

FILED
December 19, 2016
Court of Appeals
Division III
State of Washington

No. 33888-6-III

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

STATE OF WASHINGTON,

Respondent,

v.

LEOPOLDO CUEVAS CARDENAS,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR YAKIMA COUNTY

The Honorable Blain Gibson, Judge

SUPPLEMENTAL BRIEF OF APPELLANT

LISA E. TABBUT
Attorney for Appellant
P. O. Box 1319
Winthrop, WA 98862
(509) 996-3959

TABLE OF CONTENTS

Page

Supplemental Assignments of Error 1

1. The judgment and sentence contains multiple errors for the dates of Mr. Cardenas’ criminal history..... 1

2. The sentencing court erred as a matter of law in failing to properly characterize Mr. Cardenas’ four June 1986 burglary and felony theft convictions as a single offense for scoring purposes. 1

Supplemental Issues Pertaining to Assignments of Error..... 1

1. Did the sentencing court commit multiple scrivener’s errors by listing 9 wrong “Date of Crime” dates on Mr. Cardenas’ judgment and sentence criminal history? 1

2. Did the sentencing court err as a matter of law when it mischaracterized Mr. Cardenas’ crimes committed before July 1, 1986, and served consecutively, as more than one offense for sentencing purposes?..... 1

Supplemental Statement of the Case..... 1

Supplemental Argument..... 3

1. The court should remand for correction of the “Date of Crime” scrivener’s errors in the judgment and sentence. 3

2. This court should also remand to reflect that the two June 1986 burglaries and the two June 1986 felony thefts are counted as a single offense for scoring purposes. 5

Conclusion 7

CERTIFICATE OF SERVICE 8

TABLE OF AUTHORITIES

Page

Cases

In re Personal Restraint of Mayer, 128 Wn. App. 694, 117 P.3d 353 (2005) 4

State v. Bahl, 164 Wn.2d 739, 193 P.3d 678 (2008) 3

State v. Hernandez, 185 Wn. App. 680, 342 P.3d 820 (2015), *review denied*, 185 Wn.2d 1002 (2016) 5

State v. Moeurn, 170 Wn.2d 169, 240 P.3d 1158 (2010) 5

State v. Naillieux, 158 Wn. App. 630, 241 P.3d 1280 (2010) 4

Statutes

RCW 9.94A.525 5

RCW 9.94A.525(5)(a)(ii) 5

Other Authorities

CrR 7.8(a)..... 4

Supplemental Assignments of Error

1. The judgment and sentence contains multiple errors for the dates of Mr. Cardenas' criminal history.

2. The sentencing court erred as a matter of law in failing to properly characterize Mr. Cardenas' four June 1986 burglary and felony theft convictions as one offense for scoring purposes.

Supplemental Issues Pertaining to Assignments of Error

1. Did the sentencing court commit multiple scrivener's errors by listing 9 wrong "Date of Crime" dates on Mr. Cardenas' judgment and sentence criminal history?

2. Did the sentencing court err as a matter of law when it mischaracterized Mr. Cardenas' crimes committed before July 1, 1986, and served concurrently, as more than one offense for sentencing purposes?

Supplemental Statement of the Case

At sentencing, the State presented the court and Mr. Cardenas with four packets of criminal history identified either by their court of origin (Yakima, Franklin, Benton) or as from the Department of Corrections. RP 235-36; Supplemental Designation of Clerk's Papers, Plaintiff's Sentencing Exhibits A, B, C, and D (November 18, 2015). Each

packet included relevant sentencing information such as charging documents, guilty plea forms, jury verdicts, and judgment and sentences. Id., Sentencing Exhibits. The State prepared the packets after Mr. Cardenas objected to the State's characterization of his criminal history. RP 235.

Based on the packet material, the court found Mr. Cardenas' offender score greater than the maximum 9 points and sentenced him to 51 months, the top of the standard range, for the offense of attempted burglary in the second degree. RP 253; CP 4-5.

Judgment and sentence section 2.3 displays Mr. Cardenas' criminal history but half of the dates listed in the "Date of Crime" section do not accurately compare with the information in the State's sentencing packets. (See "Wrong Date" and "Correct Date" comparison below.) Sentencing Exhibits A-D; CP 4. Most conspicuously, two burglaries and two felony thefts, reflect incorrect July 28, 1986, occurrence dates. The actual dates were 6 weeks earlier in mid-June 1986. See judgment and

sentence attached as Appendix A.

2.3 Criminal History: Prior criminal history used in calculating the offender score (RCW 9.94A.525):

Crime	Date of Sentence	Sentencing Court (County & State)	Date of Crime	Adult or Juvenile	Type of Crime
First Degree Robbery 98-1-02190-5	9-27-1999	Yakima, WA	12-6-1998*	Adult	V
First Degree Robbery 98-1-02190-5	9-27-1999	Yakima, WA	12-6-1998*	Adult	V
Second Degree Burglary 89-1-00385-0	1-12-1990	Benton, WA	5-16-1989	Adult	NV
Custodial Assault 90-1-00015-3	2-6-1990	Benton, WA	1-11-1990	Adult	NV
Second Degree Burglary 86-1-50132-0	10-7-1986	Franklin, WA	7-28-1986**	Adult	NV
Second Degree Burglary 86-1-50132-0	10-7-1986	Franklin, WA	7-28-1986**	Adult	NV
First Degree Theft (not FA) 86-1-50132-0	10-7-1986	Franklin, WA	7-28-1986***	Adult	NV
Second Degree Theft (not FA) 86-1-50132-0	10-7-1986	Franklin, WA	7-28-1986***	Adult	NV
First Degree PSP 86-1-50107-9	7-22-1986	Franklin, WA	6-20-1986	Adult	NV
Cont Sub – mfg/del/pos 89-1-00775-0	7-10-1989	Yakima, WA	5-7-1989****	Adult	Drugs
UPFA 89-1-00775-0	7-10-1989	Yakima, WA	5-7-1989****	Adult	NV
Second Degree Robbery 87-1-01598-5	2-11-1988	Yakima, WA	12-2-1987	Adult	V
Second Degree Burglary 86-1-00226-5	4-11-1986	Yakima, WA	1-19-1986	Adult	NV
WIFE Fugl Return - WIFE 88-1-00724-7 Release	7-22-1988	Yakima, WA	6-9-1988	Adult	NV

The Court finds the above-listed concurrent prior convictions (indicated by *, **, *** and ****) are not the same criminal conduct under RCW9.94A.525(5)(a)(i), and shall count separately.

Supplemental Argument

1. The court should remand for correction of the “Date of Crime” scrivener’s errors in the judgment and sentence.

A defendant may challenge an erroneous sentence for the first time on appeal. *State v. Bahl*, 164 Wn.2d 739, 744, 193 P.3d 678 (2008).

Scrivener’s errors are clerical errors that result from mistake or

inadvertence, especially in writing or copying something on the record. *In re Personal Restraint of Mayer*, 128 Wn. App. 694, 701, 117 P.3d 353 (2005). CrR 7.8(a) provides that clerical errors in judgments, orders, or other parts of the record may be corrected by the court at any time on its initiative or on the motion of any party. The remedy for a scrivener's error in a judgment and sentence is remand to the trial court for correction. CrR 7.8(a); *State v. Naillieux*, 158 Wn. App. 630, 646, 241 P.3d 1280 (2010).

Nine of the criminal history "Date of Crime" do not accurately compare with the dates in the criminal history packets prepared by the State for sentencing purposes.

<u>Wrong date</u>	<u>Correct date</u>
1/11/90	11/22/89 ¹
7/28/86	6/18/86 ²
7/28/86	6/16/86
7/28/86	6/18/86
7/28/86	6/16/86
6/20/86	6/18/86 ³

¹ See Appendix B

² See Appendix A for 6/16 and 6/18 dates

³ See Appendix C

12/2/87	12/1/87 ⁴
1/19/86	2/22/86 ⁵
6/9/88	4/25/88 ⁶

CP 4; Appendices A-D (attached).

These scrivener's error should be corrected on remand.

- 2. This court should also remand to reflect that the two June 1986 burglaries and the two June 1986 felony thefts are counted as a single offense for scoring purposes.**

Offender score calculations are reviewed de novo. *State v. Hernandez*, 185 Wn. App. 680, 684, 342 P.3d 820 (2015), *review denied*, 185 Wn.2d 1002 (2016). "Offender scores are calculated in three steps: (1) identify all prior convictions; (2) eliminate those that wash out; (3) 'count' the prior convictions that remain in order to arrive at the offender score." *Id.* at 684 (quoting *State v. Moeurn*, 170 Wn.2d 169, 175, 240 P.3d 1158 (2010)).

The current offense occurred on August 24, 2015. CP 1. Mr. Cardenas' last release from custody, on June 1, 2012, provided no adequate period for any wash out. RP 236; RCW 9.94A.525. However, RCW 9.94A.525(5)(a)(ii) provides,

⁴ See Appendix D

⁵ See Appendix E

⁶ See Appendix F

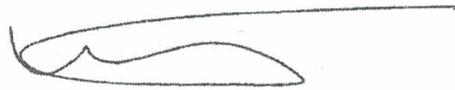
In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense.

Mr. Cardenas served his two June 1986 burglaries and felony thefts concurrently. Appendix A, Sentence, section 2 (“The sentence imposed in Counts I, II, III, and IV shall be served concurrently with each other[.]” Because the four concurrent offenses were committed before July 1, 1986, contrary the Date of Crime representation, sentencing score rules dictated scoring the four concurrently-served offenses as a single offense rather than the four offenses the court dictated “shall count separately.” CP 4.

Conclusion

Mr. Cardenas' case should be remanded to the trial court. The trial court should correct the Date of Crime information on the judgment and sentence and resentence Mr. Cardenas scoring his June 1986 burglaries and felony thefts as a single offense.

Respectfully submitted December 19, 2016.



LISA E. TABBUT/WSBA 21344
Attorney for Leopoldo Cuevas Cardenas

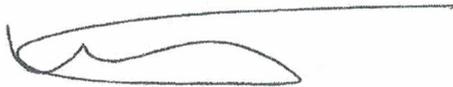
CERTIFICATE OF SERVICE

Lisa E. Tabbut declares:

On today's date, I efiled the Supplemental Brief of Appellant to (1) Yakima County Prosecutor's Office, at Appeals@co.yakima.wa.us and David.Trefry@co.yakima.wa.us (2) the Court of Appeals, Division III; and (3) I mailed it to Leopoldo Cuevas Cardenas/DOC#919072, Washington State Penitentiary, 1313 North 13th Avenue, Walla Walla, WA 99362.

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

Signed December 19, 2016, in Winthrop, Washington.

A handwritten signature in black ink, appearing to read 'Lisa E. Tabbut', with a long horizontal line extending to the right.

Lisa E. Tabbut, WSBA No. 21344
Attorney for Leopoldo Cuevas Cardenas

APPENDIX A

Correct date 6/18/86

OCT 7 4 21 PM '86

DOROTHY KADAR

BY *[Signature]* DEPUTY

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

6	STATE OF WASHINGTON,)	
7	Plaintiff,)	NO. 86-1-50132-0
8	vs.)	JUDGMENT AND SENTENCE
9	LEOPOLDO CARDENAS,)	(State Institution)
10	D.O.B.: 11/21/64)	
11	SID No. WA 12912355,)	97 9 50090 5
11	FBI No.)	
	Defendant.)	

THIS MATTER, having come before the Court on September 30, 1986 for a sentencing hearing, the State of Washington being represented by Steve M. Lowe, Deputy Prosecuting Attorney for Franklin County, the defendant LEOPOLDO CARDENAS, appearing in person and with his attorney, Katherine Steele Knox, the defendant having been afforded an opportunity to make a statement on his own behalf and to present information in mitigation of punishment, the defendant having been asked if there was any legal cause why judgment should not be pronounced and none having been shown, and the Court having reviewed and considered the statements presented, the arguments of counsel and the files and records herein, and having been fully advised, makes the following:

FINDINGS OF FACT

A. CURRENT OFFENSES:

1. On September 23, 1986, defendant was found guilty by verdict of the Jury of the crime(s) of:

Count I: BURGLARY IN THE SECOND DEGREE, [RCW 9A.52.030], a Class "B" Felony committed on or about June 18, 1986 in Franklin County, Washington; Incident No. FCSO 86-CF-14441;

Count II: THEFT IN THE FIRST DEGREE, [RCW 9A.56.020(1)(a) & 9A.56.030(1)(a)], a Class "B" Felony, committed on or about June 18, 1986 in Franklin County, Washington; Incident No. FCSO 86-CF-14441;

Count III: BURGLARY IN THE SECOND DEGREE, [RCW 9A.52.030], a Class "B" Felony, committed on or about June 16, 1986 in Franklin County, Washington; Incident No. FCSO 86-CF-14441;

Count IV: THEFT IN THE SECOND DEGREE, [RCW 9A.56.020(1)(a) & 9A.56.040(1)(a)&(e)], a Class "C" Felony, committed on or about June 16, 1986 in Franklin County, Washington; Incident No. FCSO 86-CF-14441;

26

- 1 2. The crimes in Counts I & II above encompass the same
 2 criminal conduct and shall count as one crime in deter-
 3 3. The crimes in Counts III & IV above encompass the same
 4 criminal conduct and shall count as one crime in deter-
 5 mining the Offender Score;

5 B. CRIMINAL HISTORY:

- 6 1. The Court finds that the defendant has the following
 7 convictions which shall be counted as criminal history in
 8 computing the Offender Score:

8 ADULT:

9 Crime	Court/ Cause No.	Sentence Date	Felony Class	Parole/Release Date
10 PSP I	Franklin County, WA 86-1-50107-9	07/22/86	B	On Comm. Sup.
12 Burg. II (accomplice)	Yakima County, WA 86-1-00226-5	04/11/86	B	On Comm. Sup.

- 13 2. The Court finds that the offender score, seriousness
 14 level, standard sentence range and maximum term for each
 15 of the current offenses are as follows:

16	Offender Score	Seriousness Level	Standard Range	Maximum Term
17 Count I:	5	II	14 - 18 months	ten years
18 Count II:	5	II	14 - 22 months	ten years
19 Count III:	5	II	14 - 18 months	ten years
20 Count IV:	3	I	2 - 6 months	five years

- 21 3. The defendant is an offender who shall be sentenced to a
 22 felony term or a combination of terms of more than one
 23 year of confinement. Pursuant to RCW 9.94A.190 and RCW
 24 70.48.400 defendant shall be committed to a state penal
 25 institution under authority of the Department of Corrections
 26 to serve the sentence herein imposed.

- 27 4. The defendant has previously served 66 days in confine-
 28 ment which was solely in regard to the offenses for which
 29 defendant is being sentenced.

- 30 5. The Court finds that the defendant is liable for restitu-
 31 tion in the amounts and to those persons as hereinafter
 32 ordered.

- 33 6. Defendant has been advised of his rights to appeal in ac-
 34 cordance with the requirements of CrR 7.2(b).

35 JUDGMENT

36 Based upon the foregoing Findings of Fact and the files and
 37 records herein,

38 IT IS HEREBY ADJUDGED AND DECREED that the defendant is
 39 guilty of the crimes of:

- 1 Count I: BURGLARY IN THE SECOND DEGREE, [RCW 9A.52.030], a Class
 2 "B" Felony committed on or about June 18, 1986 in
 3 Franklin County, Washington; Incident No. FCSO 86-CF-
 14441;
- 4 Count II: THEFT IN THE FIRST DEGREE, [RCW 9A.56.020(1)(a) & 9A.
 5 56.030(1)(a)], a Class "B" Felony, committed on or
 6 about June 18, 1986 in Franklin County, Washington;
 7 Incident No. FCSO 86-CF-14441;
- 8 Count III: BURGLARY IN THE SECOND DEGREE, [RCW 9A.52.030], a Class
 9 "B" Felony, committed on or about June 16, 1986 in
 10 Franklin County, Washington; Incident No. FCSO 86-CF-
 14441;
- 11 Count IV: THEFT IN THE SECOND DEGREE, [RCW 9A.56.020(1)(a) & 9A.
 12 56.040(1)(a)&(e)], a Class "C" Felony, committed on or
 13 about June 16, 1986 in Franklin County, Washington;
 14 Incident No. FCSO 86-CF-14441;
- 15 in Franklin County, Washington as charged in the Amended Informa-
 16 tion herein.

17 SENTENCE

18 IT IS THE SENTENCE AND ORDER of the Court that:

- 19 1. Defendant shall serve a term of total confinement in the
 20 custody of the Department of Corrections as follows:

21 Count I: 18 months.
 22 Count II: 12 months.
 23 Count III: 18 months.
 24 Count IV: 6 months.

- 25 2. The sentence imposed in Counts I, II, III & IV shall be
 26 served concurrently with each other, for a total term of 18
 27 months.

- 28 3. Defendant shall be given credit for 66 days served in
 29 total confinement for this offense, prior to date of this
 30 sentence.

- 31 4. Defendant shall pay to the Clerk of this Court:

32 (a) \$ 219.92 Court costs;
 (b) \$ 75.00 Crime Victim Assessment
 (c) \$ 0 Restitution
 (d) \$ 700.00 Court appointed attorney's fees
 (e) \$ _____ Fine
 (f) \$ _____ Tri-City METRO Drug Enforcement Fund

\$ 994.92 TOTAL

Commencing with the first full month after release from
 prison, defendant shall pay not less than \$ 50 per
 month to the Clerk of the Court by cash, cashier's check
 or money order until the total monetary obligation is
 paid in full.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

5. Upon receipt, the Clerk of the Court shall distribute restitution to the injured party or parties as follows:

[Handwritten initials]

~~\$1,377.00~~

Oscar Overton
9770 Glade Road North
Pasco, WA 99301

\$ _____

Mike Fitzpatrick
5617 Wernett
Pasco, WA 99301

6. The Court hereby retains jurisdiction over defendant for a period of ten (10) years to assure payment of the above monetary obligations, and the Department of Corrections shall be responsible for assuring defendant's compliance with this provision.

Violations of any of the requirements or conditions of this Sentence and Order may be punished by confinement for a period of up to sixty (60) days for each violation, pursuant to RCW 9.94A.200(2).

DONE IN OPEN COURT this 7 day of Oct September, 1986.

[Handwritten Signature]
SUPERIOR COURT JUDGE

Presented by:

Deputy Prosecuting Attorney

FINGERPRINT FORM ATTACHED

APPENDIX B

Correct date 11/22/89

RECORDED 4

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON 887 735

COUNTY OF BENTON

BENTON COUNTY
OFFICE OF COUNTY CLERK AND
CLERK OF SUPERIOR COURT

THE STATE OF WASHINGTON

CERTIFIED COPY

FILED
FEB 6 1990

Plaintiff,)

No. 90-1-00015-3

E. RAY BASCA, Clerk

vs.)

JUDGMENT AND SENTENCE

LEOPOLDO CARDENAS,)

DOB: 10/9/63)

Defendant.)

JUDGMENT DOCKET
NO. 90-9-00204-0

This matter having come before the Court for a sentencing hearing this date; the defendant having been convicted by:

(XX) his/her guilty plea on , of
() jury verdict on , of

Custodial Assault RCW 9A.36.100
committed on or about November 22, 1989 in Benton
County, Washington; the defendant being present and represented by his
attorney, Terry Bloor ; the defendant having been asked if he
wished to make a statement on his own behalf and to present any informa-
tion in mitigation of punishment; and the Court being fully advised,
makes the following:

FINDINGS OF FACT

1. The defendant's prior convictions are:

Burglary 2nd	2/22/86	4/11/86
PSP	6/86	July 1986
Burglary 2nd	6/86	Oct. 1986
Burglary 2nd	6/86	Oct. 1986
Robbery	12/1/87	2/11/88
Failure to Return	7/22/88	7/25/88
Poss. Con. Sub.		7/10/89
Unlaw. Poss. Pistol	5/7/89	7/10/89
Burglary 2nd	5/16/88	

2. Based on the foregoing criminal history, the presumptive sentencing range for the offense(s) for which the defendant was found guilty is as follows:

51-60 months

- () 3. The defendant's current multiple offenses () do not involve () do involve the same criminal conduct.
- () 4. The defendant was duly informed by special allegation and the court/jury finds/found that () the defendant () an accomplice was armed with a deadly weapon as defined by RCW 9.94A.125 at the time of the commission of the offense in count(s) and months is to be added to the presumptive sentencing range.

5. The maximum term for the offense(s) is:

5 years and/or \$10,000 fine

- () 6. The defendant owes restitution to the victim(s) in this case jointly and severally with in the amount of \$. The following victims are entitled to restitution in these amounts:

7. The defendant has served 0 days in confinement before sentencing which confinement was solely in regard to the offense(s) for which the defendant is being sentenced.

2.4

From the foregoing findings of fact, the Court makes the following:

CERTIFIED COPY

CONCLUSIONS OF LAW

- 1. The Court has jurisdiction of the defendant and the subject matter.
- 2. The defendant is guilty of the crime(s) of:
Custodial Assault RCW 9A.36.100
- () 3. The defendant is a first time offender pursuant to RCW 9.94A.120(5), and the Court waives the imposition of a sentence within the presumptive sentencing range.
- () 4. There are substantial and compelling reasons to justify an exceptional sentence. Findings are attached.

JUDGMENT AND SENTENCE

The Court having determined that no legal cause exists to show why judgment should not be pronounced, it is therefore ORDERED, ADJUDGED and DECREED as follows:

- 1. The defendant shall be sentenced to a term of 51 months confinement to be served pursuant to RCW 9.94A.190 commencing immediately in connection to Bench to 84-1-0385-0
- 2. Credit for time served prior to this date of 0 days is given.
- 3. The defendant shall report to and be available for contact with the assigned community corrections officer as directed upon release from prison.
- () 4. The defendant shall be on community placement for a period of one year upon either release from confinement or upon transfer to community custody. Conditions of community placement include that the defendant:
 - shall work at Department of Corrections-approved education, employment, and/or community service;
 - shall not consume controlled substances except pursuant to lawfully issued prescriptions;
 - shall pay community placement fees as determined by the Department of Corrections;
 - shall remain within/outside geographic boundaries as directed by Department of Corrections;
 - () shall not unlawfully possess controlled substances;
 - () shall not have direct or indirect contact with _____;
 - () shall participate in crime-related treatment or counseling services as directed by community corrections officers;
 - () shall not consume alcohol;
 - () shall have prior approval of community corrections officer before selecting or changing residence location or living arrangements;
 - () shall comply with the following crime-related prohibitions:

- 5. The defendant shall pay court costs in the sum of \$90.50 reimbursement of court appointed attorney fees of \$250.00 a penalty assessment in the sum of \$100.00 pursuant to RCW 7.68.035 and a fine of \$ 0. Said sums to be paid to the Benton County Clerk, 7320 West Quinault, Kennewick, Washington, or P.O. Box 1510, Richland, Washington by cash, cashier's check or money order in payments as scheduled by defendant's community corrections officer with full payment no later than 1 year from date of release
- 6. The defendant shall make restitution as indicated in Finding of Fact #6 which shall be payable to the Clerk of Court, 7320 W. Quinault, Kennewick, Washington by cash, cashier's check or money order in payments as scheduled by the defendant's community corrections officer with full payment no later than _____.
- 7. The Court hereby retains jurisdiction over defendant for a period of ten (10) years to assure payment of the monetary obligations, and the Department of Corrections shall be responsible for assuring defendant's compliance with this provision. To assure compliance the defendant is ordered to report to the Department of Corrections within 24 hours of release from confinement or date of this order to allow the Department of Corrections to monitor payments.
- () 8. Defendant shall not have contact with the victim(s) for a period of ten (10) years. A violation of this order is a criminal offense under RCW 9A.46 and will subject a violator to arrest.

9. The following counts are dismissed:

Bail jumping Ct. II

DONE IN OPEN COURT this 6 day of February, 1990 in the presence of the defendant, his/her attorney and the (Deputy) Prosecuting Attorney.

Wray J. J.
JUDGE

Sex: male
Race: hispanic

FINGERPRINTS
(Right four fingers taken simultaneously)



Dated: Feb 6, 1990
Fingerprints attested by:

Nancy Richman
(Deputy) Clerk

WARRANT OF COMMITMENT

CERTIFIED COPY

THE STATE OF WASHINGTON

TO: The Sheriff of Benton County and to the proper officers of the Department of Corrections.

The defendant has been convicted in the Superior Court of the State of Washington of the crime(s) of: RCW 9A.36.100

CUSTODIAL ASSAULT

and the Court has ordered that the defendant be punished by serving not more than: 51 MONTHS TO THE DEPARTMENT, TO RUN CONSECUTIVE TO BENTON COUNTY CAUSE NO. 89-1-00385-0.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections;

and

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

Dated this 6 day of FEBRUARY, 1990.

ALBERT J. YENCOPAL
JUDGE

E. KAY BACCA
CLERK

By Nancy Richman
DEPUTY



I, E. KAY BACCA, Clerk of this Court, certify that the above is a true copy of the Judgment and Sentence and Warrant of Commitment in this action on record in my office.

Dated this _____ day of _____, 19____.

E. KAY BACCA
CLERK

By _____
DEPUTY

90-1-00015-3
STATE OF WASHINGTON
VS
LEOPOLDO CARDENAS

APPENDIX C

Correct date 6/18/86

FILED
FRANKLIN CO. CLERK

JUN 20 2 20 PM '86

BOROTHY WAGAR
BY *SW* DEPUTY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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

STATE OF WASHINGTON,
Plaintiff,
vs.
LEONARDO ESCAMILLA,
D.O.B.: 11/21/64,
Defendant.

NO. 86 1 50107 9
INFORMATION

COMES NOW Steve M. Lowe, Deputy Prosecuting Attorney for Franklin County, State of Washington, and by this Information accuses LEONARDO ESCAMILLA of the crime as follows: POSSESSION OF STOLEN PROPERTY IN THE FIRST DEGREE, [RCW 9A.56.140 & 9A.56.150], a Class "B" Felony, committed as follows, to-wit: That the said LEONARDO ESCAMILLA in the County of Franklin, State of Washington, on or about the 18th day of June, 1986, then and there, did knowingly receive, retain, possess, conceal or dispose of stolen property knowing it had been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto; to-wit: cameras, coins, watch and rifle having a value in excess of \$1,500.00, contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Washington.

DATED at Pasco, Washington, this 18th day of June, 1986.

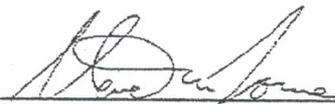
Steve M. Lowe
Deputy Prosecuting Attorney

STATE OF WASHINGTON)
County of Franklin) ss.

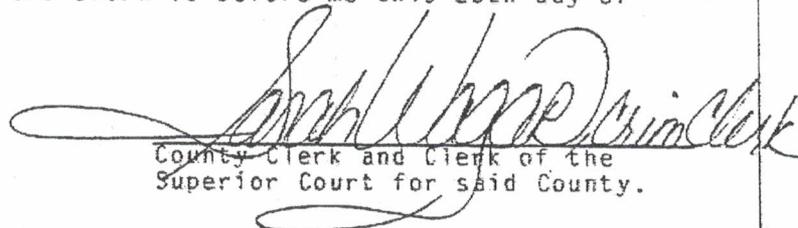
STEVE M. LOWE, being first duly sworn on oath, deposes

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

and says: That he is a duly appointed, acting and qualified Deputy Prosecuting Attorney in and for said County, that he has read the foregoing information, knows the contents thereof, and believes the same to be true.



Subscribed and sworn to before me this 20th day of June, 1986.


County Clerk and Clerk of the Superior Court for said County.

Recommended Bail: \$ _____

PPD #86-CF-8495

C. J. RABIDEAU
FRANKLIN COUNTY PROSECUTING ATTORNEY
618 WEST CLARK
P. O. BOX 1160
PASCO, WASHINGTON 99302
PHONE: (509) 545-3542

APPENDIX D

Correct date 12/1/87

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

STATE OF WASHINGTON

Plaintiff,

vs.

INFORMATION

LEOPOLDO CUEVAS CARDENAS,
a/k/a LEONARDO ESCAMILLA,

No. 87-1-01598-5

Defendant(s).

To: LEOPOLDO CUEVAS CARDENAS, a/k/a LEONARDO ESCAMILLA

By this information (Count I of IV), the prosecuting attorney accuses you of the crime of:

SECOND DEGREE ROBBERY, RCW 9A.56.210 and 9A.56.190

The maximum penalty is: Class: B Felony: Not more than 10 years and/or \$20,000.

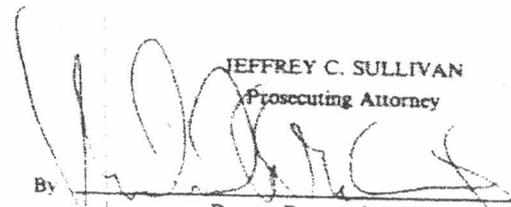
In that you on or about December 1, 1987 in Yakima County, Washington,
(date)

did unlawfully take or retain personal property, to-wit:
cash and a vehicle, from the person and in the presence
of Mark Drumhiller, against such person's will, by use
or threatened use of immediate force, violence and fear
of injury to such person or his property.

Dated: December 4, 1987

YPD #87-57587

A/1475/87 MGM SW

JEFFREY C. SULLIVAN
Prosecuting Attorney
By 
Deputy Prosecuting Attorney
Rm. 329 Yakima County Courthouse
Yakima, Washington 98901
(509) 575-4141

APPENDIX E

Correct date 2/22/86

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

STATE OF WASHINGTON

Plaintiff,

vs.

AMENDED
INFORMATION

LEOPOLDO CARDENAS,

a/k/a LEOPOLDO TORREZ,

Defendant(s).

No.

86-1-00226-5

APR 11 11 35 AM '86

To: LEOPOLDO CARDENAS, a/k/a LEOPOLDO TORREZ

By this information (Count I of I), the prosecuting attorney accuses you of the crime of:

ACCOMPLICE TO SECOND DEGREE BURGLARY, RCW 9A.52.030(1)

The maximum penalty is: Class: B Felony: Not more than 10 years and/or \$20,000.

In that you on or about February 22, 1986 in Yakima County, Washington,

(date)

did act as an accomplice to another who with intent to commit a crime against a person or property therein, did enter or remain unlawfully in a building located at the intersection of West Wapato Road and Lateral A, Wapato, Washington, known as the Kulchiat's Smoke Shop.

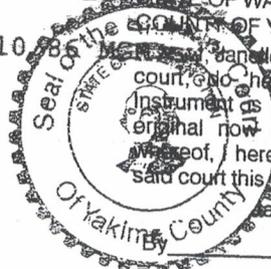
FILED
APR 11 1986

BETTY MORGAN
YAKIMA COUNTY CLERK

Dated: April 11, 1986

YSO #86-1158 STATE OF WASHINGTON }
COUNTY OF YAKIMA } ss

I, Janelle Riddle, Clerk of the above entitled court, do hereby certify that the foregoing instrument as a true and correct copy of the original now on file in my office. In witness whereof, hereunto set my hand and the seal of said court this 11 day of April, 2011.



Janelle Riddle, CLERK
Deputy

JEFFREY C. SULLIVAN
Prosecuting Attorney
Deputy Prosecuting Attorney
Rm. 329 Yakima County Courthouse
Yakima, Washington 98901
(509) 575-4141

[Handwritten signature]

APPENDIX F

Correct date 4/25/88

SR

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

FILED
MAY 3 1988

STATE OF WASHINGTON

Plaintiff,

vs.

LEOPOLDO C. CARDENAS,

Defendant.

BETTY MCGILLEN
YAKIMA COUNTY CLERK

88 1-00724 7

88 May 3
Defendant(s):

APR 11 23

To: LEOPOLDO C. CARDENAS

CLERK OF
COURT
YAKIMA COUNTY WASHINGTON

By this information (Count I of I), the prosecuting attorney accuses you of the crime of:

WILLFUL FAILURE TO RETURN - RCW 72.65.070/9A.76.110

The maximum penalty is: Class: B FELONY: Not More Than 10 Years and/or \$20,000.00

In that you on or about April 25, 1988

(date)

in Yakima County, Washington,

did willfully fail to return to his designated place of
confinement, the Yakima Work Release Facility, at his
designated time of return;

STATE OF WASHINGTON } ss
COUNTY OF YAKIMA
Seal of the County of Yakima
I, Janelle Riddle, Clerk of the above entitled
court, hereby certify that the foregoing
Instrument is a true and correct copy of the
original now on file in my office. In witness
whereof, I hereunto set my hand and the seal of
said court this 13 day of NOV 20 1988.

Janelle Riddle, CLERK
Deputy

Dated: May 3, 1988

A-665-88/RNH/plk
DOC #919072

JEFFREY C. SULLIVAN
Prosecuting Attorney

By Robert M. Hackett, Jr.
Deputy Prosecuting Attorney
Rm. 329 Yakima County Courthouse
Yakima, Washington 98901
(509) 575-4141