

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

IN RE THE PERSONAL RESTRAINT
PETITION OF:

MARIO MARSHAWN STEELE,

Petitioner.

NO. 54582-9-II

STATE'S RESPONSE TO PERSONAL
RESTRAINT PETITION

I. ISSUES PERTAINING TO PERSONAL RESTRAINT PETITION:

1. Has petitioner demonstrated the actual and substantial prejudice required of a personal restraint petition?

2. Has petitioner demonstrated that his *Alford / Newton* plea is involuntary because it is not supported by an adequate factual basis?

II. STATUS OF PETITIONER:

Petitioner, Mario Marshawn Steele, is restrained pursuant to a Judgment and Sentence entered in Pierce County Cause No. 11-1-00958-2. Appendix 1-14.

On August 31, 2012, petitioner was found guilty of manslaughter in the first degree and robbery in the first degree. *Id.* In this timely second¹ personal restraint petition,

¹ This Court should take judicial notice of its case number 49485-0-II.

petitioner challenges the voluntariness of his plea by asserting that it is unsupported by a factual basis. Respondent agrees with petitioner that the declaration of probable cause filed in this case provided the factual support for petitioner's *Alford / Newton* plea.²

III. ARGUMENT:

A. PETITIONER HAS FAILED TO DEMONSTRATE ACTUAL AND SUBSTANTIAL PREJUDICE.

Petitioner argues “[t]he facts of this case do not support a conviction for robbery.” PRP at 3. However, a voluntary plea of guilty waives a defendant’s right to challenge the sufficiency of the evidence,³ and petitioner acknowledges that he pleaded guilty in this case. PRP at 2. Petitioner can thus only obtain the relief he seeks—“relief from confinement”⁴—if he can secure withdrawal of his guilty plea. However, the withdrawal of a guilty plea via a collateral attack requires a demonstration of actual and substantial prejudice. *State v. Buckman*, 190 Wn.2d 51, 65, 409 P.3d 193, 201 (2018). “Prejudice at the guilty plea stage means that the defendant would more likely than not have refused to plead guilty and would have insisted on going to trial.” *Id.* Petitioner has not even attempted this burden and the personal restraint petition should be dismissed for this reason.

B. ALTERNATIVELY, PETITIONER HAS NOT DEMONSTRATED THAT THE TRIAL COURT ABUSED ITS DISCRETION WHEN IT DETERMINED THAT A FACTUAL BASIS EXISTED TO SUPPORT PETITIONER’S PLEA OF GUILTY.

1. Petitioner constructs his argument around a legal principle previously rejected by controlling authority.

Petitioner builds his factual insufficiency claim around this assertion of the law:

² This was acknowledged by both parties in petitioner’s direct appeal. See this Court’s opinion in case number 51509-II at page 2. The same document is referred to in this response. Appendix 15-16.

³ *In re Bybee*, 142 Wn. App. 260, 268, 175 P.3d 589 (2007).

⁴ PRP at 1.

This is because the plain language of the robbery statute says the force must be used to obtain or retain possession of the property. A taking that occurs after the death of the property owner and which is not preceded by any words or attempted taking before the victim's death is still a crime. However, it is a theft, not a robbery.

PRP at 5. This unsupported legal theory was rejected by the Washington Supreme Court in some detail in *State v. Craig*, 82 Wn.2d 777, 779-83, 514 P.2d 151, 153 (1973).⁵

2. The trial court did not abuse its discretion when it found a factual basis sufficient to support petitioner's plea of guilty.

The declaration of probable cause in this case recited the following facts:

On January 16, 2011 at 20:32 hours, Lakewood Police were dispatched to 5510 Chicago Ave SW regarding a shooting. Lenard Masten, the victim, lived in an apartment at this address. En route dispatched advised the officers that the suspects were two black males in their 20s and one was armed with a gun. When the officers arrived, Lakewood Fire Department personnel was treating the [sic] Mr. Masten. Mr. Masten had a gunshot wound to his stomach. Mr. Masten was transported to St. Joseph Hospital, where he died in surgery.

Investigating detectives learned Mr. Masten had been dealing drugs. The detectives also learned STEELE had made several phone calls, both from his cell phone and landline, to Mr. Masten on the day of the murder. STEELE [sic] was interviewed by detectives and admitted to being involved in a drug deal with Mr. Masten at about 3:30 pm the day of the murder. STEELE told detectives he and a man known only as "Dre" purchased drugs from Mr. Masten. The defendant said that Dre was upset after the transaction because the drugs were bunk (fake).

Dre asked STEELE to set-up a meeting so he could confront Mr. Masten. STEELE told the detectives that Dre said "I'll get his ass." STEELE believed Dre would either rob or assault Mr. Masten. STEELE admitted he set-up this meeting and phone records confirm there was a brief call between STEELE'S phone and Mr. Masten's phone minutes before the murder.

Witnesses at the murder scene described the victim being confronted by two black males: a taller darker skinned man and a lighter skinned, shorter man with a goatee. One witness said she saw the man with the goatee carrying a handgun in the moments after the shooting. Witnesses indicated that the shooting party rummaged through Mr. Masten's clothing and apparently took his cell phone, keys and perhaps other items [sic]. The shooter was observed

⁵ *State v. Craig* was noted—for this very principle—in the opinion resolving petitioner's direct appeal. See Opinion filed in case number 51505-9-II at page 5.

running toward Masten's apartment door. Assailants eventually ran to a nearby dark colored SUV and drove away.

Appendix 15-16.

The declaration of probable cause explicitly establishes that petitioner set up either a robbery or an assault. Since robbery can often include an assault, the trial court considering the factual basis for petitioner's plea could also have fairly concluded that defendant set up either a robbery or an assault, or both a robbery and an assault.

Additionally, petitioner believed that he and his accomplice had given up money in exchange for fake drugs. Appendix 15. A reasonable fact finder could quite readily infer that defendant wanted his (or his accomplice's) money taken back and that was the reason why petitioner set up a robbery.

A factual basis for a guilty plea exists when there is "sufficient evidence, from any reliable source," that would allow a jury to find the defendant guilty. *State v. Zhao*, 157 Wn.2d 188, 198, 137 P.3d 835 (2006). The trial court need not be convinced beyond a reasonable doubt that the defendant is guilty. *State v. Zhao*, 157 Wn.2d at 198.

Petitioner pleaded guilty to robbery in the first degree. "One is an 'accomplice' of another if the person aids or agrees to aid the other in planning or committing the crime, with the knowledge that it will promote or facilitate the commission of such crime. RCW 9A.08.020(3)(a)(ii)." *State v. Farnsworth*, 185 Wn.2d 768, 780, 374 P.3d 1152 (2016). In this case, petitioner's telephone call to Mr. Masten was an intentional act to facilitate both robbery and assault, with either or both to be committed at the discretion of his accomplice.

Petitioner does not dispute the fact that petitioner set up the crime, however.

Petitioner asserts that no robbery occurred because "[a] taking that occurs after the death of

the property owner and which is not preceded by any words or attempted taking before the victim's death is still a crime. However, it is a theft, not a robbery." PRP at 5. Petitioner ignores the facts of this case because his accomplice put a bullet in Mr. Masten and then proceeded to rummage over Mr. Masten's living body⁶ for his cell phone, keys, and perhaps other items. Appendix 16. The declaration of probable cause describes a straightforward case of robbery in the first degree. *State v. Craig, supra*.

IV. CONCLUSIONS:

This personal restraint petition should be dismissed. Petitioner has failed to demonstrate the actual and substantial prejudice required of a personal restraint petition. The legal foundation of petitioner's argument on the merits has been explicitly rejected by controlling authority. Petitioner's factual premise is unsupported by the record.

DATED: May 28, 2020.

MARY E. ROBNETT
Pierce County
Prosecuting Attorney

s/ Mark von Wahlde
Mark von Wahlde
Deputy Prosecuting Attorney
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Telephone: (253) 798-4932
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mark.vonwahlde@piercecountywa.gov

⁶ The declaration of probable cause relates that Mr. Masten was treated by medical personnel after he had been shot and that he died during surgery. Appendix 15.

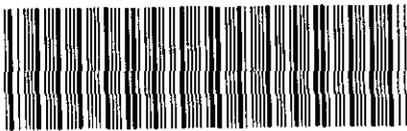
Certificate of Service:

The undersigned certifies that on this day she delivered by U.S. mail
Petitioner 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.

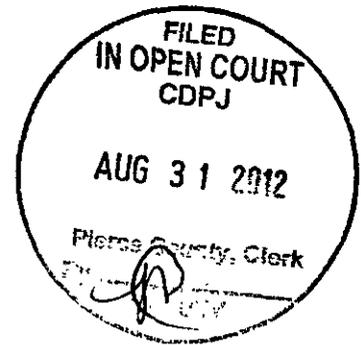
5-28-20 *s/Therese Kahn*
Date Signature

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11-1-00958-2 39120988 JDSWCD 09-04-12



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 11-1-00958-2

vs.

MARIO MARSHAWN STEELE,

Defendant.

WARRANT OF COMMITMENT

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

SEP - 4 2012

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

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

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

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

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

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

Dated: 8/31/12

By direction of the Honorable
[Signature]

JUDGE

KEVIN STOCK

CLERK

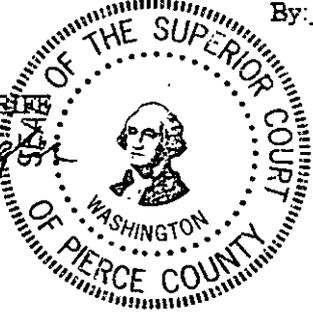
By: *Melba Engler*

DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

SEP - 4 2012

Melba Engler
Deputy



STATE OF WASHINGTON

ss:

County of Pierce

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

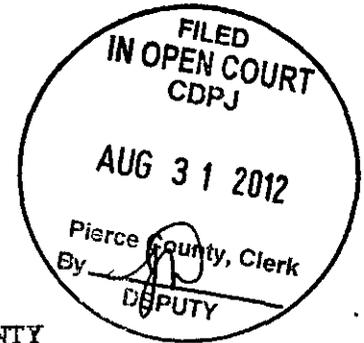
IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this

_____ day of _____

KEVIN STOCK, Clerk

By: _____ Deputy

dlk



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 11-1-00958-2

vs.

JUDGMENT AND SENTENCE (JIS)

SEP - 4 2012

[X] Prison [] RCW 9.94A.712 Prison Confinement

MARIO MARSHAWN STEELE

Defendant.

[] Jail One Year or Less

[] First-Time Offender

SID: WA25773349

[] Special Sexual Offender Sentencing Alternative

DOB: 07-29-75

[] Special Drug Offender Sentencing Alternative

[] Breaking The Cycle (BTC)

[X] 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

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 08-31-12 by [X] plea [] jury-verdict [] bench trial of:

COUNT	CRIME	RCW	ENHANCEMENT TYPE*	DATE OF CRIME	INCIDENT NO.
I	MANSLAUGHTER IN THE FIRST DEGREE (D&A)	9A.32.060(1)(a) 9.41.010 9.94a.530 9.94a.533	FASE	01-16-11	110160880
II	ROBBERY IN THE FIRST DEGREE (AAA1)	9A.56.190 9A.56.200(1)(a) (1)		01-16-11	110160880

12-9 003 09334-3

11-1-00958-2

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, 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 Second Amended Information

- A special verdict/finding for use of firearm was returned on Count I RCW 9.94A.602, 9.94A.533.
 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 (County & State)	DATE OF CRIME	A or J ADULT JUV	TYPE OF CRIME
1	DWLS		PIERCE CO.	07-26-98	A	NV
2	DWLS		PIERCE CO.	02-20-99	A	NV
3	ALCOHOL INTOX IN PUBLIC PLACE 1 ST & 2 ND OFFENSE	07-22-00	HARDIN CRT, KY	09-01-00	A	NV
4	DISORDERLY CONDUCT	07-05-06	HARDIN CRT, KY	10-11-06	A	NV

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

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	2	XI	95-125 MOS	60 MOS	155-185 MOS	LIFE
II	2	IX	41-54 MOS	N/A	41-54 MOS	LIFE

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.

JUDGMENT AND SENTENCE (JS)

(Felony) (7/2007) Page 2 of 11

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defend'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 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are [] attached [] as follows: 185 months DOC (125 + 60 FASE), 36 months Community Custody, No Contact w/Masten Family, Restitution by Order of Court - J&S w/other 2 defendants, \$500/\$200/\$100/\$1000 DAC.

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

<i>RTNR/JN</i>	\$ 5,750	Restitution to:	<u>Labor & Industries Crime Victim Compensation Claim</u>
			<u>VN 28217 J&S with Co-defendants</u>
	\$ _____	Restitution to:	<u>See attached order</u>
			(Name and Address--address may be withheld and provided confidentially to Clerk's Office).
<i>PCV</i>	\$ <u>500.00</u>	Crime Victim assessment	
<i>DNA</i>	\$ <u>100.00</u>	DNA Database Fee	
<i>PUB</i>	\$ <u>400</u>	Court-Appointed Attorney Fees and Defense Costs	
<i>FRC</i>	\$ <u>200.00</u>	Criminal Filing Fee	
<i>FCM</i>	\$ _____	Fine	

OTHER LEGAL FINANCIAL OBLIGATIONS (specify below)

\$ _____ Other Costs for: _____

\$ _____ Other Costs for: _____

\$ ~~6950~~ TOTAL

6950

[] 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 _____

[X] 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 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 the Masten family including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence).

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

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

No Contact w/ Masten Family

4.4a 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):

125	months on Count	I		54	months on Count	II
-----	-----------------	---	--	----	-----------------	----

A special finding/verdict having been entered as indicated in Section 2.1, the defendant is sentenced to the following additional term of total confinement in the custody of the Department of Corrections:

60	months on Count No	I			months on Count No	
----	--------------------	---	--	--	--------------------	--

Sentence enhancements in Counts I shall run

concurrent consecutive to each other.

Sentence enhancements in Counts I shall be served

flat time subject to earned good time credit

Actual number of months of total confinement ordered is: 185 months

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

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

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

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

Confinement shall commence immediately unless otherwise set forth here: _____

(c) 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 time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 541 days

553 *Per [Signature]*
131

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)

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

(1) the period of early release. RCW 9.94A.728(1)(2); or

(2) the period imposed by the court, as follows:

Count(s) I ~~36~~ 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)

(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: the Masten family.

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

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

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

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

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

[] comply with the following crime-related prohibitions: _____

[] Other conditions:

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

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

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

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

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

V. NOTICES AND SIGNATURES

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

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

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the

court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606

5.4 RESTITUTION HEARING.

[] Defendant waives any right to be present at any restitution hearing (sign initials): _____

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 I & II 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.

5.10 OTHER: See Appendix F

DONE in Open Court and in the presence of the defendant this date: 8/31/12

JUDGE

Print name

[Signature]
Judge Brian Tollefson

[Signature]
Deputy Prosecuting Attorney

Print name: John M. Sheeran

WSB # 26050

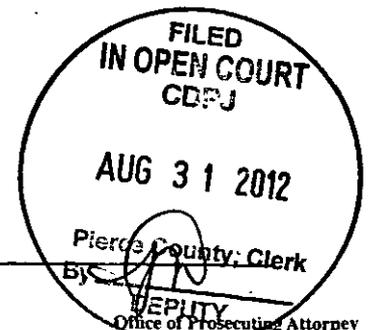
[Signature]
Attorney for Defendant

Print name: Philip Thornton

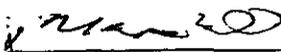
WSB # 20077

[Signature]
Defendant

Print name: Mario M. Steele



1
 2 **VOTING RIGHTS STATEMENT:** RCW 10.64.140. I acknowledge that my right to vote has been lost due to
 3 felony convictions. If I am registered to vote, my voter registration will be cancelled. My right to vote may be
 4 restored by: 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 92A.84.660.

5
 6 Defendant's signature: 

CERTIFICATE OF CLERK

CAUSE NUMBER of this case: 11-1-00958-2

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

TIM REGIS

Court Reporter

APPENDIX "F"

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

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

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

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

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

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

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

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

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

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

- (I) The offender shall remain within, or outside of, a specified geographical boundary: Per CCO
- (II) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals: _____
- (III) The offender shall participate in crime-related treatment or counseling services;
- (IV) The offender shall not consume alcohol; Per CCO
- (V) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or
- (VI) The offender shall comply with any crime-related prohibitions.
- (VII) Other: _____

IDENTIFICATION OF DEFENDANT

SID No WA25773349
(If no SID take fingerprint card for State Patrol)

Date of Birth 07-29-75

FBI No 217787RA6

Local ID No UNKNOWN

PCN No 540362688

Other

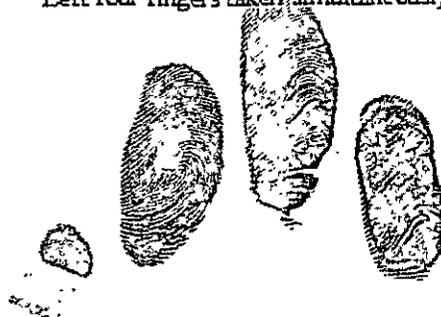
Alias name, SSN, DOB: 07-29-75

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

FINGERPRINTS

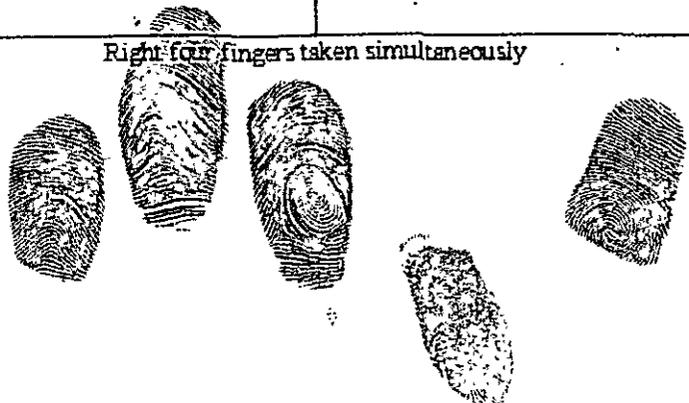
Left four fingers taken simultaneously

Left Thumb



Right Thumb

Right four fingers taken simultaneously



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

DEFENDANT'S SIGNATURE: X Maria Stuebs

Dated: 8/31/12

DEFENDANT'S ADDRESS: _____

March 02 2011 2:17 PM

KEVIN STOCK
COUNTY CLERK

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 11-1-00958-2

vs.

MARIO MARSHAWN STEELE,

DECLARATION FOR DETERMINATION OF
PROBABLE CAUSE

Defendant.

PHILIP K. SORENSEN, 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 LAKEWOOD POLICE DEPARTMENT, incident number 110160880;

That the police report, the oral reports of Officers Jeff Martin, Sean Conlon and Detective John Ringer and/or investigation provided me the following information;

That in Pierce County, Washington, on or about the 16th day of January, 2011, the defendant, MARIO MARSHAWN STEELE, did commit the crime of murder.

On January 16, 2011 at 20:32 hours, Lakewood Police were dispatched to 5510 Chicago Ave SW regarding a shooting. Lenard Masten, the victim, lived in an apartment at this address. En route dispatched advised the officers that the suspects were two black males in their 20s and one was armed with a gun. When the officers arrived, Lakewood Fire Department personnel was treating the Mr. Masten. Mr. Masten had a gunshot wound to his stomach. Mr. Masten was transported to St. Joseph Hospital, where he died in surgery.

Investigating detectives learned Mr. Masten had been dealing drugs. The detectives also learned STEELE had made several phone calls, both from his cell phone and landline, to Mr. Masten on the day of the murder. STEELE was interviewed by detectives and admitted to being involved in a drug deal with Mr. Masten at about 3:30 pm the day of the murder. STEELE told detectives he and a man known only as "Dre" purchased drugs from Mr. Masten. The defendant said that Dre was upset after the transaction because the drugs were bunk (fake).

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

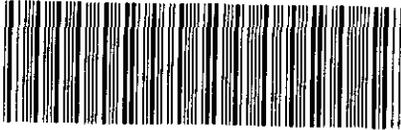
1 Dre asked STEELE to set-up a meeting so he could confront Mr. Masten. STEELE told the
2 detectives that Dre said "I'll get his ass." STEELE believed Dre would either rob or assault Mr. Masten.
3 STEELE admitted he set-up this meeting and phone records confirm there was a brief call between
4 STEELE'S phone and Mr. Masten's phone minutes before the murder.

5 Witnesses at the murder scene described the victim being confronted by two black males: a taller
6 darker skinned man and a lighter skinned, shorter man with a goatee. One witness said she saw the man
7 with the goatee carrying a handgun in the moments after the shooting. Witnesses indicated that the
8 shooting party rummaged through Mr. Masten's clothing and apparently took his cell phone, keys and
9 perhaps other items. The shooter was observed running toward Masten's apartment door. Assailants
eventually ran to a nearby dark colored SUV and drove away.

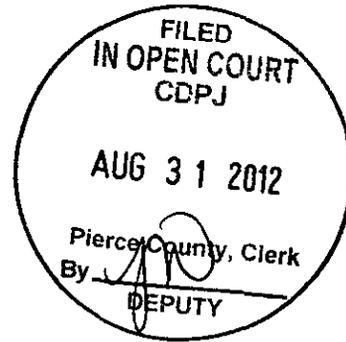
10 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
11 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

12 DATED: March 2, 2011
PLACE: TACOMA, WA

13 /s/ PHILIP K. SORENSEN
14 _____
PHILIP K. SORENSEN, WSB# 16441



11-1-00958-2 39120930 AMINF2 09-04-12



SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO. 11-1-00958-2

vs.

MARIO MARSHAWN STEELE,

SECOND AMENDED INFORMATION

Defendant.

DOB: 7/29/1975
PCN#: 540362688

SEX : MALE
SID#: 25773349

RACE: BLACK
DOL#: UNKNOWN

COUNT I

I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MARIO MARSHAWN STEELE of the crime of MANSLAUGHTER IN THE FIRST DEGREE, committed as follows:

That MARIO MARSHAWN STEELE, in the State of Washington, on or about the 16th day of January, 2011, did unlawfully and feloniously participate in the assault of Lenard Masten, thereby recklessly causing the death of Lenard Masten, a human being, on or about the 16th day of January, 2011, contrary to RCW 9A.32.060(1)(a), and in the commission thereof the defendant, or an accomplice, was armed with a firearm, to-wit: a handgun, that being a firearm as defined in RCW 9.41.010, and invoking the provisions of RCW 9.94A.530, and adding additional time to the presumptive sentence as provided in RCW 9.94A.533, and against the peace and dignity of the State of Washington.

COUNT II

And I, MARK LINDQUIST, Prosecuting Attorney for Pierce County, in the name and by the authority of the State of Washington, do accuse MARIO MARSHAWN STEELE of the crime of ROBBERY IN THE FIRST DEGREE, a crime of the same or similar character, and/or a crime based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan, and/or so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others, committed as follows:

SECOND AMENDED INFORMATION- 1

ORIGINAL

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

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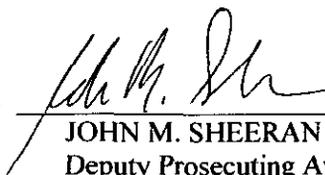
1 That MARIO MARSHAWN STEELE, in the State of Washington, on or about the 16th day of
 2 January, 2011, did unlawfully and feloniously take personal property belonging to another with intent to
 3 steal from the person or in the presence of Lenard Masten, the owner thereof or a person having dominion
 4 and control over said property, against such person's will by use or threatened use of immediate force,
 5 violence, or fear of injury to Lenard Masten, said force or fear being used to obtain or retain possession of
 6 the property or to prevent or overcome resistance to the taking, and in the commission thereof, or in
 immediate flight therefrom, the defendant was armed with a deadly weapon, to-wit: a firearm, contrary to
 RCW 9A.56.190 and 9A.56.200(1)(a)(i), and against the peace and dignity of the State of Washington.

7 DATED this 29th day of August, 2012.

8 LAKEWOOD POLICE DEPARTMENT
WA02723

MARK LINDQUIST
Pierce County Prosecuting Attorney

9
10 dlk

By: 
 JOHN M. SHEERAN
 Deputy Prosecuting Attorney
 WSB#: 26050

PIERCE COUNTY PROSECUTING ATTORNEY

May 28, 2020 - 2:36 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 54582-9
Appellate Court Case Title: Personal Restraint Petition of Mario Marshawn Steele
Superior Court Case Number: 11-1-00958-2

The following documents have been uploaded:

- 545829_Personal_Restraint_Petition_20200528143441D2954092_3656.pdf
This File Contains:
Personal Restraint Petition - Response to PRP/PSP
The Original File Name was STEELE RESPONSE TO PRP.pdf

Comments:

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

Filing on Behalf of: Mark Von Wahlde - Email: mvonwah@co.pierce.wa.us (Alternate Email: PCpatcecf@piercecountywa.gov)

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

Note: The Filing Id is 20200528143441D2954092