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NO. 52884-3

(Consolidated with NO. 53017-1)

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**COURT OF APPEALS, DIVISION II  
STATE OF WASHINGTON**

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STATE OF WASHINGTON,  
Respondent,

v.

THYJUAN TOMIKIO TAPLIN,  
Appellant.

Consolidated with  
IN RE THE PERSONAL RESTRAINT OF  
THYJUAN TOMIKIO TAPLIN,

Petitioner

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Appeal from the Superior Court of Pierce County  
The Honorable Bryan Chushcoff

No. 17-1-00216-1

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**BRIEF OF RESPONDENT**

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## I. INTRODUCTION

Charged in three cause numbers and facing a sentence of 25 years with three firearm enhancements, the Defendant accepted a plea deal under which he expected to qualify for release after five years. As a part of that deal, the Defendant stipulated to his criminal history and offender score and signed a document waiving his right to challenge his criminal history and offender score. His judgment and sentence was entered in February of 2018. He did not timely appeal from this sentence.

The Defendant filed a post-conviction motion challenging the term of community custody. Responding to this motion, the superior court struck a term of community custody by entering an Order Correcting Judgment and Sentence in October of 2018. The Defendant appealed from that order. However, Brief of Appellant does not challenge that order. Rather the Defendant attempts to use this appeal as a vehicle to challenge the LFOs entered in February. The appeal violates RAP 5.2 and RAP 5.3. It is untimely and not the proper subject of the notice of appeal. Moreover, the Defendant is not a member of the *Ramirez* class, because his sentence was not pending appeal at the time the law was amended. Nor may this statutory challenge regarding \$300 be raised in a personal restraint petition (PRP) where it does not involve a constitutional issue or present a fundamental

defect resulting in a complete miscarriage of justice. The appeal must be denied.

The Defendant filed another post-conviction motion challenging his criminal history and offender score. The motion has been transferred as a PRP and consolidated with this appeal. The Defendant's conclusory assertions do not meet the burdens of proof and prejudice placed on a petitioner. The superior court was justified in relying upon the Defendant's stipulations. The Defendant is precluded from these claims under doctrines of waiver and invited error. The Defendant's standard sentence range is properly calculated. The petition must be dismissed as frivolous.

## II. RESTATEMENT OF THE ISSUES

1. May the Defendant challenge a different order than the one identified in the notice of appeal and which was not timely appealed?
2. Where the Defendant did not appeal from his February 2018 judgment and sentence, was his case "pending on direct review and thus not final" at the time Laws of 2018, ch. 269 was enacted on March 29, 2018 so as to qualify as a member of the *Ramirez* class?
3. Under doctrines of waiver and invited error, may the Defendant challenge his offender score by way of personal restraint petition after stipulating to the score and explicitly waiving any challenge? Does the petition meet its burden of proof and prejudice where any score of 6 or more produces the same sentence range?

### III. STATEMENT OF THE CASE

The Defendant ThyJuan Taplin had been “on the run for five years” when Fife Police Officer Calder identified him at the Interurban trailhead. CP 1; RP 1, 3; App. at 1. The Defendant fled from her only to be captured an hour later hiding in a swamp area with an empty gun holster on his hip and suboxone in his wallet. *Id.* The passenger in the Defendant’s car told police that the Defendant had thrown a gun in the backseat and might have another firearm on his person. *Id.* Police located the Bauer Firearms .25 caliber pistol in the car together with methamphetamine, clonazepam, oxycodone, and numerous miniature zip lock baggies. CP 2. Using information from the Defendant’s recorded jail phone conversation, police located the second .25 caliber pistol near the trail. CP 2.

The Defendant was charged with three counts of Possession with Intent to Deliver (methamphetamine, clorazepam, oxycodone) with three Firearm Enhancements, one simple Possession of suboxone, and two counts of Unlawful Possession of a Firearm in the Second Degree. CP 3-5.

The most serious of these charges are the first three counts (drug offenses with seriousness level II) against which the others would run concurrent. RCW 9.94A.518; RCW 9.94A.589(1)(a). Based on a criminal history which included five prior countable felonies (CP 21) and one or more current offenses, the Defendant had an offender score of 6 to 9+

resulting in a base range of 60+ to 120 months. RCW 9.94A.517; RCW 9.94A.525; RCW 9.94A.589(1)(a). By function of RCW 69.50.408(1), the Defendant's maximum incarceration term on each count doubled from 10 to 20 years. CP 21; RCW 9A.20.021. This, in turn, increased the term of each firearm enhancement to five years (or 60 months). RCW 9.94A.533(3)(a). Adding 60 month enhancements to the base sentence produced a standard range of 120+ to 180 months on each of the first three counts. Because there were three firearm enhancements which, by law, run consecutive to each other, all together the Defendant faced a total sentence of 240 to 300 months, or 20 to 25 years. RCW 9.94A.533(3)(e).

Two months after his arrest, the Defendant posted a bail bond of \$80,000, demonstrating an ability to make a non-refundable payment of 10% to the bail bond company. App. at 2-7. While this case was pending, Tacoma police officers observed the Defendant making threats to a female pedestrian "to get in the fucking car or I'm going to blow your fucking head off." App. at 8. The Defendant then ran from police while discarding crystalized amphetamine. App. at 8-9. When he was arrested, he was found in possession of 13 small baggies and \$261 in various denominations, mostly ten- and twenty-dollar bills. App. at 9.

The State amended the information for change of plea to strike two counts (Possession of suboxone and one count of Unlawful Possession of a

Firearm), to reduce the oxycodone count to simple possession, and to strike the three Firearm Enhancements. CP 6-8. A Deadly Weapon Enhancement was added to the lesser Possession of Oxycodone count. CP 7, 22. The Defendant also agreed to plead guilty in another cause number (13-1-04639-5) to another current offense of Escape in the First Degree, and the State dismissed the charges in a third case (18-1-00611-4) regarding possession of amphetamine. RP 2-3.

On February 23, 2018, the Defendant pled guilty and was sentenced in cause numbers 13-1-04639-5 and 17-1-00261-1. CP 9, 25; RP 7-8; App. at 10. He stipulated to an offender score of 9. CP 22. An offender score of 6 to 9+ produces the same standard range.

**DRUG OFFENSE SENTENCING GRID**

Seriousness Level	Offender Score 0 to 2	Offender Score 3 to 5	Offender Score 6 to 9 or more
<b>III</b>	51 to 68 months	68+ to 100 months	100+ to 120 months
<b>II</b>	12+ to 20 months	20+ to 60 months	60+ to 120 months
<b>I</b>	0 to 6 months	6+ to 18 months	12+ to 24 months

RCW 9.94A.517. The Defendant’s stipulation acknowledges that any challenge to the offender score will permit the State to refile and prosecute any charges dismissed or reduced for plea negotiation. CP 22. The Defendant signed below a provision indicating that he “waives any right to appeal or seek redress via any collateral attack based upon the above stated criminal history and/or offender score calculation.” *Id.*

His attorney advised the court that she read the Statement of Defendant on Plea of Guilty to the Defendant and also provided him with a copy to re-read at his leisure. RP 2. She advised the court that she answered all her client's questions and was satisfied that he was proceeding knowingly, intelligently, and voluntarily with the guilty plea. RP 2-3.

The Defendant agreed that he had read the statements and understood them. RP 3-4. His plea statement contains a recitation of the facts of his crimes. CP 18.

The Defendant's standard range was 60-120 months. CP 10, 22, 27. The parties jointly recommended a sentence of 90 months, which the court imposed. CP 12, 30; RP 8-9.

In the plea agreement, the State gave notice of its intent to request the imposition of \$800 in legal financial obligations (LFO's). CP 12. The court imposed the \$500 crime victim assessment, the \$100 DNA Database Fee, and the \$200 Criminal Filing Fee. CP 28.

On May 15, 2018, the Defendant filed a CrR 7.8 motion challenging his offender score. CP 42-51. He withdrew the motion two weeks later. CP 52.

On August 27, 2018, the Defendant filed another CrR 7.8 motion, this time challenging the community custody term. CP 53-55, 58-62. The court addressed the motion by signing an order striking community custody

on count three. CP 72. The Defendant's appeal from that order has been assigned Cause No. 52884-3-II. CP 76, 119.

On December 26, 2018, the Defendant filed a third CrR 7.8 motion, renewing his challenge to the stipulated offender score. CP 95-106. The superior court transferred the motion for this Court's review as a personal restraint petition (PRP). CP 109. The PRP has been consolidated with the appeal.

#### IV. ARGUMENT

**A. THE APPEAL MUST BE DISMISSED WHERE IT DOES NOT CHALLENGE THE ORDER IDENTIFIED IN THE NOTICE OF APPEAL AND WHERE THE ORDER ACTUALLY CHALLENGED HAS NOT BEEN APPEALED FROM, TIMELY OR OTHERWISE.**

According to the Notice of Appeal, the appeal before this Court is an appeal from the court's October 15, 2018 Order Correcting Judgment and Sentence. CP 38, 71-72, 119. The LFO provision was not addressed on that date. It is not properly before this Court, and the claim must be summarily dismissed under RAP 5.2 and RAP 5.3.

"[T]o be effective, a notice of appeal must fulfill two requirements; (1) it must be timely, and (2) it must contain specified information." *State v. Sorenson*, 2 Wn. App. 97, 100, 466 P.2d 532, 534 (1970). The party "must" designate the decision or part of the decision which he wants reviewed and "should" attach that decision to the notice. RAP 5.3(a). A

notice of appeal “must” be filed within 30 days of the entry of the decision that the party filing the notice wants reviewed. RAP 5.2(a).

The party must designate the proper order in the notice of appeal so that, as a preliminary issue, this Court’s commissioner can determine whether the appeal may proceed under RAP 2.2 and RAP 5.2. 2A Wash. Prac., Rules Practice RAP 5.3 (8th ed.). An appellate court must not review an order from which no appeal has been taken. *Clark Cty. v. W. Washington Growth Mgmt. Hearings Review Bd.*, 177 Wn.2d 136, 144, 298 P.3d 704, 708 (2013).

The notice indicates that the Defendant is seeking review of the order entered on October 15, 2018. CP 119. But this is not the case. He is not challenging the court’s response to his CrR 7.8 motion regarding community custody. He is not challenging any part of the language entered in the October 15 order. According to the Brief of the Appellant (BOA), the Defendant is only seeking review of LFO provisions – all of which were entered on February 23, 2018.

The court may overlook a violation of RAP 5.3(a)(3) if the violation is technical only. *State v. Olson*, 126 Wn.2d 315, 317-18, 893 P.2d 629 (1995) (finding a non-prejudicial, technical error only where the “notice of appeal did not specifically refer to the suppression order, but the dismissal

order, which was attached to the notice of appeal, clearly stated that the dismissal was based on the suppression of evidence by the trial court”).

In our case, the violation is more than technical. If the Defendant had designated the judgment and sentence in the notice of appeal, the matter would have been dismissed by the court commissioner as untimely. Circumventing the commissioner is more than minimal inconvenience. Sidestepping the procedural questions to go right to the merits prejudices the respondent where the procedural bars are decisive of the matter.

The notice is untimely, filed more than thirty days after the February 2018 judgment. The timely filing of a notice of appeal is a jurisdictional matter. *State v. Sorenson*, 2 Wn. App. 97, 99, 466 P.2d 532 (1970).

This Court should dismiss the appeal under RAP 5.2 and RAP 5.3.

**B. WHERE THE DEFENDANT DID NOT TIMELY CHALLENGE HIS JUDGMENT AND SENTENCE, HE IS NOT A MEMBER OF THE *RAMIREZ* CLASS.**

The appeal complains only of LFO provisions. The trial court imposed LFOs that were mandatory under the law effective on the date of sentencing, February 23, 2018. The judgment form used on that date contained language reciting the law effective on that date.

A month after the Defendant was sentenced, the Legislature passed HB 1783 – Laws of 2018, ch. 269. This law made previously mandatory provisions discretionary. Relevant to this appeal:

- The \$200 criminal filing fee remains mandatory unless the defendant is indigent, in which case it is prohibited. Laws of 2018, ch. 269, § 17 (amending RCW 36.18.020(2)(h)).
- The court has discretion to waive the \$100 DNA fee if it can be shown that the state “has previously *collected* the fee as a result of a previous conviction.” Laws of 2018, ch. 269, § 18 (amending RCW 43.43.7541) (emphasis added).
- Interest will no longer accrue<sup>1</sup> on nonrestitution LFOs. Laws of 2018, ch. 269, § 1 (amending RCW 10.82.090).

The bill was filed on March 29, 2018 and had an effective date of June 7, 2018. The Washington Supreme Court held that the bill applied prospectively to cases “pending on direct review and thus not final when the amendments were enacted.” *State v. Ramirez*, 191 Wn.2d 732, 747, 426 P.3d 714, 722 (2018).

The Defendant is not a member of the *Ramirez* class. He did not timely appeal from the February 23, 2018 judgment and sentence. HB 1783 does not apply to his unappealed, and therefore final, February 2018 judgment.

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<sup>1</sup> JIS software has been updated to address the change in law. Regardless of form language in a judgment and sentence, there is no risk that non-restitution interest will accrue.

**C. WHERE NEITHER PARTY HAS CHALLENGED THE ORDER CORRECTING JUDGMENT, IT MUST BE AFFIRMED.**

The October 15, 2018 Order Correcting Judgment and Sentence is in error. There was no need to strike the community custody provision, because the maximum term of incarceration on Count Three was 10 years, not five years.

Count Three was a simple possession charge under RCW 69.50.4013(1) – a class C felony. CP 7. A class C felony is normally understood to have a maximum term of five years' incarceration. RCW 9A.20.021(1)(c). However, the maximum term is doubled when a drug offense is a second or subsequent drug offense. RCW 69.50.408(1). The Defendant had a prior felony drug offense in 2008 in Pierce County. CP 21. Therefore, his maximum term on the class C felony was doubled to ten years. The 60 month term of incarceration plus the 12 month term of community custody did not exceed the maximum term of 10 years. Therefore, the court should have left the community custody provision intact.

However, the State has not appealed the Order Correcting Judgment. In fact, from the footer, it appears to have been drafted by the prosecutor's office. And the Defendant does not complain about the striking of the

community custody on count three. Therefore, the Order Correcting must be affirmed.

**D. THE COURT DID NOT ABUSE ITS DISCRETION IN FAILING TO ADDRESS AN LFO ISSUE THAT WAS NOT BROUGHT TO THE COURT'S ATTENTION IN THE CrR 7.8 MOTION.**

The October 15, 2018 Order Correcting Judgment and Sentence granted the Defendant's CrR 7.8 motion. The standard of review on an order granting or denying a CrR 7.8 motion is abuse of discretion. *State v. McAninch*, 189 Wn. App. 619, 623, 358 P.3d 448 (2015).

A trial court abuses its discretion if its decision "is manifestly unreasonable or based upon untenable grounds or reasons." *State v. Powell*, 126 Wash.2d 244, 258, 893 P.2d 615 (1995). A court's decision "is based on untenable reasons if it is based on an incorrect standard or the facts do not meet the requirements of the correct standard." *In re Marriage of Littlefield*, 133 Wash.2d 39, 47, 940 P.2d 1362 (1997). "A court's decision is manifestly unreasonable if it is outside the range of acceptable choices, given the facts and the applicable legal standard." *Id.* The "untenable grounds" basis applies "if the factual findings are unsupported by the record." *Id.*

*State v. Lamb*, 175 Wn.2d 121, 127, 285 P.3d 27, 30-31 (2012).

The Defendant challenges the LFO provisions in the judgment and sentence. The matter was not before the court in addressing the CrR 7.8 motion. It is not manifestly unreasonable for the court to have failed to consider *sua sponte* LFO provisions that were not brought to the court's attention in the post-sentence motion.

The appeal must be denied.

**E. LEGAL STANDARDS IN A COLLATERAL ATTACK.**

The courts' review of personal restraint petitions is constrained, and relief gained through collateral relief is extraordinary. *In re Fero*, 190 Wn.2d 1, 14, 409 P.3d 214, 222 (2018). In a personal restraint petition, the burden of proof shifts to the petitioner. *In re Cook*, 114 Wn.2d 802, 814, 792 P.2d 506 (1990); *Hews v. Evans*, 99 Wn.2d 80, 88, 660 P.2d 263 (1983). And the Defendant must make a heightened showing of prejudice. *Fero*, 190 Wn.2d at 15. If the challenge is in the context of constitutional error, petitioners have a threshold burden of demonstrating actual and substantial prejudice or the petition will be dismissed. *Cook*, 114 Wn.2d at 810. For non-constitutional claims, the preliminary showing is higher: the claimed error must constitute a fundamental defect which inherently results in a complete miscarriage of justice. *Cook*, 114 Wn.2d at 811.

A pro se petitioner is held to the same responsibility as a lawyer and required to follow applicable statutes and rules. *In re Connick*, 144 Wn.2d 442, 455, 28 P.3d 729 (2001). Bald assertions and conclusory allegations will not support a personal restraint petition. *In re Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086, *cert. denied* 506 U.S. 958, 113 S. Ct. 421, 121 L. Ed. 2d 344 (1992). If the petitioner's allegations are based on matters outside the existing record, the petitioner must demonstrate competent, admissible

evidence to establish the facts that entitle him to relief. *Id.* If a party fails to support argument with citation to legal authority, the court is entitled to presume that none exists. *Oregon Mut. Ins. Co. v. Barton*, 109 Wn. App. 405, 418, 36 P.3d 1065, 1071 (2001).

**F. THE PETITION IS TIMELY.**

The Defendant's personal restraint petition begins with an argument attempting to circumvent the time bar under RCW 10.73.090. There is no need to address this challenge. The superior court found the motion/petition to be timely. CP 109. Unlike the appeal, the petition is timely, having been filed in December 2018, within a year of the February 2018 judgment. RCW 10.73.090(3)(a).<sup>2</sup>

**G. THE SUPERIOR COURT DID NOT ABUSE ITS DISCRETION IN ACCEPTING THE DEFENDANT'S STIPULATION TO HIS OFFENDER SCORE.**

The Defendant claims that the trial court abused its discretion in determining the offender score. He claims that the court should have:

- Required the State to provide certified copies of prior judgments and sentences; and

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<sup>2</sup> The Defendant has not challenged the LFOs in his personal restraint petition. The State notes that if he had, the statutory challenge to the imposition of \$300 would be timely, but would not demonstrate a constitutional error or fundamental defect which inherently results in a complete miscarriage of justice.

- Required the State to prove out-of-state convictions were comparable to Washington offenses:
- Determined whether any offenses encompassed the same criminal conduct under RCW 9.94A.589(1)(a).

This is not an abuse of discretion. It is not manifestly unreasonable to rely upon a party's stipulation. On the contrary, a court is entitled to rely on a party's stipulation for sentencing purposes. *State v. Marquette*, 6 Wn. App. 2d 700, 705-06, 431 P.3d 1040, 1043 (2018), *review denied*, 193 Wn.2d 1007, 438 P.3d 116 (2019).

**H. THE PETITION DOES NOT CARRY ITS BURDEN OF PROOF OR DEMONSTRATE PREJUDICE.**

In a personal restraint petition, the Defendant bears the burden of proof and must demonstrate prejudice. He fails as to each claim. He provides no proof that the convictions were other than as stipulated. He provides no proof that the California convictions are not comparable. And he provides no legal authority for his claim that all counts in the 2017 judgment encompassed the same criminal intent. When a party fails to provide authority for its argument, the court may presume this is because the party could find no authority. *Oregon Mut. Ins. Co.*, 109 Wn. App. at 418.

The authority is that simple possession (for one's own use) has a different criminal intent than possession with intent to distribute to others.

*State v. Polk*, 187 Wn. App. 380, 397, 348 P.3d 1255 (2015). Those two objective criminal intents are also different from the intent in possessing a firearm after one's right to do so has been revoked by a criminal conviction. See *State v. Smith*, 7 Wn. App.2d 304, 433 P.3d 304 (2019) (“¶ 64-72).

**I. THE DEFENDANT'S STANDARD SENTENCE RANGE IS CORRECT AND THE DEFENDANT IS ESTOPPED FROM CLAIMING OTHERWISE.**

The Defendant claims that his score is five. Petition at 10. He includes in this score four prior convictions (2008 UPCS, 2010 Theft 2, 2011 TMVWOP 2, 2013 Attempt to Elude) and one current conviction (2013 Escape 1). He omits the 1993 Robbery and the other current offenses from his 2017 judgment. These omissions are error.

The Defendant's standard range was calculated to be 60-120 months. CP 27. This range depends on an offender score of six or more points. RCW 9.94A.517. The Defendant concedes a score of five. The State need only show one additional point to justify the sentence.

The Defendant concludes without explanation that his 1993 Robbery in the Second Degree “washed out.” Petition at 7. Because the petitioner bears the burden of proof, this bald assertion is insufficient to sustain the claim.

A second degree robbery is a class B felony. RCW 9A.56.210(2). A class B prior felony conviction will not be included in the offender score

if the offender spent ten consecutive years in the community without committing any new crimes. RCW 9.94A.525(2)(b). After the robbery, the Defendant was convicted of criminal offenses in these years: 1995, 1997, 2005, 2006, 2008, 2009, 2010, 2011, 2013. CP 21. There was no span of ten years without a conviction. The robbery does not wash. This additional point brings the score to six, and therefore it alone justifies the sentence.

The Defendant claims that all the counts under cause number 17-1-00216-1 encompass the same criminal conduct. Petition at 4. Such a claim is reviewed for an abuse of discretion or misapplication of law. *State v. Valencia*, 2 Wn.App.2d 121, 126, 416 P.3d 1275 (2018). The definition of “same criminal conduct” is applied narrowly to disallow most claims. *Valencia*, 2 Wn.App.2d at 125. The legal presumption is to include other current offenses in the offender score. *State v. Graciano*, 176 Wn.2d 531, 539, 295 P.3d 219 (2013); RCW 9.94A.589(1). Therefore, the Defendant bears the burden of timely asserting and proving the crimes constitute the same criminal conduct. *Graciano*, 176 Wn.2d at 539.

The Defendant not only failed to timely assert the claim, he stipulated to his score. As explained *supra*, the objective criminal intents are different. *Polk*, 187 Wn. App. at 397; *Smith*, 7 Wn. App.2d 304 (¶¶ 64-72).

A petitioner must demonstrate prejudice. Even had the superior court found all counts in the 2017 judgment encompassed the same criminal conduct, the Defendant's standard range would have been the same. Any score of six or more yields the same standard range. The Defendant cannot show prejudice.

The Defendant's stipulation was part and parcel of the plea negotiation. CP 22. He signed the stipulation to obtain the benefit of the amended information. Under the original information, with three firearm enhancements, the Defendant would have been incarcerated for a minimum of 17.5 years. RCW 9.94A.533(3)(e) (no earned early release on firearm enhancements); RCW 9.94A.729. Under the negotiated plea agreement, the Defendant received 90 months. With earned early release, the Defendant expects to serve only five years of the 90 months imposed. RP 12. The Defendant wanted the deal that reduced his likely incarceration from 17.5 to 5 years. That deal required his stipulation to the score. And the court relied upon his stipulation.

Therefore, if there were error, it would be invited error. Under the invited error doctrine, a party may not materially contribute to an erroneous application of law and then complain of it on appeal. *Ames v. Ames*, 184 Wn. App. 826, 849, 340 P.3d 232 (2014) (estopping parties from objecting to a procedure they suggested). Even constitutional error may be waived

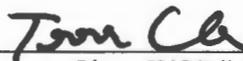
when invited. *State v. Studd*, 137 Wn.2d 533, 546-47, 973 P.2d 1049 (1999) (applying invited error rule to jury instruction which would later be ruled unconstitutional); *Humbert/Birch Creek Const. v. Walla Walla Cty.*, 145 Wn. App. 185, 192, 185 P.3d 660, 663 (2008) (the invited error doctrine is itself constitutional and does not violate due process). The Defendant's claim must be denied under this doctrine.

#### V. CONCLUSION

The State requests the Court to deny the appeal, affirm the judgment and sentence, and dismiss the personal restraint petition as frivolous.

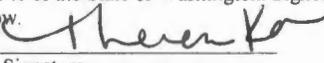
RESPECTFULLY SUBMITTED this 6th day of September, 2019.

MARY E. ROBNETT  
Pierce County Prosecuting Attorney

  
\_\_\_\_\_  
Teresa Chen WSB# 31762  
Deputy Prosecuting Attorney

Certificate of Service:

The undersigned certifies that on this day she delivered by E-file or U.S. mail to the attorney of record for the appellant / petitioner and appellant / petitioner c/o his/her attorney true and correct copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Tacoma, Washington on the date below.

9-6-19   
Date Signature

December 02 2013 2:44 PM

KEVIN STOCK  
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-04639-5

vs.

THYJUAN TOMIKIO TAPLIN,

DECLARATION FOR DETERMINATION OF  
PROBABLE CAUSE

Defendant.

ROSEMARIE WILHELM, declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the PIERCE COUNTY SHERIFF, incident number 132840408;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 27th day of September, 2013, the defendant, THYJUAN TOMIKIO TAPLIN, did unlawfully escape from the Alternative to Confinement Program.

On August 16, 2013 the defendant was sentenced under cause number 13-1-03006-5 to six months of confinement to be served at the Alternative to Confinement Program (ATC). RCW 9.94A.680(3) authorizes county jails to convert jail confinement of convicted nonviolent and nonsex offenses to an available county supervised community option and may also require the offender to perform affirmative conduct pursuant to RCW 9.94A.607. ATC, Alternative to Confinement Program, is a county supervised community option.

The defendant was transferred from physical confinement to the ATC program on August 21, 2013. The defendant went through an orientation process wherein he was advised of his reporting obligations. The defendant provided urine samples on September 20, 2013 and September 23, 2013 that tested positive for methamphetamine. On September 27, 2013 the defendant failed to report as required by the program. When the defendant stopped reporting he was still under felony of sentence with a good time release date of November 28, 2013. The defendant's current whereabouts are unknown.

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

DATED: December 2, 2013  
PLACE: TACOMA, WA

/s/ ROSEMARIE WILHELM  
ROSEMARIE WILHELM, WSB# 20180

DECLARATION FOR DETERMINATION  
OF PROBABLE CAUSE -1

Office of the Prosecuting Attorney  
930 Tacoma Avenue South, Room 946  
Tacoma, WA 98402-2171  
Main Office (253) 798-7400

March 29 2017 9:47 AM

KEVIN STOCK  
COUNTY CLERK  
NO: 17-1-00216-1



**Pierce County  
Sheriff's Department**  
Corrections Division  
910 Tacoma Ave. South  
Tacoma, WA 98402

2C76

RECEIVED FROM

Name: ALADDIN BB (TWO JIN)  
Address: 755 TACOMA AVE S, SUITE 1  
City: TACOMA State: WA

BAIL RECEIPT NO: 101115  
DATE / TIME: 03/28/2017 23:16

Zip Code: 98402

FOR: Booking No.: 2017013002  
Name: TAPLIN, THYJUAN TOMIKIO  
Court: SUPERIOR CT - PIERCE CTY

CHARGE/BAIL INFORMATION:

Cause / Warrant #	Charge	Bail Type	Amount	
17-1-00216-1	S50C - UPCS	BAIL BOND	\$50,000.00	
13-1-04639-5	S70B - ESCAPE 1	BAIL BOND	\$30,000.00	
<b>Totals:</b>	<b>Cash -----</b>	<b>Check -----</b>	<b>Bail Bond \$80000.00</b>	<b>Receipt Total: \$80000.00</b>

Your Return Date Is: 03/30/17 1:30 pm

Officer: F J Mitchell JR.

ID No: 99-058

American Contractors Indemnity Company

Designated Agent/Person to receive all notices:

1000 Aviara Parkway, Suite 300 Carlsbad, CA 92011

Telephone (800) 808-2245 Fax (760) 431-2698

ALADDIN BAIL BONDS

755 Tacoma Ave S. Suite 1 Tacoma, WA 98402 Telephone (253) 572-1700 Fax (253) 572-4144

(PLACE BAIL AGENT'S ADDRESS STAMP HERE)

BAIL BOND

NO. AC50-7050755 (POWER OF ATTORNEY WITH THIS NUMBER MUST BE ATTACHED)

IN THE Pierce County Superior Court COURT, COUNTY OF PIERCE the state of Washington case no. 17-1-00216-1

Plaintiff,

vs

Taplin, Thyjuan

Defendant,

Defendant Taplin, Thyjuan (NAME OF DEFENDANT)

BOOKING NO.

having been admitted to bail in the sum of

\*\*\*Fifty Thousand Dollars And No Cents\*\*\*

dollars (\$ 50,000.00 ) and ordered to appear in the above-entitled court on (DATE OF APPEARANCE), on UPCS, FEL PUY/ELUDE, 3 CNTS UPCS W INTENT, 2 CNT charge/s; (STATE "MISDEMEANOR" OR "FELONY") Freedom, Obstruction

Now, the American Contractors Indemnity Company, a California Corporation, hereby undertakes that the above-named defendant will appear in the above-named court on the date above set forth to answer any charges in any accusatory pleading based upon the acts supporting the complaint filed against him/her and as duly authorized amendments thereof, in whatever court it may be filed and prosecuted, and will at all times hold him/herself amenable to the orders and process of the court and if convicted will appear for pronouncement of judgment or grant of probation; or if he/she fails to perform either of these conditions that the American Contractors Indemnity Company, a California Corporation, will pay the people of the said State the sum of

\*\*\*Fifty Thousand Dollars And No Cents\*\*\*

dollars (\$ 50,000.00 )

If the forfeiture of this bond be ordered by the Court, judgment may be summarily made and entered forthwith against the said American Contractors Indemnity Company, a California Corporation, for the amount of its undertaking herein as provided by State Law.

THIS BOND IS VOID IF WRITTEN FOR AN AMOUNT GREATER THAN THE POWER OF ATTORNEY ATTACHED HERETO, IF MORE THAN ONE SUCH POWER IS ATTACHED, OR IF WRITTEN AFTER THE EXPIRATION DATE AS SPECIFIED ON THE ATTACHED POWER OF ATTORNEY.

American Contractors Indemnity Company (A California Corporation)



(seal)

by Jonathan Schneider Senior Vice President

I certify under penalty of perjury that I am a licensed bail agent of the American Contractors Indemnity Company and that I am executing this bond on 3/28/2017 (DATE)

AGENT SIGNATURE (Signature of Jonathan Schneider)

DEFENDANT SIGNATURE (Signature of Taplin, Thyjuan)

DEFENDANT ADDRESS 3715 18th Ave S. Tacoma WA 98405

NOTE: This is an Appearance Bond and cannot be construed as a guarantee for failure to provide payments, back alimony payments, Fines, or Wage Law claims, nor can it be used as a Bond on Appeal.

VERIFY FIRST 1. THE FACE OF THIS FORM IS PRINTED IN RED, BLUE AND BLACK INKS WITH A MULTI COLORED BACKGROUND. 2. THE PAPER THIS FORM IS PRINTED ON CONTAINS A "TRUE" WATERMARK. HOLD UP TO A LIGHT SOURCE TO SEE THE WORDS "VERIFY FIRST" AND "SAFE" IN THE PAPER. 3. LOOK CLOSELY AT THE THIN BLUE BORDER LINE - YOU MAY NEED MAGNIFICATION. IT IS MADE UP OF REPEATING LETTERS THAT READ TWOJINNING

# POWER OF ATTORNEY

## AMERICAN CONTRACTORS INDEMNITY COMPANY

VOID IF NOT ISSUED BY:

Friday, September 22, 2017

POWER AMOUNT \$ \*\*\*50000.00\*\*\*

POWER NO. AC50-7050755

KNOW ALL MEN BY THESE PRESENTS that AMERICAN CONTRACTORS INDEMNITY COMPANY, a corporation duly organized and existing under the laws of the State of CALIFORNIA and by the authority of the resolution adopted by the Board of Directors at a meeting duly called and held on December 06, 1990 which has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint TwoJinn Inc. dba Aladdin Bail Bonds its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitations, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal Immigration Bonds. Not valid for Federal Bail Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power, and can only be used once.

The obligation of the company shall not exceed the sum of:

\*\*\*Fifty Thousand Dollars And No Cents\*\*\*

and provided this Power-of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, AMERICAN CONTRACTORS INDEMNITY COMPANY has caused these presents to be signed by its duly authorized attorney-in-fact, proper for the purpose and its corporate seal to be hereunto affixed this 28th day of March, 2017.

Bond Amount \$ 50000.00 / UPCS, FEL PAY / EUDE, 3 CENTS UPCS W/INTENT, 2 CENTS UPL PWS, FRARM 2, EBSTB  
Defendant Taplin, Thyuan  
Court Superior / 17-1-00216-1  
City TACOMA  
State WA  
If rewrite, original \_\_\_\_\_

Executing Agent Sanchez, Matthew  
Exec. Agent Signature Matthew Sanchez



Jonathan Schnieder  
Jonathan Schnieder  
Senior Vice President

**FOR STATE USE ONLY**  
**NOT VALID IF USED IN FEDERAL COURT**

DOCUMENT CONTROL NO.  
For Internal Use Only

**980367**

NOT POWER NUMBER

COURT COPY AC-0402-02

March 29 2017 9:49 AM

KEVIN STOCK  
COUNTY CLERK  
NO: 13-1-04639-5



**Pierce County  
Sheriff's Department**  
Corrections Division  
910 Tacoma Ave. South  
Tacoma, WA 98402

**2C76**

**BAIL RECEIPT NO: 101115**

**DATE / TIME: 03/28/2017 23:16**

**RECEIVED FROM**

**Name:** ALADDIN BB (TWO JIN)  
**Address:** 755 TACOMA AVE S, SUITE 1  
**City:** TACOMA **State:** WA **Zip Code:** 98402

**FOR: Booking No.: 2017013002**

**Name:** TAPLIN, THYJUAN TOMIKIO  
**Court:** SUPERIOR CT - PIERCE CTY

**CHARGE/BAIL INFORMATION:**

Cause / Warrant #	Charge	Bail Type	Amount
17-1-00216-1	S50C - UPCS	BAIL BOND	\$50,000.00
13-1-04639-5	S70B - ESCAPE 1	BAIL BOND	\$30,000.00
<b>Totals:</b>	<b>Cash _____ Check _____</b>	<b>Bail Bond \$80000.00</b>	<b>Receipt Total: \$80000.00</b>

Your Return Date is: 03/30/17 1:30 pm

Officer: F J Mitchell JR.

ID No: 99-058

American Contractors Indemnity Company

Designated Agent/Person to receive all notices:

1000 Aviara Parkway, Suite 300 Carlsbad, CA 92011

Telephone (800) 808-2245 Fax (760) 431-2698

ALADDIN BAIL BONDS

755 Tacoma Ave S. Suite 1 Tacoma, WA 98402 Telephone (253) 572-1700 Fax (253) 572-4144

(PLACE BAIL AGENT'S ADDRESS STAMP HERE)

BAIL BOND

NO. AC50-7050756 (POWER OF ATTORNEY WITH THIS NUMBER MUST BE ATTACHED)

IN THE Pierce County Superior Court COURT, COUNTY OF PIERCE the state of Washington case no. 13-1-04639-5

Plaintiff,

vs

Taplin, Thyjuan

Defendant,

Defendant Taplin, Thyjuan (NAME OF DEFENDANT)

BOOKING NO.

having been admitted to bail in the sum of

\*\*\*Thirty Thousand Dollars And No Cents\*\*\*

dollars (\$ 30,000.00 ) and ordered to appear in the above-entitled court on (DATE OF APPEARANCE), on ESCAPE 1 charge/s; (STATE "MISDEMEANOR" OR "FELONY")

Now, the American Contractors Indemnity Company, a California Corporation, hereby undertakes that the above-named defendant will appear in the above-named court on the date above set forth to answer any charges in any accusatory pleading based upon the acts supporting the complaint filed against him/her and as duly authorized amendments thereof, in whatever court it may be filed and prosecuted, and will at all times hold him/herself amenable to the orders and process of the court and if convicted will appear for pronouncement of judgment or grant of probation; or if he/she fails to perform either of these conditions that the American Contractors Indemnity Company, a California Corporation, will pay the people of the said State the sum of

\*\*\*Thirty Thousand Dollars And No Cents\*\*\*

dollars (\$ 30,000.00 )

If the forfeiture of this bond be ordered by the Court, judgment may be summarily made and entered forthwith against the said American Contractors Indemnity Company, a California Corporation, for the amount of its undertaking herein as provided by State Law.

THIS BOND IS VOID IF WRITTEN FOR AN AMOUNT GREATER THAN THE POWER OF ATTORNEY ATTACHED HERETO, IF MORE THAN ONE SUCH POWER IS ATTACHED, OR IF WRITTEN AFTER THE EXPIRATION DATE AS SPECIFIED ON THE ATTACHED POWER OF ATTORNEY.

American Contractors Indemnity Company (A California Corporation)



(seal)

by Jonathan Schneider Senior Vice President

I certify under penalty of perjury that I am a licensed bail agent of the American Contractors Indemnity Company and that I am executing this bond on 3/28/2017 (DATE)

clerk/sheriff, Prosecutor, Judge, AGENT SIGNATURE, DEFENDANT SIGNATURE, DEFENDANT ADDRESS: 3115 18th Ave S, Tacoma WA, 98405

NOTE: This is an Appearance Bond and cannot be construed as a guarantee for failure to provide payments, back alimony payments, Fines, or Wage Law claims, nor can it be used as a Bond on Appeal.

**VERIFY FIRST**

1. THE FACE OF THIS FORM IS PRINTED IN RED, BLUE AND BLACK INKS WITH A MULTI COLORED BACKGROUND. 2. THE PAPER THIS FORM IS PRINTED ON CONTAINS A "TRUE" WATERMARK. HOLD UP TO A LIGHT SOURCE TO SEE THE WORDS "VERIFY FIRST" AND "SAFE" IN THE PAPER. 3. LOOK CLOSELY AT THE THIN BLUE BORDER LINE - YOU MAY NEED MAGNIFICATION. IT IS MADE UP OF REPEATING LETTERS THAT READ TWOJINNING

# POWER OF ATTORNEY

## AMERICAN CONTRACTORS INDEMNITY COMPANY

VOID IF NOT ISSUED BY:

**POWER AMOUNT \$** \*\*\*50000.00\*\*\*

Friday, September 22, 2017

**POWER NO.** AC50-7050756

KNOW ALL MEN BY THESE PRESENTS that AMERICAN CONTRACTORS INDEMNITY COMPANY a corporation duly organized and existing under the laws of the State of CALIFORNIA and by the authority of the resolution adopted by the Board of Directors at a meeting duly called and held on December 06, 1990 which has not been amended or rescinded, does constitute and appoint and by these presents does make, constitute and appoint TwoJinn Inc. dba Aladdin Bail Bonds its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute seal and deliver for and on its behalf and as its act and deed, as surety, a bail bond only. Authority of such Attorney-in-Fact is limited to appearance bonds and cannot be construed to guarantee defendant's future lawful conduct, adherence to travel limitations, fines, restitution, payments or penalties, or any other condition imposed by a court not specifically related to court appearance.

This Power of Attorney is for use with Bail Bonds only. Not valid if used in connection with Federal Immigration Bonds. Not valid for Federal Bail Bonds. This power void if altered or erased, void if used with other powers of this company or in combination with powers from any other surety company, void if used to furnish bail in excess of the stated face amount of this power, and can only be used once.

The obligation of the company shall not exceed the sum of

\*\*\*Fifty Thousand Dollars And No Cents\*\*\*

and provided this Power-of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, AMERICAN CONTRACTORS INDEMNITY COMPANY has caused these presents to be signed by its duly authorized attorney-in-fact, proper for the purpose and its corporate seal to be hereunto affixed this 28th day of March, 2017.

Bond Amount \$ 30000.00 / ESCAPE 1

Defendant Taplin, Thvian

Court Superior / 13-1-04695

City TACOMA

State WA

If rewrite, original \_\_\_\_\_

Executing Agent Sanchez, Matthew

Exec. Agent Signature [Signature]



[Signature]

Jonathan Schnieder  
Senior Vice President

**FOR STATE USE ONLY  
NOT VALID IF USED IN FEDERAL COURT**

DOCUMENT CONTROL NO.  
For Internal Use Only

**980368**

NOT POWER NUMBER

COURT COPY AC-0402-02

February 13 2018 11:29 AM

KEVIN STOCK  
COUNTY CLERK

**SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY**

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 18-1-00611-4

vs.

DECLARATION FOR DETERMINATION OF  
PROBABLE CAUSE  
(ADPC)

THYJUAN TOMIKIO TAPLIN,

Defendant.

DOB: 04/26/1973

BRAD HASHIMOTO declares under penalty of perjury:

That I am a deputy prosecuting attorney for Pierce County and I am familiar with the police report and/or investigation conducted by the TACOMA POLICE DEPARTMENT, incident number 1804300011;

That the police report and/or investigation provided me the following information;

That in Pierce County, Washington, on or about February 12, 2018, the defendant, THYJUAN TOMIKIO TAPLIN, did commit the following crimes:

Count 1: UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE - AMPHETAMINE

Count 2: OBSTRUCTING A LAW ENFORCEMENT OFFICER

On February 12, 2018, at approximately 12:07am, Tacoma Police Officers Christopher Burbank and Matthew Collins were in a marked police vehicle, travelling south through a parking lot, which was located on the north side of South 72nd Street and South Hosmer Street. Officer Burbank was wearing his Tacoma Police jumpsuit uniform. As the officers approached the intersection, they observed a female jogging through the intersection. The female - later identified as Juliana Smith - looked over her shoulder and yelled, "No, leave me along." A male - later identified as defendant, Thyjuan Taplin - screamed at Ms. Smith, "Bit you better get over here right now and get in the fucking car or I'm going to blow your fucking head off."

The officers pulled their vehicle up next to defendant and activated their emergency lights. Officer Burbank exited the vehicle and identified himself to defendant. The defendant did not stop, instead he put both hands into his jacket pockets and backed away from the officer. Officer Burbank told defendant that he was detained and ordered defendant to place his hands behind his back. Defendant failed to put his hands behind his back. Instead, defendant said, "No I can't go to jail." Defendant turned and ran south, into the four-way intersection. Multiple times, Officer Burbank instructed defendant to stop. Defendant failed to stop, but continued to run, while yelling, "No."

Officer Burbank pursued defendant in a circle, around in the intersection. During the chase, defendant reached into his left jacket pocket and frantically discarded several items. Eventually Officers Burbank and Collins managed to detain defendant. Officer Burbank retrieved the items that defendant had discarded. He found that those items were: (1) a clear plastic bag,

1  
2  
3 which contained a crystal substance; & (2) a plastic pill bottle, which contained a bag of crystal substance. Defendant immediately began to claim that he did not discard the items.

4  
5 Officer Collins read defendant his *Miranda* warnings. Defendant said he understood. Officer Collins asked defendant, why he ran. Defendant replied with something to the effect of, "I'm facing a lot of time right now. I can't get in trouble." Officer Collins searched defendant incident to arrest and found 13 small baggies along with \$261 in various denominations - mostly ten and twenty dollar bills. Defendant claimed the drugs were for personal use, then changed his story and denied ever having any drugs in his possession.

6  
7  
8 The officers spoke to Ms. Smith, who said she and defendant had dated for about a year and had recently broken up. She had arranged to meet with defendant, because he still had some of Ms. Smith's belongings. When she arrived, defendant began to scream and berated her for being late. When Ms. Smith tried to walk away, defendant began to follow and made violent threats to shoot her.

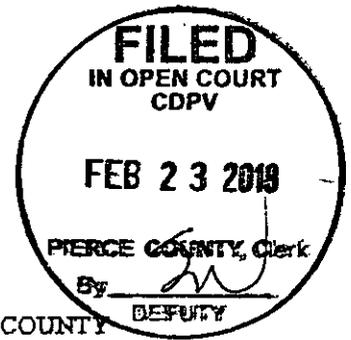
9  
10  
11 Officer Collins asked defendant, "Why did you tell her you were gonna blow her head off?" Defendant smiled and replied, "Oh I was just joking."

12  
13 Both defendant and Ms. Smith were transported and booked into the Pierce County Jail. The seized crystal substances weighed 3.3-grams (baggie) and 0.7-grams (pill bottle). The substances field-tested positive for amphetamine.

14  
15 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

16 DATED: February 13, 2018.  
17 PLACE: TACOMA, WA

18 /s/ BRAD HASHIMOTO  
19 BRAD HASHIMOTO, WSB# 46324  
20 Deputy Prosecuting Attorney  
21  
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31



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 13-1-04639-5

vs.

JUDGMENT AND SENTENCE (JS)

THYJUAN TOMIKIO TAPLIN

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: 22098616  
DOB: 04/26/1973

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 2/23/18 2018 by  plea  jury-verdict  bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
1	ESCAPE IN THE <i>1st</i> <del>SECOND</del> DEGREE, (DD)	9A.76.120(1)(a)	N/A	10/11/13	PCSD 132840408

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

as charged in the AMENDED Information

0124  
4498  
018  
2/26/18  
018

- The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- 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	RECEIVE/ETC KNOWN STOLEN PROP	05-13-1992	LOS ANGELES TORRANCE, CA	03-23-1992	A	MISD
2	USE/UNDER INFL CONTRLD SUBST	11-05-1997	HUNTINGTON PARK, CA	10-12-1997	A	MISD
3	NEGLIGENT DRIVING 1	11-22-2006	SEATAC MUNICIPAL COURT	10-19-2003	A	MISD
4	DUI	09-30-2005	SOUTHWEST DIV, KCDC	12-11-2003	A	MISD
5	PRO DEST LS/DV	02-23-2005	SEATTLE MUNICIPAL	09-29-2004	A	MISD
6	ASSAULT/DV		SEATTLE MUNICIPAL	09-29-2004	A	MISD
7	DV VIOL ORDER	01-04-2009	SEATTLE MUNICIPAL	10-06-2008	A	MISD
8	DWLS 3		SEATTLE MUNICIPAL	04-27-2007	A	MISD
9	DUI	10-07-2008	SEATAC MUNICIPAL COURT	06-21-2007	A	MISD
10	DWLS 3	10-07-2009	PACIFIC MUNICIPAL COURT	02-17-2009	A	MISD
11	DWLS 2	02-26-2010	CASCADE DISTRICT COURT	09-27-2009	A	MISD
12	UUDP	12-21-2009	LYNNWOOD MUNICIPAL COURT	12-30-2009	A	MISD
13	DWLS 2	03-25-2013	SEATTLE MUNICIPAL	10-27-2010	A	MISD
14	USE OF PREM BY DRUG USER	07-05-2011	FIFE MUNICIPAL COURT	07-04-2011	A	MISD
15	DWLS 3	04-29-2013	KING COUNTY DISTRICT, WA	05-24-2012	A	MISD
16	DWLS 2	06-25-2013	LAKEWOOD MUNI COURT	03-06-2013	A	MISD
17	ROBBERY 2	03-03-1993	LOS ANGELES TORRANCE, CA	01-12-1993	A	V
18	FELON/ETC POSS FIREARM	10-19-1995	LOS ANGELES CENTRAL, CA	06-20-1995	A	NV
19	UPCS	07-16-2008	SUPERIOR CT - PIERCE CTY	03-14-2008	A	NV
20	THEFT 2	02-11-2010	SNOHOMISH CO. SUPERIOR	06-03-2009	A	NV
21	TMVWOP 2	10-26-2011	KING CO. SUPERIOR COURT	06-12-2011	A	NV
22	ATMPT TO ELUDE	08-20-2013	SUPERIOR CT - PIERCE CTY	07-29-2013	A	NV
23	OTHER CURRENT 17-1-00216-1	CURRENT	SUPERIOR CT - PIEREC CTY	01-12-2017	A	NV
24	OTHER CURRENT 17-1-00216-1	CURRENT	SUPERIOR CT - PIEREC CTY	01-12-2017	A	NV
25	OTHER CURRENT 17-1-00216-1	CURRENT	SUPERIOR CT - PIEREC CTY	01-12-2017	A	NV
26	OTHER CURRENT 17-1-00216-1	CURRENT	SUPERIOR CT - PIEREC CTY	01-12-2017	A	NV

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[ ] 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	III	<del>51-60 MONTHS</del> 63-84 mo.	N/A	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):

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

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

[ ] The court considered the following factors:

[ ] the defendant's criminal history.

[ ] whether the defendant has previously been found not guilty by reason of insanity of any offense in this state or elsewhere.

[ ] evidence of the defendant's propensity for violence that would likely endanger persons.

[ ] other: \_\_\_\_\_

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

III JUDGMENT

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

3.2 [ ] The court DISMISSES Counts \_\_\_\_\_ [ ] The defendant is found NOT GUILTY of Counts

IV. SENTENCE AND ORDER

IT IS ORDERED:

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

JASS CODE

RTN/RJN	\$ _____	Restitution to: _____
	\$ _____	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
PUB	\$ _____	Court-Appointed Attorney Fees and Defense Costs
FRC	\$ 200.00	Criminal Filing Fee
FCM	\$ _____	Fine
CLF	\$ _____	Crime Lab Fee [ ] deferred due to indigency
CDF/DFA-DFZ	\$ _____	Drug Investigation Fund for _____ (agency)
WFR	\$ _____	Witness Costs

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ \_\_\_\_\_ Other Costs for: \_\_\_\_\_

\$ 800 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).

[X] 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 \$ \_\_\_\_\_ per month commencing \_\_\_\_\_ RCW 9.94.760. If the court does not set the rate herein, the

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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.

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

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

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

4.3 NO CONTACT

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

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

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

Empty rectangular box for additional information or notes.

4.4a Property may have been taken into custody in conjunction with this case. Property may be returned to the rightful owner. Any claim for return of such property must be made within 90 days unless forfeited by

agreement in which case no claim may be made. After 90 days, if you do not make a claim, property may be disposed of according to law.

4.4b BOND IS HEREBY EXONERATED

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

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

<u>63</u>	months on Count	<u>I</u>	months on Count	_____
_____	months on Count	_____	months on Count	_____
_____	months on Count	_____	months on Count	_____

Actual number of months of total confinement ordered is: ~~000~~ 63

(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: \_\_\_\_\_

concurrent to 17-1-00216-1

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

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

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

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

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

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

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

The defendant shall be on community custody for:

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

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

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

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

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[ ] 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): \_\_\_\_\_

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 \_\_\_\_\_ 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.

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5.10 OTHER: \_\_\_\_\_

DONE IN OPEN COURT and in the presence of the defendant this date: 2/23/18

JUDGE

Print name

*[Signature]*  
BRYAN E. CAUSHOFF

*[Signature]*  
Deputy Prosecuting Attorney

Print name: John M. Sheeran

WSB # 26050

Attorney for Defendant

Print name: Suzanne K.

WSB # 20425

Defendant

Print name: Suzanne K.

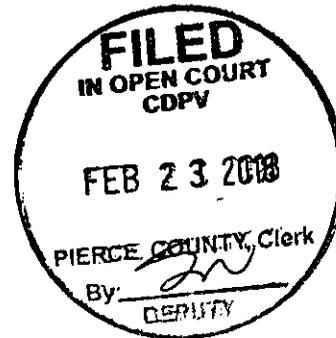
**Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

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: \_\_\_\_\_

*[Signature]*



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**CERTIFICATE OF CLERK**

CAUSE NUMBER of this case: 13-1-04639-5

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**

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Court Reporter

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IDENTIFICATION OF DEFENDANT

SID No. 22098616  
(If no SID take fingerprint card for State Patrol)

Date of Birth 04/26/1973

FBI No. 336814MA5

Local ID No. CHRI20081752009

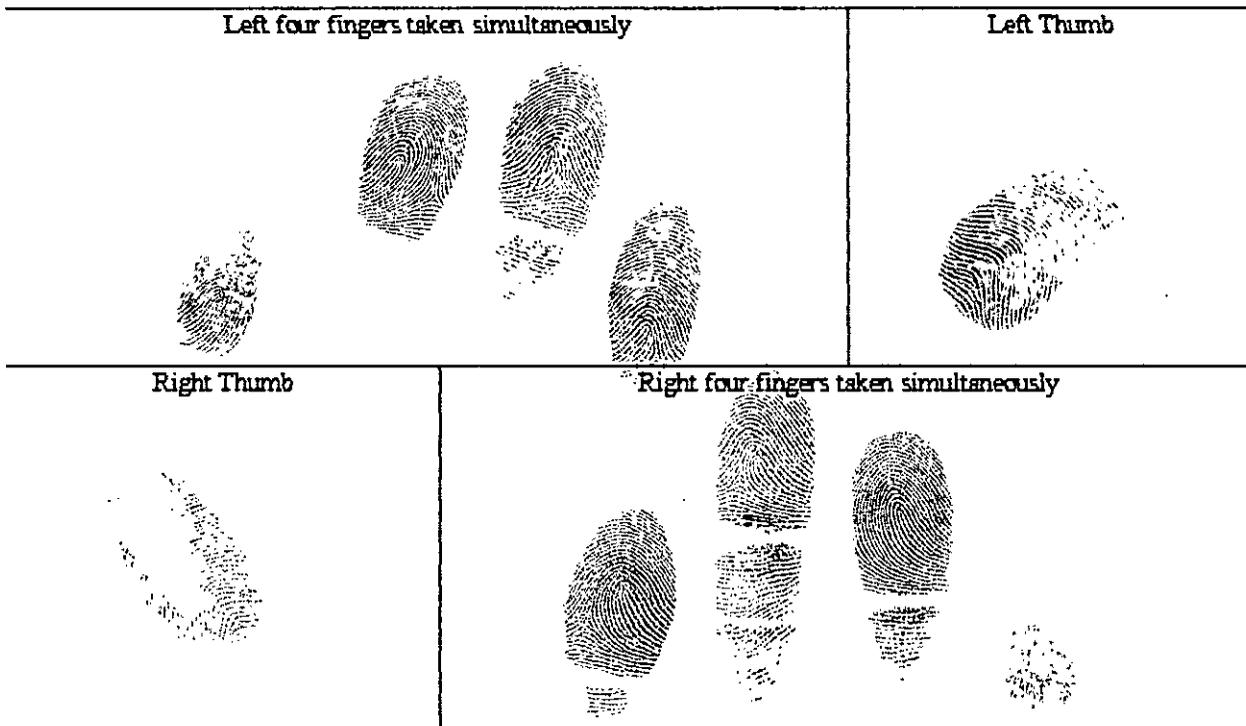
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Alias name, SSN, DOB:

<b>Race:</b>	<b>Ethnicity:</b>	<b>Sex:</b>
<input type="checkbox"/> Asian/Pacific Islander	<input checked="" type="checkbox"/> Black/African-American	<input checked="" type="checkbox"/> Male
<input type="checkbox"/> Native American	<input type="checkbox"/> Other: :	<input checked="" type="checkbox"/> Non-Hispanic
<input type="checkbox"/> Caucasian	<input type="checkbox"/> Hispanic	<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, Wesley M. Kimmel

Dated: \_\_\_\_\_

DEFENDANT'S SIGNATURE:

DEFENDANT'S ADDRESS:

\_\_\_\_\_

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IT IS FURTHER

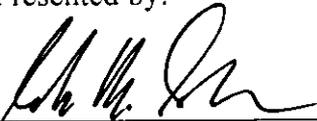
ORDERED that the Clerk of the Court shall attach a copy of this order to the judgment filed on February 23, 2018 so that any one obtaining a certified copy of the judgment will also obtain a copy of this order. FURTHER that

All other terms and conditions of the original Judgment and Sentence shall remain in full force and effect as if set forth in full herein.

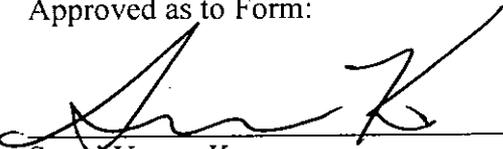
DONE IN OPEN COURT this 4 day of DECEMBER 2018. NUNC PRO TUNC to February 23, 2018.

  
\_\_\_\_\_  
JUDGE/COMMISSIONER

Presented by:

  
\_\_\_\_\_  
JOHN M. SHEERAN  
Deputy Prosecuting Attorney  
WSB# 26050

Approved as to Form:

  
\_\_\_\_\_  
Sunni Young Ko  
Attorney for Defendant  
WSB# 20425

jms

FILED  
IN COUNTY CLERK'S OFFICE

DEC 04 2018

PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
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**PIERCE COUNTY PROSECUTING ATTORNEY**

**September 06, 2019 - 2:03 PM**

**Transmittal Information**

**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 52884-3  
**Appellate Court Case Title:** State of Washington, Respondent v. ThyJuan T. Taplin, Appellant  
**Superior Court Case Number:** 17-1-00216-1

**The following documents have been uploaded:**

- 528843\_Briefs\_20190906140311D2649293\_9436.pdf  
This File Contains:  
Briefs - Respondents  
*The Original File Name was Taplin Response Brief.pdf*

**A copy of the uploaded files will be sent to:**

- MarchK@nwattorney.net

**Comments:**

---

Sender Name: Therese Kahn - Email: tnichol@co.pierce.wa.us

**Filing on Behalf of:** Teresa Jeanne Chen - Email: teresa.chen@piercecountywa.gov (Alternate Email: PCpatcecf@piercecountywa.gov)

Address:  
930 Tacoma Ave S, Rm 946  
Tacoma, WA, 98402  
Phone: (253) 798-7400

**Note: The Filing Id is 20190906140311D2649293**