, Prosecuting Attorney of Cowlitz County, State of Washington, and by this Information accuses the above-named defendant of violating the criminal laws of the State of Washington as follows:

COUNT I - ASSAULT IN THE SECOND DEGREE, DOMESTIC VIOLENCE

The defendant, in the County of Cowlitz, State of Washington, on or about 05/31/2015, did intentionally assault Shantell Zimmerman, a family or household member, by strangulation, contrary to RCW 9A.36.021(1)(g) and against the peace and dignity of the State of Washington.

**COUNT II - ASSAULT IN THE SECOND DEGREE, DOMESTIC VIOLENCE WITH A
FIREARM ENHANCEMENT**

The defendant, in the County of Cowlitz, State of Washington, on or about 05/31/2015, at a time separate and distinct from count 1, did intentionally assault Shantell Zimmerman, a family or household member, with a firearm, to-wit: an AR-15 rifle, contrary to RCW 9A.36.021(1)(c) and against the peace and dignity of the State of Washington, and furthermore, the defendant was armed with a firearm as defined in RCW 9.41.010, as provided by RCW 9.94A.825 and RCW 9.94A.533(3).

1 DATED: Monday, June 08, 2015
2

3
4  #18963
5 RYAN JURVAKAINEN, WSBA #37864
6 Office Identification #: 91091
7 Cowlitz County Prosecuting Attorney
8
9
10

DEFENDANT INFORMATION						
NAME: AARON WALLACE TROTTER				DOB: 7/17/1988		
ADDRESS:				CITY:		
STATE:		ZIP CODE:		PHONE #(s):		
DRIV. LIC. NO.:	DL ST :	SEX: MALE	RACE:	HGT: 6'0"	WGT: 240	EYES: BROWN
HAIR: BROWN	OTHER IDENTIFYING INFORMATION:					

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19 **STATE'S WITNESSES:**
20 **Shantell Zimmerman**
21 **Teri Jo Goodwin**
22 **CCSO-B. Spaulding, K. Pattison**
23
24
25
26
27

Exhibit C

FILED
SUPERIOR COURT

2016 MAR 31 PM 2 44

COWLITZ COUNTY
STACIA MYHRE-BEST CLEON
SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

Aaron Wallace Trotter,

Defendant.

BY _____

[Signature]

No. 15-1-00616-6

VERDICT

We, the jury, find the defendant, Aaron Wallace Trotter, guilty
(write in "not guilty" or "guilty")
of the crime of assault in the second degree.

DATED this 31 of ~~January~~ ^{March}, 2016.

Roxanne Taloy
PRESIDING JUROR

(54)

FILED
SUPERIOR COURT

2016 MAR 31 PM 2 44

SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY
COWLITZ COUNTY
FOR COWLITZ COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

Aaron Wallace Trotter,

Defendant.

BY _____

No. 15-1-00616-6

SPECIAL VERDICT B

We, the jury, return a special verdict by answering as follows:

QUESTION: Was the defendant armed with a firearm at the time of the commission of the crime?

ANSWER: (Write "yes" or "no")

yes

DATED this 31 of ~~January~~ ^{March}, 2016.

Roxanne Haley
PRESIDING JUROR

(56)

Scanned

CERTIFICATE OF SERVICE

Michelle Sasser, I certify that I sent to the COA Division II portal a true and correct copy of the Response to Personal Restraint Petition and sent a true and correct copy to the Appellant via US mail to:

AARON WALLACE TROTTER
DOC # 406302
Monroe Correctional Complex
P.O. Box 777
Monroe, WA 98272

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

Signed at Kelso, Washington on December ^{24th} 2018.


Michelle Sasser
Michelle Sasser

COWLITZ COUNTY PROSECUTING ATTORNEY'S OFFICE

December 24, 2018 - 10:54 AM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 52627-1
Appellate Court Case Title: In re the Personal Restraint Petition of Aaron W. Trotter
Superior Court Case Number: 15-1-00616-6

The following documents have been uploaded:

- 526271_Personal_Restraint_Petition_20181224105303D2867006_6970.pdf
This File Contains:
Personal Restraint Petition - Response to PRP/PSP
The Original File Name was SKMBT_65418122412021.pdf

A copy of the uploaded files will be sent to:

- Jurvakainen.ryan@co.cowlitz.wa.us

Comments:

Please see attached new Certificate of Service. Thank you.

Sender Name: Michelle Sasser - Email: sasserm@co.cowlitz.wa.us

Filing on Behalf of: Thomas A. Ladouceur - Email: Tom.ladouceur@co.cowlitz.wa.us (Alternate Email: appeals@co.cowlitz.wa.us)

Address:

312 SW 1St Avenue

Kelso, WA, 98626

Phone: (360) 577-3080 EXT 2318

Note: The Filing Id is 20181224105303D2867006