

**FILED**  
**Sep 16, 2016**  
Court of Appeals  
Division III  
State of Washington

**NO. 33432-5-III**

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

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STATE OF WASHINGTON, RESPONDENT

v.

MARIA I. MANZO, APPELLANT / PETITIONER

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APPEAL FROM THE SUPERIOR COURT OF GRANT COUNTY

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BRIEF OF RESPONDENT

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GARTH DANO  
Grant County Prosecuting Attorney

KATHARINE W. MATHEWS  
Deputy Prosecuting Attorney  
WSBA No. 20805  
Attorneys for Respondent

P.O. Box 37  
Ephrata, Washington 98823  
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**I. ISSUES PERTAINING TO APPELLANT'S ASSIGNMENTS OF ERROR**

- A. IS THE RULE IN *PADILLA* APPLIED RETROACTIVELY UNDER ESTABLISHED WASHINGTON LAW? (ASSIGNMENT OF ERROR No. 1)
  
- B. Was MANZO'S GUILTY PLEA KNOWING AND VOLUNTARY WHEN TRIAL COUNSEL ACCURATELY INFORMED HER OF THE IMMIGRATION CONSEQUENCES OF HER PLEA AND COUNSEL'S UNCERTAINTY CONCERNING HER ACTUAL RISK OF DEPORTATION ACCURATELY PREDICTED THE OUTCOME IN HER CASE? (ASSIGNMENT OF ERROR No. 2)
  
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**II. STATEMENT OF THE CASE**

A. FACTS IN CRIMINAL CASE

On November 10, 2003, Grant County law enforcement and the Interagency Narcotics Enforcement Team (INET) executed a search warrant for stolen property at the residence of Miguel Barajas Verduzco and his wife,<sup>1</sup> Maria Isabel Manzo. CP 15. Deputies found items worth

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<sup>1</sup> Manzo does not appear to be legally married to Barajas Verduzco but does refer to herself as his wife. The State will use that designation when referring to her.

over \$1,500 stolen in a Royal City burglary three days earlier. *Id.* Deputies also found two firearms: a .22 pistol in the couple's bedroom closet and a shotgun under one of the couches in the living room. *Id.* Manzo and Barajas Verduzco told the deputies they were living illegally in the United States and had no permit to possess the firearms. CP 15–16.

Deputies applied for and were granted a warrant to search for drugs and drug paraphernalia after finding two baby formula cans with marijuana residue inside and marijuana in plain view in the kitchen on a microwave oven. *Id.*

Under a different couch in the living room, deputies found a bag containing several gallon-sized plastic bags in which were smaller pre-packaged baggies of marijuana, plastic bags holding smaller plastic baggies of cocaine, a scale, and two more formula cans full of marijuana. CP 16. The deputies did not find any drug paraphernalia. CP 16.

Deputies found over \$8,000 in United States currency in Manzo's purse. *Id.* Manzo had been unemployed for about four months, Barajas Verduzco for one month. *Id.*

Manzo agreed to talk with the deputies after having been advised of her *Miranda*<sup>2</sup> rights. CP 15. Manzo told Deputy R.K. Rectenwald

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<sup>2</sup> *Miranda v. Ariz.*, 384 U.S. 436, 86 S. Ct. 1602, 16 L.Ed.2d 694 (1966).

neither she nor Barajas Verduzco used drugs. *Id.* Manzo nodded affirmatively when Rectenwald proposed that although they were not using drugs themselves, she and her husband were selling to addicts who were stealing property to trade for drugs. *Id.*

B. PROCEDURAL FACTS: PLEA CHANGE AND SENTENCING

The State charged Manzo and her husband with possession of marijuana with intent to deliver, possession of cocaine with intent to deliver, possessing stolen property in the first degree, and alien in possession of a firearm. CP 1–2. The couple had an infant and a one-year old. CP 16. As part of a global settlement of both cases, Manzo was allowed to plead to a single amended count of conspiracy to deliver cocaine with confinement limited to credit for the sixty days she served before pleading guilty. CP 18, 23.

Manzo signed her Statement of Defendant on Plea of Guilty, attesting that she and her attorney, assisted by an interpreter, had fully discussed all of its provisions and that she understood them all. CP 13–14. Paragraph 6(i) of the plea statement recites: “If I am not a citizen of the United states, [sic] 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.” CP 9. Before taking her plea, the judge confirmed Manzo

had gone over her plea statement with her attorney and fully understood its provisions. CP 47–49. Speaking in favor of the plea agreement, Manzo’s attorney said:

Your Honor, we’re in full agreement with the State. Justice is what we’re looking for. My client has -- actually *I know my client has an immigration hold and she’ll be deported.* She’ll be joined by her infants in Mexico once she gets to Mexico. The deportation in itself is punishment. *She won’t be able to come back to this country and she won’t be able to acquire legal status in this country as the law stands right now.*

CP 50 (emphasis added). Afterwards, Manzo’s only statement on her own behalf was: “I just want to be reunited with my children.” *Id.* She had nothing else to say. *Id.*

C. UNDERLYING FACTS CONCERNING ADVICE ABOUT IMMIGRATION CONSEQUENCES

Manzo’s conviction bars her from obtaining lawful immigration status in the United States. CP 38. She will not be able to obtain legal status through any of her six children born in the United States.<sup>3</sup> *Id.* The conviction renders her ineligible for procedural relief through deferred action. *Id.*

Manzo’s trial counsel remembers little about the case but does remember he knew she had an immigration hold stemming from her

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<sup>3</sup> Four of these children were apparently born after Manzo’s guilty plea.

charges. CP 35. He advised her to enter an *Alford*<sup>4</sup> plea because he understood it might help her immigration case if she could avoid “making any particular statements about the crime which could be used against her later.” CP 36. Trial counsel subsequently recalled he was not positive Manzo would be sent for deportation, only that he thought deportation “likely.” CP 54. He cannot remember why he felt certain his client would be deported. CP 54–55.

D. FACTS CONCERNING CRR 7.8(B) MOTION (PERSONAL RESTRAINT PETITION)

In November 2011, Manzo, through attorney Brent A. De Young, started filing paperwork concerning her CrR 7.8(b) motion to withdraw her guilty plea and vacate her judgment and sentence. In her Amended Memorandum of Authorities filed January 18, 2013 (Amended Memorandum), Manzo asserts her trial attorney advised her to enter an *Alford* plea because he “assumed that if she didn’t admit to specific facts, that she could avoid immigration consequences.” Amended Memorandum at 1. Trial counsel made no such statement and has not represented anywhere in the record he ever believed his client could avoid immigration consequences. CP 35–36; 54–55. He believed it likely she would be deported. *Id.*

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<sup>4</sup> *N.C. v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L.Ed.2d 162 (1970).

The Superior Court held a special evidentiary hearing January 9, 2015 for the express purpose of determining whether Manzo’s attorney had made any affirmative misrepresentations concerning immigration consequences. January 9, 2015 Order Transferring Motion to Vacate Conviction at ¶ I. Based on the declarations of Manzo and her trial attorney, the court found Manzo’s attorney “did not provide any affirmative misadvice to the defendant regarding the immigration consequences of her plea.” *Id.* at ¶ II. The court then transferred the motion to this Court as a personal restraint petition. *Id.* at ¶ III.

About nine months later, on September 28, 2015, Manzo sent a request to the Grant County Prosecuting Attorney’s Office asking for certification as a cooperating crime victim so she could obtain “U Nonimmigrant Status Certification” (U-Visa). Appendix A, Ex. 1. Among her submitted documents was a Grant County Sheriff’s Office report concerning a 2008 incident in which Manzo and her husband reported an unknown person had fired shots at and through their house. *Id.* at 5–6. Manzo’s street address was redacted, but the city—Beverly, Washington—is the same city in which she and her husband lived when she changed her plea almost five years earlier. *Id.*; CP 1.

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### III. ARGUMENT

- A. MANZO'S COLLATERAL ATTACK IS TIMELY BECAUSE SHE WAS NOT ADVISED OF HER APPEAL RIGHTS AND THE RULE IN *PADILLA* IS APPLIED RETROACTIVELY IN WASHINGTON.

The State agrees Manzo's collateral attack is timely. The Washington State Constitution guarantees the right to appeal to all criminal defendants and courts must balance strict application of filing deadlines against this constitutional right. *State v. Chetty*, 167 Wn. App. 432, 438–39, 272 P.3d 918 (2012) (citing *State v. Kells*, 134 Wn.2d 309, 314, 949 P.2d 818 (1998)). Immediately following entry of a guilty plea and sentencing, the trial court must advise a criminal defendant of the limited right to direct appeal and of the collateral attack time limits under RCW 10.73.090 and .100. CrR 7.2(b)(6). A sentencing court's failure to advise of these rights and time limits can be an extraordinary circumstance justifying extension of filing deadlines under RAP 18.8(b) and RCW 10.73.090. *State v. Lewis*, 42 Wn. App. 789, 794, 715 P.2d 137 (1986); *In the Matter of the Personal Restraint of Vega*, 118 Wn.2d 449, 454, 823 P.2d 1111 (1992). A criminal appeal, regardless of when filed, is deemed timely unless the State can show a defendant, understanding her right to appeal, voluntarily, knowingly, and intelligently waived or abandoned that right. *State v. Sweet*, 90 Wn.2d 282, 287, 581 P.2d 579 (1978) (waiver); *Kells*, 134 Wn.2d at 313 (abandonment). Manzo was not advised of her

direct and collateral appeal rights and cannot be deemed to have knowingly and voluntarily waived them. Her appeal and collateral attack are timely.

*Padilla v. Kentucky* held failure to advise of immigration consequences stemming from a guilty plea renders counsel's performance deficient. 559 U.S. 356, 374, 130 S. Ct. 1473, 1486, 176 L. Ed. 2d 284 (2010). The Washington Supreme Court held *Padilla* did not announce a new rule under Washington law and applies retroactively to matters on collateral review. *In re Pers. Restraint of Yung-Cheng Tsai*, 183 Wn.2d 91, 103, 351 P.3d 138 (2015). *Padilla* applies in this case.

B. MANZO'S GUILTY PLEA WAS KNOWING AND VOLUNTARY BECAUSE TRIAL COUNSEL ACCURATELY INFORMED HER OF THE IMMIGRATION CONSEQUENCES OF HER PLEA AND COUNSEL'S UNCERTAINTY CONCERNING HER ACTUAL RISK OF DEPORTATION ACCURATELY PREDICTED THE OUTCOME IN HER CASE.

Manzo asserts her attorney told her he was lying to the court about the certainty of her deportation in order to make sure the judge followed the plea agreement and privately minimized the effect of her conviction. CP 42. Manzo stood at her lawyer's side as he told the court:

*My client has -- actually I know my client has an immigration hold and she'll be deported. She'll be joined by her infants in Mexico once she gets to Mexico. The deportation in itself is punishment. She won't be able to come back to this country and she won't be able to acquire legal status in this country as the law stands right now.*

CP 50 (emphasis added). There is no question Manzo's lawyer accurately stated the immigration consequences of a guilty plea to a drug charge. Violation of any law relating to controlled substances renders noncitizens inadmissible INA §212(a)(2)(A)(i)(II).<sup>5</sup> Manzo did not deny she had an immigration hold at time of sentencing. She said only: "I just want to be reunited with my children." CP 50.

First, there is nothing in the record to support Manzo's assertion her lawyer erroneously assumed "if she didn't admit to specific facts, that she could avoid immigration consequences." Amended Memorandum at 2. Manzo's lawyer declares he advised her to enter an *Alford*<sup>6</sup> plea because he understood it might help her immigration case if she could avoid "making any particular statements about the crime which could be used against her later." CP 36. He recalls he was not positive Manzo would be sent for deportation, only that he thought her deportation "likely." CP 54. He cannot remember now why he felt certain his client would be deported. CP 54–55. He does not deny that he believed, and told his client he believed, she would be deported.

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<sup>5</sup> INA §212(a)(2)(A)(i)(II) provides: "(i) In general.-Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of- . . . (II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible."

<sup>6</sup> *N.C. v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L.Ed.2d 162 (1970).

Second, nothing in the record corroborates Manzo's jaw-dropping allegation that her lawyer, an officer of the court, lied at sentencing to ensure a favorable sentence. "This bald, self-serving statement without corroboration is insufficient to show deficient performance." *State v. Gomez Cervantes*, 169 Wn. App. 428, 434, 282 P.3d 98 (2012) (citing *In re Pers. Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992) (bald assertions and conclusory allegations are insufficient to justify reference hearing)). Like Gomez Cervantes, Manzo's "case is distinguishable from [cases] where corroborative evidence established ineffective assistance." *Id.*

Manzo's lawyer was entirely correct when he told her he was not certain she would be deported. Manzo was still living in Beverly, Washington in October 2008, almost five years after her guilty plea. Ex. 1 at 5. Manzo had a toddler and an infant when she was arrested in November 2003. CP 15-16. By July 2012, she had six children born in the United States, apparently having had four more children in the ensuing eight years. CP 38. These facts indicate Manzo has not yet been deported. They do not indicate the United States will never deport her.

Manzo's continued and uninterrupted United States residence renders ridiculous her claim that counsel was ineffective. Her attorney accurately stated the legal effect of her conviction on her immigration

status. He also accurately told her he could not be certain she would be deported. Her conviction renders her deportable and ineligible for readmission, as counsel stated. She has not yet been deported.

The court did not err when it found Manzo's attorney did not affirmatively misadvise her of the immigration consequences of her plea. Counsel's performance was not deficient.

- C. MANZO WAS NOT DEPRIVED OF HER SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL REGARDLESS OF WHETHER HER ATTORNEY MINIMIZED HER DEPORTATION RISK BECAUSE SHE CANNOT SHOW RESULTING PREJUDICE WHEN THE STATE'S CASE WAS STRONG, SHE RECEIVED A FAVORABLE PLEA DEAL, AND IT IS INCONCEIVABLE THE STATE WOULD HAVE AGREED TO SETTLEMENT THAT DID NOT INCLUDE PLEADING TO A DRUG CHARGE.

Counsel's performance was deficient if he misled Manzo concerning the immigration consequences of her conviction. *Padilla v. Kentucky*, 559 U.S. 356, 364, 130 S. Ct. 1473, 176 L.Ed.2d 284 (2010). *Padilla*, however, did not hold that counsel's deficient performance is a per se violation of the Sixth Amendment right to effective assistance of counsel. Reviewing courts must assess the question under a two-pronged analysis. *Padilla*, 559 U.S. at 366. The first prong is "whether counsel's representation 'fell below an objective standard of reasonableness.'" *Id.* (quoting *Strickland v. Washington*, 466 U.S. 668, 688, 104 S. Ct. 2052, 80 L.Ed.2d 674 (1984)). If counsel affirmatively misled Manzo by

minimizing the stated effect of her guilty plea—advice falling below an objective standard of reasonableness—whether Manzo is “entitled to relief on [her] claim will depend on whether [she] can satisfy *Strickland’s* second prong, prejudice . . . .” *Id.* Manzo cannot show prejudice. Prejudice is defined as “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland*, 466 U.S. at 694. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id.* “A bare allegation that a petitioner would not have pleaded guilty if he had known all of the consequences of the plea is not sufficient to establish prejudice under the *Strickland* test.” *In re Pers. Restraint of Riley*, 122 Wn.2d 772, 782, 863 P.2d 554 (1993).

The burden is on Manzo, who “must convince the court that a decision to reject the plea bargain would have been rational under the circumstances.” *Padilla*, 559 U.S. at 374. Manzo has produced no objective evidence to support her contention she would have rejected the State’s offer and taken her chances at trial.

Appellate courts may consider the probable trial outcome when determining whether a defendant who pleaded guilty would have insisted on proceeding to trial with competent immigration advice. Cf. *Hill v. Lockhart*, 474 U.S. 52, 59–60, 106 S. Ct. 366, 88 L.Ed.2d 203 (1985)

(probable trial outcome relevant in assessing prejudice from counsel's deficient performance). Here, the State's case was strong. Manzo admitted she and her husband were trading drugs for stolen property. Deputies found property stolen in a recent burglary inside her house. Manzo had been unemployed for four months and her husband for a month, yet she had \$8,000 cash in her purse. Deputies found multiple bags of marijuana and cocaine pre-packaged for sale under a couch in her living room. They found guns.

In this case, deportation was inevitable for both Manzo and her husband. The State had charged both husband and wife with possession of marijuana with intent to deliver, possession of cocaine with intent to deliver, possessing stolen property in the first degree, and alien in possession of a firearm. CP 1-2. A competently prosecuted trial could have had but one outcome: guilty verdicts on all charges. Absent catastrophic trial error or jury nullification, conviction was inescapable. "A defendant has no entitlement to the luck of a lawless decisionmaker." *Strickland*, 466 U.S. at 695. Reviewing courts assessing prejudice should exclude consideration of "the possibility of arbitrariness, whimsy, caprice, 'nullification,' and the like." *Id.* Such possibilities "are irrelevant to the prejudice inquiry." *Id.* Unfortunately, "the luck of the lawless decisionmaker" would have been all Manzo had going for her. Instead, she

was allowed to plead to conspiracy to possess cocaine and sentenced to the 60 days she had already served. With Manzo's husband facing certain deportation, it is inconceivable the State would have agreed to allow Manzo to plead to a non-deportable offense. Her only wish was to be reunited with her children. CP 50. She got her wish. Instead of spending years in prison, she left the courthouse, reunited with her children, and returned to her home in Beverly to await her husband's release from prison and their eventual deportation.<sup>7</sup>

It is improbable immigration consequences played any material part in Manzo's plea decision. Manzo fails to show prejudice resulting from her lawyer's alleged performance failures because she cannot.

#### **IV. CONCLUSION**

Although *Padilla* applies retroactively to Manzo's circumstances and her collateral attack is timely, she is not entitled to withdraw her plea and vacate her conviction. The trial court did not err when it found counsel accurately advised her of the immigration consequences of her plea.

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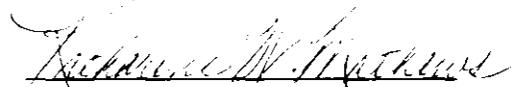
<sup>7</sup> See companion case, *State v. Barajas Verdusco*, Court of Appeals No. 33431-7-III.

Regardless of whether counsel unduly minimized Manzo's deportation risk, she suffered no prejudice from what may have been deficient performance. Her personal restraint petition should be denied and her appeal dismissed.

DATED this 15th day of September, 2016.

Respectfully submitted,

GARTH DANO  
Grant County Prosecuting Attorney



KATHARINE W. MATHEWS  
Deputy Prosecuting Attorney  
WSBA No. 20805  
Attorneys for Respondent  
kwmathews@grantcountywa.gov

NO. 33432-8-III

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BRIEF OF RESPONDENT

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APPENDIX A

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

STATE OF WASHINGTON,

Respondent,

v.

MARIA I. MANZO,

Petitioner/Appellant.

COA No. 33432-5-III  
No. 03-1-00956-6

DECLARATION OF  
SARAH K. BOGER

I, Sarah K. Boger declare under penalty of perjury under the laws of the state of Washington the following statements are true and correct to the best of my knowledge and belief:

1. I am a legal assistant employed by the Grant County Prosecuting Attorney's Office.

2. Part of my job responsibilities include processing requests for certification of the qualification of nonresidents for U Nonimmigrant Status Certification ("U-Visa" certification).

3. On September 28, 2015, our office received Maria I. Manzo's application for U-Visa certification.

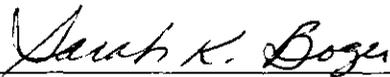
4. True and correct copies of the cover letter, the partially-completed Form I-918 Supplement B, and the law enforcement report relevant to this appeal are attached to this declaration as Exhibit 1.

DECLARATION OF  
SARAH K. BOGER - PAGE 1 of 2

GRANT COUNTY PROSECUTING ATTORNEY  
P.O. Box 37  
Ephrata, Washington 98823  
PH: (509) 754-2011 • Fax (509) 754-6574

5. The information in Form I-918 was provided by Ms. Manzo. Our office did not provide any of the information typed into that form.

Signed this 12<sup>th</sup> day of September, 2016 at Ephrata, Washington.

  
SARAH K. BOGER,  
Legal Assistant  
Grant County Prosecuting  
Attorney's Office

Saturday, September 26, 2015

**Low Cost Immigration Assistance, Inc.**

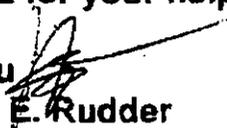
**231 Windy Ridge Lane  
Newberg, Washington 98936  
509 723 4825  
[wayne@waynerudder.com](mailto:wayne@waynerudder.com)**

To: Grant County Prosecutor

**Dear Grant county Prosecutors:**

**Please see the attached I 918 Supplement B for Maria Manzo. We ask that an expedite be accomplished because we must have it filed with the BIA prior to October 7, 2015.**

**Thank you for your help.**

Thank you   
**Wayne R. E. Rudder  
Chief Legal Advisor  
LCIA, Inc. LLP**

**RECEIVED**  
SEP 28 2015  
GRANT COUNTY  
PROSECUTING ATTORNEY

**Form I-918 Supplement B,  
U Nonimmigrant Status Certification**

**START HERE - Please type or print in black ink.**

**Part 1. Victim Information**

Family Name: Manzo      Given Name: Maria      Middle Name: I

Other Names Used (Include maiden name/nickname): None

Date of Birth (mm/dd/yyyy): 09/17/1982      Gender:  Male  Female

**Part 2. Agency Information**

Name of Certifying Agency: Grant county Prosecutor

Name of Certifying Official: [ ]      Title and Division/Office of Certifying Official: [ ]

Name of Head of Certifying Agency: Grant County Prosecutor, Washington

Agency Address - Street Number and Name: P.O. Box 37      Suite No.: [ ]

City: Ephrata      State/Province: WA      Zip/Postal Code: 98823

Daytime Phone No. (with area code and/or extension): 5097542011      Fax No. (with area code): 5097546574

Agency Type:  Federal  State  Local

Case Status:  On-going  Completed  Other: incomplete

Certifying Agency Category:  Judge  Law Enforcement  Prosecutor  Other: [ ]

Case Number: 08G812866      FBI No. or SID No. (if applicable): [ ]

For USCIS Use Only	
Returned	Receipt
Date	
Date	
Resubmitted	
Date	
Date	
Reloc Sent	
Date	
Date	
Reloc Rec'd	
Date	
Date	
Remarks	

**Part 3. Criminal Acts**

1. The applicant is a victim of criminal activity involving or similar to violations of one of the following Federal, State or local criminal offenses. (Check all that apply.)

<input type="checkbox"/> Abduction	<input type="checkbox"/> Female Genital Mutilation	<input checked="" type="checkbox"/> Obstruction of Justice	<input type="checkbox"/> Slave Trade
<input type="checkbox"/> Abusive Sexual Contact	<input type="checkbox"/> Hostage	<input type="checkbox"/> Peonage	<input type="checkbox"/> Tonure
<input type="checkbox"/> Blackmail	<input type="checkbox"/> Incest	<input type="checkbox"/> Perjury	<input type="checkbox"/> Trafficking
<input type="checkbox"/> Domestic Violence	<input type="checkbox"/> Involuntary Servitude	<input type="checkbox"/> Prostitution	<input type="checkbox"/> Unlawful Criminal Restraint
<input type="checkbox"/> Extortion	<input type="checkbox"/> Kidnapping	<input type="checkbox"/> Rape	<input checked="" type="checkbox"/> Witness Tampering
<input type="checkbox"/> False Imprisonment	<input type="checkbox"/> Manslaughter	<input type="checkbox"/> Sexual Assault	<input type="checkbox"/> Related Crime(s)
<input type="checkbox"/> Felonious Assault	<input type="checkbox"/> Murder	<input type="checkbox"/> Sexual Exploitation	<input checked="" type="checkbox"/> Other: (If more space needed, attach separate sheet of paper.)
<input type="checkbox"/> Attempt to commit any of the named crimes	<input type="checkbox"/> Conspiracy to commit any of the named crimes	<input type="checkbox"/> Solicitation to commit any of the named crimes	RCW 9A.1.250

**Part 3. Criminal Acts (continued)**

2. Provide the date(s) on which the criminal activity occurred.

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

09/06/2013

3. List the statutory citation(s) for the criminal activity being investigated or prosecuted, or that was investigated or prosecuted.

See Above

4. Did the criminal activity occur in the United States, including Indian country and military installations, or the territories or possessions of the United States?  Yes  No

a. Did the criminal activity violate a Federal extraterritorial jurisdiction statute?  Yes  No

b. If "Yes," provide the statutory citation providing the authority for extraterritorial jurisdiction.

18 USC SEC. 930

c. Where did the criminal activity occur?

Grant County

5. Briefly describe the criminal activity being investigated and/or prosecuted and the involvement of the individual named in Part 1. Attach copies of all relevant reports and findings.

The discharge of weapons at a domicile

6. Provide a description of any known or documented injury to the victim. Attach copies of all relevant reports and findings.

the victim, Maria Manzo suffered a miscarriage because of the events. This is probably associated with the fact that the victim provided assistance in a US Post Office bombing incident.

**Part 4. Helpfulness of the Victim**

The victim (or parent, guardian or next friend, if the victim is under the age of 16, incompetent or incapacitated.):

1. Possesses information concerning the criminal activity listed in Part 3.  Yes  No

2. Has been, is being or is likely to be helpful in the investigation and/or prosecution of the criminal activity detailed above. (Attach an explanation briefly detailing the assistance the victim has provided.)  Yes  No

3. Has not been requested to provide further assistance in the investigation and/or prosecution. (Example: prosecution is barred by the statute of limitation.) (Attach an explanation.)  Yes  No

4. Has unreasonably refused to provide assistance in a criminal investigation and/or prosecution of the crime detailed above. (Attach an explanation.)  Yes  No

**Part 4: Helpfulness of the Victim (continued)**

5. Other, please specify.

The victim has been helpful and has been available for further assistance.

**Part 5. Family Members Implicated in Criminal Activity**

1. Are any of the victim's family members believed to have been involved in the criminal activity of which he or she is a victim?  Yes  No

2. If "Yes," list relative(s) and criminal involvement. (Attach extra reports or extra sheet(s) of paper if necessary.)

Full Name	Relationship	Involvement

**Part 6. Certification**

I am the head of the agency listed in Part 2 or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in Part 1 is or has been a victim of one or more of the crimes listed in Part 3. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

Date (mm/dd/yyyy)

[Signature line]

[Date line]

09/06/2013  
11:57

Grant County Sheriff  
LAW Incident Table:

Page: 367  
1

Incident Number: 08GSE12866

Nature: Weapons Case Number: Image:  
Addr: 18354 4TH AVE SW Area: LGCS  
City: SCHWANA ST: WA Zip: 99321 Contact:  
Reporting Party: 184125  
Lst: MANZO Fst: MARIA Mid: ISABEL  
DOB: 09/17/1982 SSN: [REDACTED] Adr: [REDACTED]  
Rac: H Sx: F Tel: [REDACTED] Cty: BEVERLY ST: WA Zip: 99321

Offense Codes: WOFF Reported: Observed: WOFF  
Circumstances: LT20  
Rspndg Officers: Lamens Beau  
Rspnsbl Officer: Lamens Beau Agency: GCSO CAD Call ID:  
Received By: Lamens Beau Last RadLog:  
How Received: T Clearance: NR No Report Needed  
When Reported: 18:22:35 10/13/2008 Disposition: CLO Disp Date: 10/14/2008  
Occurrd between: 18:22:35 10/13/2008 Judicial Sts:  
and: 18:22:35 10/13/2008 Misc Entry:

MO:  
Narrative:  
Supplement: (See below)

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INVOLVEMENTS:				
Type	Record #	Date	Description	Relationship
NM	184125	10/13/2008	MANZO, MARIA ISABEL	*Complainant
EV	08GSE3207	10/14/2008	2-.22 casings.	*Evidence Incident

LAW Incident Offenses Detail:

Seq Code	Offense Codes	Amount
1	WOFF Weapons Offense	0.00

LAW Incident Circumstances:

Seq Code	Contributing Circumstances	Comments
1	LT20 Residence/Home	

LAW Incident Responders Detail

Responding Officers	
Seq Name	Unit
1 Lamens Beau	12

Law Supplemental Narrative:

Seq Name	Date	Supplemental Narratives Narrative
1 Lamens Beau	05:30:43 10/14/2008	

CLO  
Tue Oct 14 05:30:49 PDT 2008  
Advised of a weapons offense.

000017

Contacted Maria Manzo who stated that on 10-12-08 at 1900 hrs someone had shot up her home. Maria said that her husband originally thought that the sounds that they were hearing were electrical.

That morning (10-13-08, 0600 hrs) Maria discovered that her home had been shot several times from the exterior with some of the rounds completely passing through and out the rear of the home. Maria said she had to leave for Spokane and waited until 1800 hrs to report the incident.

While on scene I obtained two .22 cal SUPER X brass casings and took several photos. Both items were placed into evidence.

Maria and her husband don't remember hearing any vehicle in the area or any persons on foot.

No suspect information at this time.

No further action.

000018

COURT OF APPEALS, DIVISION III  
STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	
Respondent.	)	No. 33432-5-III
	)	
v.	)	
	)	
MARIA I. MANZO,	)	DECLARATION OF SERVICE
	)	
Appellant-	)	
Petitioner.	)	
_____	)	

Under penalty of perjury of the laws of the State of Washington, the undersigned declares:

That on this day I served a copy of the Brief of Respondent in this matter by e-mail on counsel for Appellant-Petitioner, receipt confirmed, pursuant to the parties' agreement:

Brent DeYoung  
deyounglaw1@gmail.com

That on this day I deposited in the mails of the United States of America a properly stamped and addressed envelope directed to Appellant-Petitioner containing a copy of the Brief of Respondent in the above-entitled matter.

Maria I. Manzo  
17452 SW Seattle St  
PO Box 462  
Beverly WA 99321

Dated: September 16, 2016.

  
Kaye Burns