

FILED

JAN 10 2013

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON

DIVISION III

No. 30150-8-III
Consolidated with No. 30766-2-III

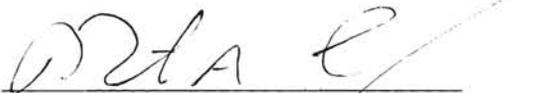
Franklin County Superior Court No. 96-1-50466-1

STATE OF WASHINGTON
Respondent,

vs.

JUAN PEDRO RAMOS
Appellant.

APPELLANT'S OPENING BRIEF



Brent A. De Young, WSBA #27935

De Young Law Office
P.O. Box 1668
Moses Lake, WA 98837
(509) 764-4333

Attorney for Appellant

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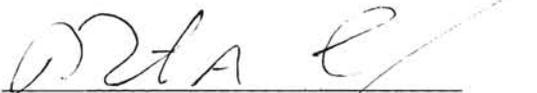
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I. ASSIGNMENTS OF ERROR

1. APPELLANT ASSIGNS ERROR TO THE DENIAL OF HIS MOTION TO WITHDRAW HIS GUILTY PLEA.

II. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. IS THE DEFENDANT'S ASSERTION THAT HE WAS NOT PROPERLY INFORMED OF THE IMMIGRATION CONSEQUENCES SPECIFIC TO HIS PLEA SUFFICIENTLY CORROBORATED?
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III. STATEMENT OF THE CASE

A. PROCEDURAL HISTORY OVERVIEW

On January 21, 1997, Juan Pedro Ramos, represented by attorney Rem Ryals, pleaded guilty in the Franklin County Superior Court to one count of Theft in the First Degree (*RCW 9A.56.020(1)(a)* and *RCW 9A.56.030(1)(a)*). (CP 6) Mr. Ramos was then sentenced to 45 days confinement in the county jail and assessed fines and fees totaling \$1,029.35. (CP 7; RP 3-4 to 3-14)

On April 15, 2011, the Appellant filed a Motion to Vacate Guilty Plea in the Franklin County Superior Court. (CP 20) On August 10, 2011, the Franklin County Superior Court ordered that the Appellant's motion be transferred to the Court of Appeals as a personal restraint petition. (CP 32)

The Personal Restraint Petition was filed as case number 30151-8-III.

On April 11, 2012, the Appellant filed a Direct Appeal with the Court of Appeals along with a motion to accept the late filing. The Direct Appeal was designated cause number 30766-2-III.

On June 15, 2012 the Appellant filed a Motion to Consolidate his Direct Appeal matter (30766-2-III) with his PRP matter (30150-8-III).

On August 29, 2012, the Court of Appeals issued a decision finding that the Appellant's Direct Appeal was timely filed. A perfection notice was issued on September 4, 2012.

On September 26, 2012, the State filed a Motion for Reconsideration of the Court of Appeals Commissioners' Ruling dated August 29, 2012.

On December 20, 2012, the Court of Appeals granted the Appellant's Motion to Consolidate his Direct Appeal and his PRP matter.

IV. ARGUMENT AND AUTHORITY

A. THE DEFENDANT PRESENTED SUFFICIENT CORROBORATION OF HIS ASSERTION THAT HE WAS NOT PROPERLY INFORMED OF THE SPECIFIC IMMIGRATION CONSEQUENCES OF HIS GUILTY PLEA

Up until the March 17, 2011 Washington Supreme Court decision of *State v. Sandoval*, 171 Wn.2d 163, 249 P.3d 1015 (2011), it was settled law in the State of Washington that immigration consequences were only collateral consequences of a guilty plea. Under the collateral consequence doctrine, a defendant need not be informed of those consequences which were not considered "direct" consequences of the guilty plea. *In re Yim*, 139 Wn. 2d 581, 989 P. 2d 512 (1999); *State v. Holley*, 75 Wn. App. 191

(1994); *State v. Barton*, 93 Wn.2d 301, 305, 609 P.2d 1353 (1980); *State v. Malik*, 37 Wn. App. 414, 680 P.2d 770, review denied, 102 Wn.2d 1023 (1984).

On March 31, 2010, the U.S. Supreme Court decided the case of *Padilla v. Kentucky*, 559 U.S. ___, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010);

In *Padilla*, the petitioner was a lawful permanent resident of the United States for over 40 years, faced deportation after pleading guilty to drug distribution charges in Kentucky. In collateral proceedings, Mr. Padilla claimed that his counsel failed to advise him of this consequence before he entered his plea.

The U.S. Supreme Court in *Padilla*, in granting the motion to vacate the guilty plea under 6th Amendment grounds, held that changes to immigration law have dramatically raised the stakes of a noncitizen's criminal conviction. While once there was only a narrow class of deportable offenses and trial court judges previously wielded broad discretionary authority to prevent deportation, immigration reforms have since expanded the class of deportable offenses while eliminating trial court judges' authority to avoid deportation's harsh consequences through mechanisms such as the JRAD. *Id.* Because the drastic measure of deportation (also now known as "removal") is now virtually inevitable for a vast number of noncitizens convicted of crimes, the importance of accurate legal advice for noncitizens accused of crimes has never been more important. Thus, as a matter of federal law, deportation is an integral, and not collateral, part of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes. See, *Padilla, Supra.*

The Washington Supreme Court in *State v. Sandoval*, 171 Wn.2d 163, 249 P.3d 1015 (2011) was one of the first State applications of *Padilla v. Kentucky*. In *Sandoval*,

the defendant had been informed by his trial attorney: “I told Mr. Sandoval that he should accept the State’s plea offer because he would not be immediately deported and that he would then have sufficient time to retain proper immigration counsel to ameliorate any potential immigration consequences of his guilty plea.”

The state argued that this advice was not technically incorrect and that it demonstrated that Mr. Sandoval had been adequately warned that deportation could be a foreseeable consequence.

Mr. Sandoval’s request for relief was denied by this Court, for the most part, under the collateral consequences doctrine.

See *State v. Sandoval*, 171 Wn.2d 163, 249 P.3d 1015 (2011). See also, *State v. Barton*, 93 Wn.2d 301, 304, 609 P.2d 1353 (1980); *State v. Ross*, 129 Wn.2d 279, 284, 916 P.2d 405 (1996); *In re Pers. Restraint of Kim*, 139 Wn.2d 581, 588, 989 P.2d 512 (1999).

The Washington Supreme Court in *Sandoval* stated: “If the applicable immigration law “is truly clear” that an offense is deportable, the defense attorney must correctly advise the defendant that pleading guilty to a particular charge would lead to deportation.” *Id.* (quoting *Padilla* at 1483). *Sandoval* further held that for Mr. Sandoval’s conviction, the immigration law was, in fact, truly clear regarding Mr. Sandoval’s deportability. Thus, his trial counsel should have informed him specifically.

Following *Sandoval*, this court issued the next appellate decision touching on these matters in *State v. Martinez*, 161 Wn.App. 436, 253 P.3d 445 (Wash.App. Div. 3 2011).

In *Martinez*, the Defendant, a noncitizen, had entered a guilty plea in the Walla Walla County Superior Court. His trial counsel conceded that he was unaware of the specific immigration consequences of his client's guilty plea. His client was a legal permanent resident of the United States and the conviction was termed an "aggravated felony" under the immigration laws, which virtually ensured his deportation from the United States. Martinez' trial counsel had provided the general *RCW 10.40.200* warnings which are incorporated into the *CrR 4.2(g) Statement of Defendant On Plea of Guilty* form. These warnings provided only general information that Mr. Martinez could be sent for deportation proceedings but did not include the specific information that deportation was almost certain result. *Ibid.*

In the instant case, the Defendant/Appellant entered a plea of guilty after being arrested as part of a "sting" operation in which law enforcement had infiltrated a car theft ring. The Defendant/Appellant had been promised money in exchange for helping to move automobiles. The Defendant, in his declaration of June 16, 2011, admitted that although he didn't know about the plan to steal the cars, he did have some knowledge that some form of illegal activity was likely to take place but did not withdraw when he had the opportunity to do so.

The Defendant/Appellant stated by affidavit that he was never asked by his trial counsel about his immigration status and that he never received any advice regarding the specific immigration consequences of his guilty plea. (See *Appendix D* – March 18, 2011 Affidavit of Defendant; June 16, 2011 Second Affidavit of Defendant)

Thomas Roach, an experienced immigration attorney, provided an affidavit on June 16, 2011. (See *Appendix E* - Affidavit of Immigration Attorney Thomas Roach)

Attorney Roach, in his declaration, stated that following Mr. Ramos' conviction, the Defendant/Appellant's deportation was "virtually certain". Under 8 USC § 1182(a)(2)(A)(i)(I) and INA §212(a)(2)(A)(i)(I), the commission of a crime involving moral turpitude (CIMT) automatically made Mr. Ramos inadmissible to remain in the United States. *Ibid.* (See *Jordan v. DeGeorge*, 341 U.S. 223,227-332 (1951)). Also, the value of the automobiles was declared in the probable cause statement to be over \$690,000. (See *Appendix A – Affidavit of Probable Cause; Information*) This amount supports a finding of an "aggravated felony" by the immigration court. (See *INA 101(a)(43)(M)(i); 8 USC 1101(a)(43)(M)(i)*). A criminal conviction determined to be an immigration aggravated felony virtually guarantees the deportation of that individual at such time that he would come to the attention of the immigration authorities.

B. IF THE DEFENDANT'S ASSERTIONS REGARDING THE ADVICE HE RECEIVED FROM HIS TRIAL COUNSEL ARE NOT SUFFICIENTLY CORROBORATED, IS THE DEFENDANT ENTITLED TO A REFERENCE HEARING REGARDING THIS ISSUE?

The Defendant/Appellant provided in the record transferred as part of his initial PRP an affidavit completed by Attorney James Egan. (See *Appendix F - Affidavit of Attorney James Egan*)

This affidavit concerned the trial attorney's apparent knowledge regarding the immigration law and whether trial counsel possessed any knowledge regarding the immigration consequences of criminal convictions. Trial counsel, Attorney Rem Ryals, is deceased. Attorney Ryals passed away before the instant post-conviction litigation began. (See *Appendix G – Obituary of Attorney Rembert Ryals*) Attorney Egan worked

side-by-side with Attorney Ryals during the time period of the Defendant/Appellant's plea.

The Washington Supreme Court explained that the "State's response must answer the allegations of the petition and identify all material disputed questions of fact. In order to define disputed questions of fact, the State must meet the petitioner's evidence with its own competent evidence. If the parties' materials establish the existence of material disputed issues of fact, then the superior court will be directed to hold a reference hearing in order to resolve the factual questions." *In re Rice*, 118 Wn.2d 876, 887, 828 P.2d 1086 (1992). See also, *In re Pers. Restraint Petition of Pirtle*, 136 Wn.2d 467, 473, 965 P.2d 593 (1998).

For allegations "based on matters outside the existing record, the petitioner must demonstrate that he has competent, admissible evidence to establish the facts that entitle him to relief. [*Rice*, 118 Wn.2d at 886]. Where the "petitioners' evidence is based on knowledge in the possession of others, he may not simply state what he thinks those others would say, but must present their affidavits or other corroborative evidence." *Rice*, 118 Wn.2d at 886. The affidavits ... must contain matters to which the affiants may competently testify. *Rice*, 118 Wn.2d at 886. The evidence must show that the "factual allegations are based on more than speculation, conjecture, or inadmissible hearsay. *Rice*, 118 Wn.2d at 886.

In re Pers. Restraint of Crace, 157 Wn. App. 81, 94-95, 236 P.3d 914 (2010).

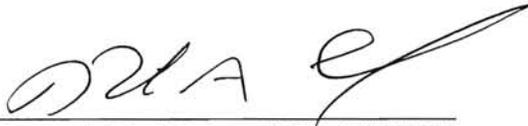
In the instant case, the trial court hearing the Defendant/Appellant's PCR motion did not consider or weigh any evidence concerning his trial counsel's compliance with *Padilla* and *Sandoval*, as that issue was decidedly not before the court at the time.

V. CONCLUSION

Certainly, now that this issue is to the forefront and integral to the Defendant/Appellant's claims, he could continue to supplement his PRP regarding that question. The trial court may be in the best position to make this determination as to corroboration. There is sufficient case law on the issue of corroboration to guide the trial court in reaching a decision, including the recent case of *State v. Gomez Cervantes*, 273 P.3d 484 (2012).

If the evidence submitted by the Defendant/Appellant is sufficient to make a prima facie showing that he was not informed but not dispositive, the Defendant/Appellant asks that a reference hearing be ordered on the issue.

Respectfully submitted this 9th day of January, 2013.


Brent A. De Young, WSBA #27935
Attorney for Appellant

WASHINGTON STATE COURT OF APPEALS
DIVISION III

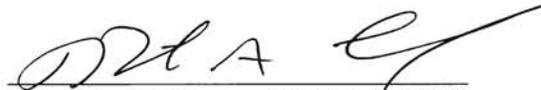
STATE OF WASHINGTON,
Plaintiff/Respondent,
vs.
JUAN PEDRO RAMOS,
Defendant/Appellant.

NO. 30150-8-III
Consolidated with NO. 30766-2-III
APPELLANT'S OPENING BRIEF
CERTIFICATE OF SERVICE

I certify that on this 9th day of January, 2013, I caused to be sent by U.S. Mail, first-class postage prepaid, a copy of Appellant's Opening Brief to:

Frank William Jenny, II
Franklin County Deputy Prosecutor
1016 N. 4th Ave.
Pasco, WA 99301

Juan Pedro Ramos
1225 N. Union St.
Kennewick, WA 99366


Brent A. De Young, WSBA #27935

APPENDIX A

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BY [Signature] DEPUTY

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

STATE OF WASHINGTON,)
)
Plaintiff,) NO. 96 1 50466 1
)
vs.) AFFIDAVIT IN SUPPORT
) OF PROBABLE CAUSE
)
JUAN PEDRO RAMOS,)
D.O.B.: 06/29/78)
)
Defendant.)

STATE OF WASHINGTON)
) ss.
County of Franklin)

Steve M. Lowe, being first duly sworn on oath, deposes and says: That he is the duly elected Prosecuting Attorney for Franklin County; that he has reviewed the law enforcement agency reports from the Washington State Patrol; that he has received information from investigating officers and that he believes that probable cause exists for the arrest and detention of the above-named defendant in that records made and kept in the regular course of business and as business records thereof reflect as follows:

Washington State Patrol received a request from the Pasco Police Department to investigate a large scale theft operation that was planned for Russ Dean Ford in Pasco, Washington. The original planner, J. B., stole a master key to a key lock box attached to each new and used vehicle on the lot. The key lock box contains an ignition and trunk key for each vehicle. J. B. was backed by two

STEVE M. LOWE
PROSECUTING ATTORNEY
FRANKLIN COUNTY
P.O. BOX 1160
PASCO, WA 99301-1160
Phone (509) 545-3543

1 other individuals, James Carson and Jason Grieb. Carson has not
2 been identified and no contact has been made with him. As of
3 December 17, 1996, J. B. had backed down as the operation planner
4 and supposedly sold the key to Grieb who had assumed the position
5 of operation planner. Grieb's plan was to steal 50 vehicles from
6 the lot. An undercover detective persuaded him to steal 23 instead
7 of the 50 vehicles he wanted (due to officer safety and logistics).

8 According to Juan Ramos, Jason Grieb called him and asked
9 him to obtain drivers to move vehicles for a short distance and
10 they would be paid \$250.00. Ramos was suspicious and asked if
11 there were drugs involved and Grieb told him that there were no
12 drugs involved. On December 20, 1996, Jason Grieb picked up Ramos
13 and a friend who Ramos had recruited, Nathan Carlson. According to
14 Ramos, when they were nearing the Tri-Cities or had arrived at the
15 Tri-Cities, they became suspicious and realized that they were
16 going to be stealing vehicles. Ramos realized he was past a point
17 of no return and just followed Jason Grieb's instructions.

18 Jason Grieb met with undercover detectives on December
19 17, 1996, and presented a list of 180 vehicles from Russ Dean's car
20 lot. The list was obtained by our informant at the direction of
21 Jason Grieb. Jason Grieb presented this list to undercover officer
22 Brian Monteer, and Grieb's plan was to steal 50 vehicles and
23 deliver them to the West side of the state. Jason Grieb's plan was
24 to supply all of the drivers and indicated that he had all the
25 drivers lined up. On December 18, 1996, Jason Grieb advised our
26 informant that he had 17 drivers who would be armed to the teeth
27 and that they would do anything to ensure their success. On
28 December 20, 1996, the only drivers that Jason Grieb had obtained
were two individuals, Juan Ramos and Nathan Carlson. Jason Grieb
met with undercover detective Brian Monteer and advised him that he
only had a small number of drivers available and that they would
need to make three trips from Russ Dean Ford a pre-arranged
warehouse in the Tri-Cities. Jason Grieb also informed our

1 informant to obtain drivers for him. Unbeknownst to Grieb, the
2 five drivers that our informant supplied him were all undercover
3 police officers. Counting Jason Grieb, the five undercover
4 officer, Jason Grieb's two associates, and our informant, there was
5 a total of 9 drivers Grieb was in control of. At approximately
6 12:30 a.m. on December 21, 1996, Grieb and his associates entered
7 the property of Russ Dean Ford to attempt the theft. All of the
8 vehicles had been disabled except for two for the undercover
9 officers to drive off the property. The arrests were made by the
10 arrest teams who were in motor homes and Russ Dean's building.
11 Both Nathan Carlson and Juan Ramos realized that the money was too
12 easy and later learned that this was going to be a vehicle theft,
13 but felt they were in over their head. Jason Grieb declined to be
14 interviewed, but did state to Detective Bangart "Why didn't you
15 guys let us drive off the lot, then you would have had us. It is
16 not like we would have driven through your cars." The vehicles
17 were entered by the suspects and attempts were made to start the
18 vehicles, but they would not turn over because they had been
19 disabled. Jason Grieb pushed his way into one of the vehicles that
20 could not be driven. Detective Forrester stalled by placing a
21 temporary vehicle license permit in the vehicle. One of the
22 undercover detectives started to drive off the lot when the order
23 to arrest was given. All three suspects, Jason Grieb, Nathan
24 Carlson and Juan Ramos were arrested on Russ Dean's property.

19 Jason Grieb had agreed upon a price with undercover
20 detective Brian Monteer for \$3,000.00 per vehicle that he supplied.
21 Jason Grieb was also going to pay our informant for his assistance
22 in this crime.

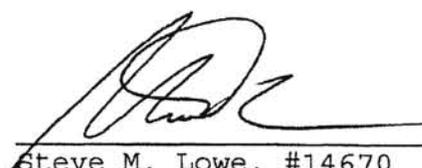
22 The 23 vehicles that Jason Grieb was going to steal
23 totalled approximately \$690,966.00.

24 After his arrest, Grieb called the wife of our informant
25 and asked where the informant's mother lived and where the
26 informant, who is separated from his wife, lived. Grieb reportedly

1 | stated that he had some friends who were going to "take care" of
2 | the informant.

3 | I certify under penalty of perjury under the laws of the
4 | State of Washington that the foregoing is true and correct.

5 |
6 | 12/23/96 Pasco, WA
7 | Date and Place


8 | _____
9 | Steve M. Lowe, #14670
10 | Prosecuting Attorney

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STEVE M. LOWE
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FRANKLIN COUNTY
P.O. BOX 1160
PASCO, WA 99301-1160
Phone (509) 545-3543

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FRANKLIN COUNTY

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

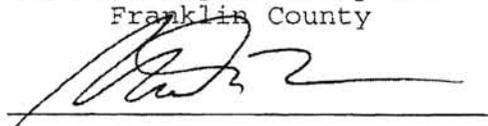
STATE OF WASHINGTON,)	
)	
Plaintiff,	)	NO. 96 1 50466 1
)	
vs.	)	INFORMATION
)	
JUAN PEDRO RAMOS,)	
D.O.B.: 06/29/78)	
)	
Defendant.)	

COMES NOW STEVE M. LOWE, Prosecuting Attorney for Franklin County, State of Washington, and by this Information accuses JUAN PEDRO RAMOS of the crime of THEFT IN THE FIRST DEGREE, [RCW 9A.56.020(1)(a) and 9A.56.030(1)(a)], a Class "B" Felony, committed as follows:

That the said JUAN PEDRO RAMOS in the County of Franklin, State of Washington, on or about the 21st day of December, 1996, then and there, did wrongfully obtain or exert unauthorized control over a vehicle belonging to Russ Dean Automotive, of a value exceeding \$1,500.00 with intent to deprive Russ Dean Automotive of such vehicle.

DATED at Pasco, Washington this 26th day of December, 1996.

STEVE M. LOWE #14670\91039
Prosecuting Attorney for
Franklin County

by: 

Recommended Bail: \$50,000.00
WSP
sas

INFORMATION
Page 1

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PROSECUTING ATTORNEY
FRANKLIN COUNTY
P.O. BOX 1160
PASCO, WA 99301-1160
Phone (509) 545-3543

APPENDIX B

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF BENTON / FRANKLIN

THE STATE OF WASHINGTON,
Plaintiff,

vs. JUAN PEDRO RAMOS

Defendant.

No. 961504661

STATEMENT OF DEFENDANT
ON PLEA OF GUILTY

FILED
FRANKLIN
JAN 21 10 22 AM '97
BY DEPUTY

1. My true name is JUAN PEDRO RAMOS
2. My age is 18.
3. I went through the 12th grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
My lawyer's name is REM AVALS
 - (b) I am charged with the crime of THEFT 1ST DEGREE
The elements of this crime are EXERCISING UNAUTHORIZED CONTROL OVER PROPERTY OF ANOTHER HAVING A VALUE IN EXCESS OF \$1,500
5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:
 - (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
 - (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
 - (c) The right to hear and question the witnesses who testify against me;
 - (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
 - (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
 - (f) The right to appeal a determination of guilty after a trial.
6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:
 - (a) The crime with which I am charged carries a maximum sentence of 10 years imprisonment and a \$ 25,000 fine. The standard sentence range is from 0 months to 90 DAYS months confinement, based upon the prosecuting attorney's following understanding of my criminal history:
NONE

6

- (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history also includes convictions in juvenile court for felonies or serious traffic offenses that were committed when I was 15 years of age or older. Juvenile convictions, except those for class A felonies, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.
- (c) The prosecuting attorney's statement of my criminal history is in paragraph 6(a). Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase, and even though a mandatory sentence of life imprisonment without the possibility of parole is required by law.
- (e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$ 500 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, supervision fees, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.
- (f) The prosecuting attorney will make the following recommendation to the judge:
45 DAYS + COSTS + 12 MONTHS
COMMUNITY SUPERVISION
- (g) The judge does not have to follow anyone's recommendation as to sentencing. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.
- (h) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

FOR EACH OF THE PARAGRAPHS (i) THROUGH (r) IN BOXES BELOW, IF THE PARAGRAPH IS NOT APPLICABLE, THE PARAGRAPH MUST BE CROSSED OUT AND INITIALED TO THE LEFT BY THE DEFENDANT AND JUDGE.

Case DEF JK (i) The crime of _____ has a mandatory sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(a).
 JDG _____

DEF JK (j) I am being sentenced for two or more violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.
 JDG _____

DEF _____ (k) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities.
 JDG _____

DEF — (l) The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.

JDG —

DEF JR (m) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge.

JDG —

DEF JR (n) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus.

JDG —

DEF JR (o) If this crime involves a sexual offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis.

JDG —

DEF JR (p) Because this crime involves a sexual offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

JDG —

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state, or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff within 10 days of establishing my new residence. If I change my residence to a new county within this state, I must register with the sheriff of the new county and I must give written notice of my change of address to the sheriff of the county where last registered, both within 10 days of establishing my new residence.

DEF JR (q) This offense is a most serious offense as defined by RCW 9.94A.030(21), and if I have at least two prior convictions for most serious offenses, whether in this state, federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

JDG —

DEF — (r) I understand that I may not possess, own, or have under my control any firearm unless my right to do so is restored by a court of record. [Pursuant to RCW 9.41.047(1), the judge shall read this section to the defendant in open court if the defendant is pleading guilty to a "serious offense" as defined under RCW 9.41.010(12), a crime of domestic violence, or a crime of "harassment" as defined under RCW 9A.46.060. The 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.]

JDG —

7. I plead GUILTY to the crime of THEFT 1ST as charged in the _____ information. I have received a copy of that information.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to me or to any other person to cause me to make this plea except as set forth in this agreement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime.

This is my statement: ON 12/21/96 IN FRANKLIN COUNTY

I EXERCISED UNAUTHORIZED CONTROL
OVER PROPERTY OF ANOTHER PARTY WITH A
VALUE IN EXCESS OF \$1,500 WITH INTENT TO DEPRIVE

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand ^{THAT OTHER OF} SAID them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further ^{QUESTIONS} questions to ask the judge.

Juan Rando
Defendant

I have read and discussed this statement with the defendant and believe the defendant is competent and fully understands the statement.

David D. Corbett
Prosecuting Attorney

[Signature]
Defendant's Lawyer

CERTIFICATE

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that: (Check one of the following)

- (a) The defendant had previously read; or
- (b) The defendant's lawyer had previously read to him or her; or
- (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently, and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 21st day of January, 1997.

[Signature]
Judge

VERIFICATION OF INTERPRETER

* I am a certified interpreter or have been found otherwise qualified by the court to interpret the _____ language which the defendant understands, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19____.

Interpreter

Distribution: Original - Court File
First Copy - Prosecutor

Second Copy - Defendant
Third Copy - Defendant's Attorney

FILED
FRANKLIN CO. WA

JAN 28 10 55 AM '97

MEVERLY FINKE
BY *[Signature]* DEPUTY

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

STATE OF WASHINGTON,	)	97 9 50061 1
)	
Plaintiff,	)	NO. 96-1-50466-1
)	
vs.	)	JUDGMENT AND SENTENCE
)	
JUAN PEDRO RAMOS,	)	[ ] Prison
DOB: 06-29-78	)	[X] Jail One Year or Less
SID: UNK	)	[ ] First Time Offender
FBI: UNK	)	[ ] Special Sexual Offender
Defendant.	)	Sentencing Alternative
	)	[ ] Special Drug Offender
	)	Sentencing Alternative
)	
)	

CLERK'S ACTION REQUIRED

- [] Clerk's action required, restraining order entered para. 4.4
- [X] Clerk's action required, firearms rights revoked para. 4.3 and 5.6
- [] Clerk's action required, drivers license revoked

I. HEARING

1.1 A sentencing hearing was held and JUAN PEDRO RAMOS, defendant, REM RYALS, defendant's attorney and DAVID W. CORKRUM, Deputy Prosecuting Attorney were present.

II. FINDINGS

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

2.1 CURRENT OFFENSE: The defendant was found guilty on: January 21, 1997
by [X] plea [] jury verdict [] bench trial of:

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7

COUNT	CRIME	RCW	DATE OF CRIME
I	Theft in the First Degree	9A.56.020(1)(a) & 9A.56.030(1)(a)	12-20-96

as charged in the information.

- A special verdict/finding for use of firearm was returned on Count(s) _____. RCW 9.94A.125,.310.
- A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) _____. RCW 9.94A.125,.310
- A special verdict/finding of sexual motivation was returned on Count(s) _____. RCW 9.94A.127.
- A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) _____. RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public transit stop shelter; or in, or within 1000 feet of the perimeter of, a civic center designated as a drug-free zone by a local government authority.
- The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- The offense in Count(s) _____ was committed in a county jail or state correctional facility. RCW 9.94A.310(4).
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400):
- 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.360):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
NONE					

- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360.
- The court finds that the following convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):

JUDGMENT AND SENTENCE (Felony)
(RCW 9.94A.110,.120)(WPF CR 84.0400 (5/96))
Page 2 of 10

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1 2.3 SENTENCING DATA

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	Plus Enhancements for Firearm (F), other deadly weapon finding (D) or VUCFA (V) in a previous case	Total STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	0	II	0-90 days	N/A	0-90 days	10 yrs/\$20,000

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

above within below the standard range for Count(s) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. 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.142.

The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142): _____

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

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:

JASS CODE

RTN/RJN	\$ _____	Restitution to: _____
	\$ _____	Restitution to: _____
	\$ _____	Restitution to: _____
		(Name and Address - address may be withheld and provided confidentially to the Clerk's Office).
PCV	\$ <u>500.00</u>	Victim assessment RCW 7.68.035
CRC	\$ _____	Court costs, including RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190
FRC		Criminal filing fee \$ <u>110.00</u>
WFR		Witness Costs \$ _____
SFR/SPS/SFW/WRF		Sheriff service fee \$ <u>19.35</u>
JFR		Jury demand fee \$ _____
		Other \$ _____
PUB	\$ <u>400.00</u>	Fees for court appointed attorney RCW 9.94A.030
WFR	\$ _____	Court appointed defense expert and other defense costs RCW 9.94A.030
FCM	\$ _____	Fine RCW 9A.20.021; [] VUCSA additional fine deferred due to indigency RCW 69.50.430
CDF/LDI/ FCD/NTF/ SAD/SDI CLF	\$ _____	Drug Enforcement fund of _____ RCW 9.94A.030
	\$ _____	Crime lab fee [] deferred due to indigency RCW 43.43.690
EXT	\$ _____	Extradition costs RCW 9.94A.120
	\$ _____	Emergency response costs (Veh. Assault, Veh. Homicide only, \$1000 max.) RCW 38.52.430
	\$ _____	Other costs for: _____
	\$ _____	TOTAL RCW 9.94A.145

JUDGMENT AND SENTENCE (Felony)
(RCW 9.94A.110,.120)(WPP CR 84.0400 (5/96))
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The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142. A restitution hearing:

shall be set by the prosecutor
 is scheduled for _____.

RESTITUTION. Schedule attached, Appendix 4.1.

Restitution ordered above shall be paid jointly and severally with:

<u>NAME of other defendant</u>	<u>CAUSE NUMBER</u>	<u>(Victim name)</u>	<u>(Amount-\$)</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.200010.

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here:

Not less than \$_____ per month commencing _____. RCW 9.94A.145

In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.145

The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.75

Defendant shall pay supervision fees as determined by the Department of Corrections.

4.2 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

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

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4.3 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). Violation of this no-contact order is a criminal offense.

Domestic Violence Protection Order or Anti-Harassment Order is attached as Appendix 4.4.

4.4 OTHER: _____

1 4.6 JAIL ONE YEAR OR LESS. The defendant is sentenced as follows:

2 (a) CONFINEMENT. RCW 9.94A.400. Defendant is sentenced to the following term of total
3 confinement in the custody of the county jail:

4 45 days/months on Count 1 _____ days/months on Count _____
5 _____ days/months on Count _____ _____ days/months on Count _____
6 _____ days/months on Count _____ _____ days/months on Count _____

7 Actual number of months of total confinement ordered is:
8 _____

9 All counts shall be served concurrently, except for the following which shall be served
consecutively: _____

10 The sentence herein shall run consecutively with the sentence in cause number(s) _____
11 _____ but concurrently to any other felony cause not referred to in this Judgment.
RCW 9.94A.400

12 Confinement shall commence immediately unless otherwise set forth here: _____
13 _____

14 PARTIAL CONFINEMENT. Defendant may serve the sentence, if eligible and
approved, in partial confinement in the following programs, subject to the following
15 conditions: _____

16 work release RCW 9.94A.180

17 ALTERNATIVE CONVERSION. RCW 9.94A.380. _____ days of total confinement
ordered above are hereby converted to _____ hours of community service (8 hours = 1
18 day, nonviolent offenders only, 30 days maximum) under the supervision of the Department of
Corrections to be completed on a schedule established by the defendant's community
19 corrections officer but not less than _____ hours per month.

20 Alternatives to total confinement were not used because
of: _____

21 criminal history failure to appear (finding required for nonviolent offenders only)
RCW 9.94A.380

22 (b) The defendant shall receive credit for time served prior to sentencing if that confinement was
23 solely under this cause number. RCW 9.94A.120. 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:
24 _____

1 4.7

COMMUNITY SUPERVISION. RCW 9.94A.120. Defendant shall serve 12 months in community supervision. Defendant shall report to the Department of Corrections, 712 N. 4th, Pasco, Washington, 99301, not later than 72 hours after release from custody and the defendant shall comply with the instructions, rules and regulations of the Department for the conduct of the defendant during the prior of community supervision, and any other conditions of community supervision stated in this Judgment and Sentence. The defendant shall:

- devote time to specific employment or occupation
- pursue a prescribed course of secular study
- notify the court or community corrections officer in advance of any change in defendant's address or employment
- pay all court-ordered legal financial obligations
- remain within prescribed geographical boundaries
- report to supervising community corrections officer as directed and participate in any and all programs deemed necessary by said officer for successful completion of community supervision, including participation and successful completion of any drug or other substance abuse programs.
- not unlawfully possess or deliver or use or introduce into defendant's body without a valid prescription for its use, any controlled substance or legend drug and not possess or use drug paraphernalia or commit the offense of loitering for the purpose of engaging in drug related activity and comply with reasonable monitoring measures including, but not limited to, the submission to urinalysis testing as reasonably directed by defendant's community corrections officer.
- not associate with any known user or dealer of unlawful controlled substances nor frequent any places where the same are commonly known to be used, possessed or delivered.
- not write checks or have any checking accounts
- not contact or associate with any gang member as determined by defendant's Community Corrections Officer or commit any gang related offenses.

Other conditions: _____

The community supervision imposed by this order shall be served consecutively to any term of community supervision in any sentence imposed for any other offense, unless otherwise stated. The maximum length of community supervision shall not exceed 24 months, unless an exceptional sentence is imposed. RCW 9.94A.400

The conditions of community supervision shall begin immediately unless otherwise set forth here: _____

22 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.** The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. RCW 9.94A.145.

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 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.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030.

5.4 **RESTITUTION HEARING.**

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

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days confinement per violation. RCW 9.94A.200.

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 **REPAYMENT OF COSTS ON APPEAL.** The Court of Appeals and Supreme Court may require the defendant to pay the costs of unsuccessful appeal or other post-conviction proceeding, including but not limited to filing fees, cost of production of report of proceedings and clerk's papers, and court-appointed attorney's fees. RCW 10.73.160.

Cross off if not applicable:

5.8 **SEX OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense, you are required to register with the sheriff of the county of the State of Washington where you reside. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.

If you leave the state following your sentencing or release from custody but later move back to Washington, you must register within 30 days after moving to this state or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

JUDGMENT AND SENTENCE (Felony)
(RCW 9.94A.110,.120)(WPF CR 84.0400 (5/96))

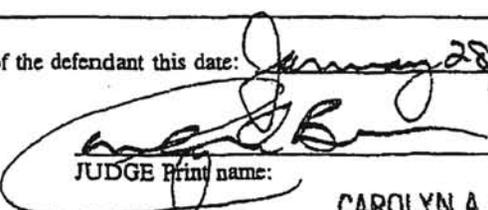
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Phone (509) 545-3545

1 If you change your residence within a county, you must send written notice of your change of residence
2 to the sheriff at least 14 days before moving and must register again with the sheriff within 24 hours of
3 moving. If you change your residence to a new county within this state, you must send written notice
4 of your change of residence to the sheriff of your new county of residence at least 14 days before
5 moving, register with that sheriff within 24 hours of moving and you must give written notice of your
6 change of address to the sheriff of the county where last registered within 10 days of moving. If you
7 move out of Washington state, you must also send written notice within 10 days of moving to the
8 county sheriff with whom you last registered in Washington state.

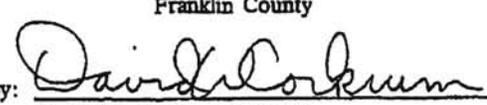
5.8 OTHER: _____

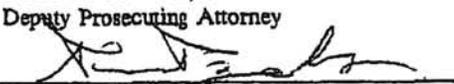
7 DONE in Open Court and in the presence of the defendant this date: January 28, 1997

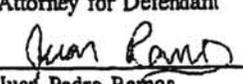
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JUDGE Print name: _____

10 STEVE M. LOWE, #14670#91039
Prosecuting Attorney for
Franklin County

CAROLYN A. BROWN

11 
12 by: _____
13 David W. Corkrum, #13699
Deputy Prosecuting Attorney

14 
15 Rem Ryals
Attorney for Defendant

16 
17 Juan Pedro Ramos
Defendant

18 Translator signature/Print name: _____

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

21 Agency WSP #FVL96-0-0069

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27 JUDGMENT AND SENTENCE (Felony)
(RCW 9.94A.110,.120)(WPF CR 84.0400 (5/96))
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STEVE M. LOWE
PROSECUTING ATTORNEY
FRANKLIN COUNTY
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PASCO, WA 99001-1160
Phone (509) 545-1543

1 CAUSE NUMBER of this case: 96-1-50466-1

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

4 WITNESSETH that the seal of the said Superior Court affixed this date:

5 Clerk of said County and State, by Juan Ramo Deputy Clerk.



6 IDENTIFICATION OF DEFENDANT

7 SID No. UNK Date of Birth 06-29-78

8 (If no SID take fingerprint
card for State Patrol)

9 FBI No. UNK Local ID No. _____

PCN No. _____ Other _____

Alias name, SSN, DOB: _____

10 Race:

11 Asian/Pacific Islander Black/African American

12 Caucasian Native American Other: _____

13 Ethnicity: SEX:

14 Hispanic

Male

Non-Hispanic

Female

15 **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: Juan Ramo Deputy Clerk.

16 Dated: 1-28-97

17 DEFENDANT'S SIGNATURE:

18 Juan Ramo
19 Left four fingers taken simultaneously Left Thumb Right Thumb Right four fingers taken simultaneously



27 JUDGMENT AND SENTENCE (Felony)
(RCW 9.94A.110...120)(WPP CR 84.0400 (5/96))

STIEVE M. LOWE
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY FRANKLIN

STATE OF WASHINGTON,

Plaintiff,

vs.

JUAN PEDRO RAMOS,

Defendant.

No. 96-1-50466-1

AFFIDAVIT OF
DEFENDANT

1. I am Juan Pedro Ramos the defendant in the above numbered case.
2. I recall going to court for this case.
3. My public defender Mr. Ryals never told what the immigration consequences would be if I pleaded guilty as charged to the crime of theft in the first degree. I was never told that there was any possibility of this charge affecting my status here in the United States. If I would have been told that, I would have not pleaded guilty but I would have stopped and then found a lawyer who would have explained to me about how I might avoid problems with having legal status by possibly pleading guilty to something different.
4. In January of this year, I was thinking of traveling outside of the United States and went to see a lawyer because one of my friends with a green card had problems getting back into the US because of something that was on his record. I was then informed that this guilty plea makes me deportable from the United States.
5. If I would have known that this guilty plea could get me deported I would never have pleaded guilty and would have gotten a lawyer to make sure that there wouldn't be any problems with my status here in the US.



5. On the day that I got arrested in this case, I was with my friend, Nathan. He told me a few days before this that he had found some work moving cars from one lot to another. A guy named Jason hired him to do this and told him to bring as many friends as he could so it wouldn't take a long time. The money was also really good because it had to be done after closing time. I really didn't think then that anything might be wrong about this. I agreed to go along with Nathan to help him move the cars so I could get paid.
6. Jason and Nathan picked me up and drove me into town to a motel. I think it was maybe around 8 or 9 pm when we got to the room. Jason said that we were waiting for a guy who was bringing the keys and taking us to the car lot. There were also at least 5 other guys who showed up. I didn't know who they were. I figured that they were Jason's friends because they were older. Jason told us that they were also going to be moving cars. I was kind of worried then because I thought that maybe I'd be making less money if there were so many other people involved.
7. The five guys seemed like they were on edge. I was started to feel uncomfortable. One of these guys asked Nathan and I if we could give them some marijuana. I told them that we didn't have any. I told them that there were guys that we knew that might have marijuana. I was starting to wonder then if maybe this had something to do with moving drugs.
8. I talked with Nathan outside when we were leaving. I told him that I was getting really tired and that I just wanted to go home. Nathan said that I shouldn't because it would make Jason really angry at him too if I bailed out after Nathan told him that I was going to do it.
9. We then all drove down to the car lot. Things happened then really quickly then. We found out that the other guys in the room were really police officers. They all took out their badges when they arrested us.

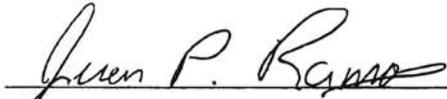
10. One of the police officers asked if I would talk to him or if I wanted to stay quiet and talk to a lawyer. I told them that I would talk to him without any lawyer. I told the police everything that I knew.
11. I had no idea that something illegal might be going on until we got to the motel room. I wasn't even sure then exactly what it was or whether or not I would have do something illegal or whether it was just the five guys that were going to be doing something.
12. Looking back on all of this now, I know it was really stupid to believe that anyone would pay \$200.00 just to move cars at night. At that time I really needed the money and I wanted it to be true.
13. When I got to the court I was charged with Theft in the First Degree.
14. I met with Mr. Ryals in the court. He was my public defender. I didn't think I had any problems with Mr. Ryals during my case. I thought he was a very good lawyer. He asked me questions about what happened and I told him exactly what I'm saying here now. He told me that I should have known right away that this was something that was illegal. He said that I would probably lose my case if I were to go to trial. If that happened, he said that I would probably get even more jail time. He said that my best deal was to plead guilty to the case. He told me that the prosecutor was going to ask for the same number of days in jail that he had told me. I don't remember how Mr. Ryals said that exactly but I knew it meant that he knew exactly what the prosecutor was going to ask for because they had lots of other cases before that were like my case.
15. Mr. Ryals never asked me what my immigration status was in the U.S. when we talked about my case. During the court hearing when I was pleading guilty, I first found out that there was a

chance that I would be deported. This was in one of the papers that Mr. Ryals went over with me before we were in front of the judge. Because I was already getting my green card through my parents I didn't think that it would apply to me. It didn't sound to me like it was a for sure thing that I would be deported.

16. After my case, my mother was scared to send any more papers in for my immigration. She was worried because we just didn't know for sure whether or not this case would make any problems for getting my green card. Some friends would tell her that it was okay and others would tell her that I would be deported if she sent in more papers. She didn't know what to do so she didn't do anything then.
17. In January 2011, I met with Mr. De Young to talk about my immigration situation. One of my friends wanted me to go to Mexico with him to see his family and he wanted help driving there and back. I figured that I could finish my application and get my green card so I wouldn't have any problems getting back inside the U.S.
18. When we met, Mr. De Young told me that, because I had pleaded guilty to theft in the first degree, and because the value of the cars was over \$10,000.00, this would be considered an aggravated felony in the immigration court.
19. Mr. De Young told me that this type of immigration crime made it impossible for me to receive a green card. My guilty plea meant that I would be deportable, that I wouldn't have any chance to ask for an exception or second chance and that I would never be able to return to the U.S.
20. If Mr. Ryals had told me that for sure I wouldn't be ever able to ever get my green card by pleading guilty to this case, then I would have stopped and told my family about this. We would have found someone else to help us with the case. We would have looked for a way to solve it

so that I wouldn't lose all chances to ever get my green card. I would have pleaded guilty to a different crime with the same jail time, or even to more crimes so I would be able to get my green card.

Signed under penalty of perjury under the laws of the State of Washington this 16th day of June, 2011 in Pasco, Washington.



Juan Pedro Ramos

APPENDIX E

FRANKLIN CO PA
JUN 23 2011

COPY
ORIGINAL FILED

JUN 23 2011

MICHAEL J. WILLIAMS
FRANKLIN COUNTY CLERK

IN THE FRANKLIN COUNTY SUPERIOR COURT
STATE OF WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

vs.

JUAN PEDRO RAMOS

Defendant.

No. 96-1-50466-1

DECLARATION OF
IMMIGRATION ATTORNEY
THOMAS ROACH

1. I am Attorney Thomas William Roach. My practice is located in Pasco, Washington. My Washington State Bar number is 6751. I am currently admitted to practice and I am in good standing. I first began practicing law in Washington State in June, 1976.
2. I limit my practice solely to immigration matters. I have been practicing in the area of immigration law since 1977.
3. I was requested by Mr. De Young to review the above-entitled individual, Mr. Ramos' record of conviction in this matter as well as his immigration status at that time. I have fully reviewed immigration documents in addition to the following documents: Mr. Ramos' affidavit dated June 7, 2011, the Probable Cause Statement dated December 23, 1996, the Information dated December 26, 1996, the Guilty Plea Statement dated January 21, 1997 and the Judgment and Sentence dated January 28, 1997. I have attached a copy of Mr. Ramos' immigration petition.
4. As to immigration status at the time of this criminal matter, Mr. Ramos was the beneficiary of a petition filed for him under the Family Unity Act. (§301 of IMMACT90, PL 101-649, 104 Stat. 4978 (Nov. 29, 1990) (8 C.F.R §236.10 to .18 (formerly 8 C.F.R. §242.6), 57 FR 6457 (Feb. 25,

AFFIDAVIT OF ATTORNEY

Page 1 of 4

1992). In order to remain eligible to receive legal status under this provision, a beneficiary must not have been convicted of a felony or 3 or more misdemeanors. INA §241(b)(3)(B).

5. Except for the conviction in this matter, I found no other bars which would have prevented Mr. Ramos from following through with this petition to receive legal permanent resident status.
6. Mr. Ramos pleaded guilty to theft in the first degree on January 21, 1997. He was sentenced on January 28, 1997 to 45 days of jail, a fine of \$919.35 and 12 months of community supervision
7. The court documents underlying this particular conviction support a finding of an “aggravated felony” by ICE in the immigration courts. See INA 101(a)(43)(M)(i); 8 USC 1101(a)(43)(M)(i). The value of the automobiles was declared to be over \$690,000 in the probable cause statement. The value of the automobiles well exceeded the necessary value to support an aggravated felony. See, *Nijhawan v. Holder*, 129 S.Ct. 2294 (2009) (the immigration court considers sentencing admissions and other relevant court documents to determine the amount of loss in a conviction to determine an aggravated felony offense)
8. Aggravated felonies are the most serious category of criminal offenses under the immigration law. A person convicted of an aggravated felony may not present any equitable arguments to remain in the United States. This is so, even if the person is married to a U.S. citizen, has U.S. citizen parents or children and has no remaining relatives in his former home country and even if the person was only an infant when brought into the United States or even if he or she doesn’t know the language of his or her former home country.
9. The crime of Theft in the First Degree provides an a basis for Mr. Ramos’ virtually certain deportation at the time of his guilty plea. Under 8 USC § 1182(a)(2)(A)(i)(I), INA § 212(a)(2)(A)(i)(I), the commission of a crime involving moral turpitude (CIMT) automatically made Mr. Ramos inadmissible to remain in the United States. The U.S. Supreme Court and other authorities have long held that all offenses involving fraud are crimes of moral turpitude. *Jordan v.*

DeGeorge, 341 U.S. 223, 227-332 (1951).

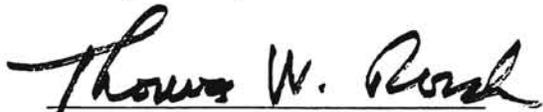
AFFIDAVIT OF ATTORNEY

Page 2 of 4

10. At the time of Mr. Ramos' guilty plea, the immigration outcome was virtually certain and could be easily ascertained. Even if his criminal defense counsel knew only that the fact that his client wasn't a U.S. citizen he could have determined that then easily determined that a fraud offense over \$10,000 would subject his client to deportation as an aggravated felon under the immigration laws.
11. I often consult with criminal practitioners unfamiliar with the immigration consequences of criminal convictions for the purpose of correctly advising their clients. The first step I take is to determine the client's current immigration status. The next step is to inquire if any immigration petitions have been filed on behalf of the client. With this knowledge it's then a relatively straight-forward procedure to determine both the specific immigration consequences that would apply to all noncitizens, as well as the existence of any basis of ineligibility that would prevent the client from receiving the immigration benefit under a previously filed immigration petition. With those concerns in mind, I review the probable cause statement and client notes to determine different immigration-safe criminal offenses to which the client might possibly enter a guilty plea. In some instances there are no possible immigration-safe pleas that can be made. The client is then advised that she or he should proceed to trial to have any chance to protect his or her immigration status.
12. I have read and I am familiar with the decisions in the U.S. Supreme Court matter of *Padilla v. Kentucky*, 559 U.S. ____, 130 S. Ct. 1473 (2010), *State v. Sandoval*, Decided March 17, 2011 82175-5; and *State v. Martinez*, Court of Appeals, Division III, Filed 04/21/2011.
13. My understanding of the law as defined by these three cases is that when the immigration consequences of a guilty plea are readily ascertainable and not merely speculative, then a criminal defense counsel has a 6th Amendment duty to specifically inform his or her client of those consequences. As previously stated, the immigration consequences of this particular guilty plea were quite certain and easily ascertainable at the time of his guilty plea.

14. Justice Stevens writing for the majority opinion in *Padilla* stated that for the past 15 years attorneys have known the importance of immigration consequences in representing noncitizens in the criminal courts. The *Padilla* decision cited sources for professional norms from as far back as 1993 on page 9 and 10 of the slip opinion. Any guilty plea taking place after passage of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, (also known as AEDPA) on April 24, 1996 is certainly within the time period stated in *Padilla*. Mr. Ramos' guilty plea occurred 9 months after the passage of AEDPA.

Signed under penalty of perjury under the laws of the State of Washington at Pasco, Washington this 16th day of June, 2011.

A handwritten signature in black ink that reads "Thomas W. Roach". The signature is written in a cursive style with a horizontal line underneath the name.

Tom Roach, Attorney at Law
WSBA #6751

APPENDIX F

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

STATE OF WASHINGTON,
Plaintiff,
v.
OCTAVIO VILLEGAS,
Defendant.

CAUSE NO. 97-1-50135-0
AFFIDAVIT OF ATTORNEY
JAMES E. EGAN

STATE OF WASHINGTON)
County of Benton) : ss

COMES NOW, James E. Egan, sworn on oath, deposes and states:

1. I am an attorney in good standing in the State of Washington, WSBA #3393. I was sworn in on November 6, 1975. My practice at the time of Mr. Villegas' matter and until now has been in the area of criminal law.
2. I was practicing in Franklin County during the time period referenced in Mr. Villegas' criminal matter. I know his former attorney Rember "Rem" Ryals very well. I know that Mr. Ryals is currently in declining health and no longer practices law.
3. I am very well acquainted with the practices and procedures of the Franklin County Superior Court that time period and I am qualified to make this affidavit.
4. As defense counsel, our collective understanding of the law at that time was that we had met our ethical obligations so long as we didn't affirmatively misadvise our

AFFIDAVIT OF ATTORNEY JAMES E. EGAN

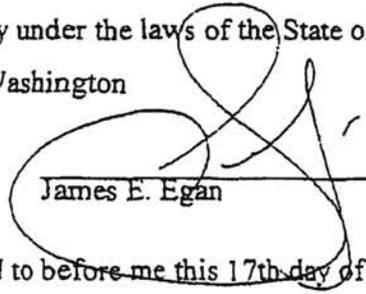


JAMES E. EGAN, P.S.
315 W. Kennewick Avenue
Kennewick, WA 99336
(509) 586-3091

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- 5. I know that Rem Ryals never claimed any expertise in the area of immigration law. It was his (as well as my own) practice simply to read the "immigration warnings" in the guilty plea statements to our clients.
- 6. As defense counsel, it was our studied view that we had no obligation to inquire into our clients' immigration status. Sometimes we knew about it if our clients would tell us. If they ever asked for any specific advice as to the immigration consequences, we would tell them that they should consult an immigration attorney.
- 7. I have read the U.S. Supreme Court opinion in the matter of *Padilla v. Kentucky*. My understanding of the opinion is that defense attorneys always had the duty to specifically ascertain our clients' citizenship and deportation status. Also, we always had the duty to inform our clients of immigration consequences whenever they are clear. This was obviously not what we were doing in 1997.

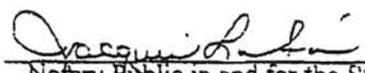
Signed under penalty of perjury under the laws of the State of Washington this 17th day of August, 2010 at Kennewick, Washington



 James E. Egan

SUBSCRIBED AND SWORN to before me this 17th day of August, 2010.





 Notary Public in and for the State of Washington
 Residing at: Richland
 My Commission Expires: 05/01/2012

JAMES E. EGAN, P.S.
 315 W. Kennewick Avenue
 Kennewick, WA 99336
 (509) 586-3091

APPENDIX G



Rembert Ryals

Born in Birmingham, AL on Jun. 10, 1933
 Departed on Jun. 3, 2011 and resided in Richland, WA.

Visitation: Wednesday, Jun. 8, 2011
 5:00 pm - 8:00 pm
 &
 Wednesday, Jun. 8, 2011
 7:00 pm

Service: Thursday, Jun. 9, 2011
 1:00 pm

Rembert Ryals, 77, of Richland, WA, passed away peacefully at home on June 3, 2011.

Rem was born in 1933 in Birmingham, Alabama, to Rembert Ryals and Hazel Thornhill, and they moved to Richland with his sister Gayle in 1944. Exhibiting his bright mind early on, Rem graduated from Richland High School at the age of 15, finished his undergraduate studies at Washington State University and served two years in the Army. He received his Juris Doctorate from Gonzaga in 1958 and was sworn into the Washington State Bar immediately thereafter. He met the love of his life, Patricia Doyle, in 1955, and they were married on August 24, 1957.

He loved the law and pursued its practice in many different directions. Beginning in Olympia he clerked for the Washington State Supreme Court and worked as an Assistant Attorney General. He moved back to Richland in 1962 and was made partner in Critchlow, Williams, Ryals & Schuster. In addition, he served as city attorney for the City of Richland. A staunch believer in civil rights, especially freedom of speech, he argued several cases before the Washington Supreme Court. He was most proud of taking a controversial free speech case to the United States Supreme Court and winning, 9-0. He believed strongly in education and the rights of teachers and represented their Unions for years. He volunteered for many years on the Washington State Bar Association Disciplinary Board. Rem completed his career as a Public Defender in Franklin County and retired in 2001.

Rem's interests and intelligence were not limited to law. He was an avid reader, especially of history. Rem also loved bridge, music (Frank Sinatra was a honorary member of the family), and travel. He respected discussion, debate and humor. He was active in the Democratic Party (fighting hard state wide for the election of George McGovern). His compassion for those less fortunate drove many of his choices and he could not tolerate racial, social or economic injustice. All of these interests and dedications he encouraged and passed on to his kids.

He is survived by his loving wife of 53 years, Patty; sister Gayle Quiros; sons Rem and Paul, daughters Kathleen and Joani, grandchildren Nathan and Emma and sister-in-law, Maureen Neidhold. They will miss him beyond words.

Viewing will be at Einan's Funeral Home on Wednesday, June 8 from 5 to 7, followed by a Rosary. A Memorial Service will be held at 1 p.m. at Christ the King Church on Thursday, June 9. Friends and family are invited to join the family after the service at the church to celebrate Rem's life. In lieu of flowers, they family would be honored to have donations made to the Kadlec Neurological Resource Center, 712 Swift, Richland, WA (509)943-8455.

This Memorial Obituary provided by [Einan's Funeral Home](#)

APPENDIX F

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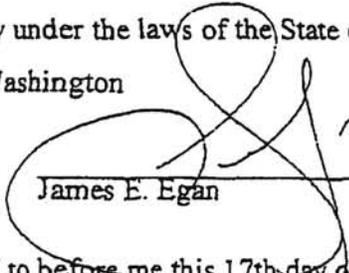
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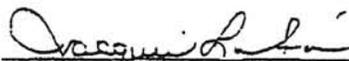
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