

NO. 78634-8

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE PERSONAL RESTRAINT PETITION OF:

RUSSELL JAY DEALY

Petitioner.

FROM THE SUPERIOR COURT FOR CLARK COUNTY
THE HONORABLE JOHN P. WULLE
CLARK COUNTY SUPERIOR COURT CAUSE NO. 02-1-00692-2
COURT OF APPEALS NO. 34513-7-II

RESPONSE TO PERSONAL RESTRAINT PETITION

Attorneys for Respondent:

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CLERK

BY C. J. LEHRITT

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I. RESPONSE

The sole issue raised in the Personal Restraint Petition is a claim by the defendant that when he was in the Clark County Jail awaiting sentencing under Clark County Cause No. 02-1-00692-2 that he did not receive the proper crediting of earned release.

A copy of the Judgment and Sentence (Prison-Community Placement/Community Custody) is attached hereto and by this reference incorporated herein.

On January 16, 2003, the defendant pled guilty to nine felony counts. The Judgment and Sentence indicates that these matters were to be served concurrent with each other, but were to be run consecutive to previous convictions that he was in prison on under Nos. 03-1-00631-9 and 03-1-00637-8. Concerning the underlying conviction for the nine counts, therefore, he received no credit for time served but that pre-trial time would have been put onto the earlier sentences he was already serving in prison. In re the Personal Restraint of Phelan, 97 Wn.2d 590, 647 P.2d 1026 (1982) addressed whether good time credit should be given for pre-sentencing confinement. The Phelan court held that the inmate is

entitled to credit for “all jail time served exclusively on the principal underlying charge” against a maximum prison sentence. Phelan at 592. Because he received no credit on these underlying nine counts, this matter really belongs in a discussion in the prison system as opposed to the local jail system. RCW 9.94A.728(1) holds that correctional facilities must award earned early release credits on presentencing confinement. The State submits that this matter should be more properly addressed with the Department of Corrections and the Attorney General as opposed to the Prosecuting Attorney’s Office.

Further, the defendant has attached the jail and good time certification from the Clark County facility. It indicates that Clark County maintains a 15% good time policy and that credit is based on “total imposed sentence” consistent with State v. Williams, 121 Wn.2d 655 (1983). In State v. Donery, 131 Wn.App. 667, 128 P. 3d 1262 (2006), it was held that RCW 9.94A.728 and the concept of “earned early release time” is under the control of the correctional agency having jurisdiction in which the offender is confined.

The Washington Supreme Court has interpreted this provision to ‘give . . . both county jails and the state correctional system plenary authority over good time

awards for offenders under their jurisdiction.’ In re Personal Restraint of Williams, 121 Wn 2d 655, 661, 853 P.2d 444 (1993). The court emphasized that ‘under our reading of the statute, the county jail retains complete control over the good time credits granted to offenders within its jurisdiction.’ Williams, 121 Wn.2d at 665.

RCW 9.94A.728(1) also provides that ‘if an offender is transferred from a county jail to the Department, the administrator of a county jail facility shall certify to the Department the amount of time spent in custody at the facility and the amount of earned release time.’ RCW 9.94A.728. The Williams court interpreted this sentence of the statute to mean that DOC must accept the county jail’s calculation of good time unless it is based on an apparent or a manifest error of law. Williams, 121 Wn.2d at 664. Interpreting the statute as a method of avoiding DOC oversight of county jails, the court also held that DOC is not required to review or approve good time policies of county jails nor review the certifications accuracy. Williams, 121 Wn.2d at 666. Even when the certification is invalid, the remedy is not for DOC to correct the error, but it is to remand to the county jail for a recertification. Williams, 121 Wn.2d at 668. Williams basic rationale is state penal institutions and county jails have separate authority for granting earned early release time.’ (Donery at 671).

II. CONCLUSION

The State submits that this matter is more appropriately brought to the Department of Corrections and the local jail systems

as opposed to a matter for personal restraint petition. The defendant has demonstrated no prejudice that can be addressed and, therefore, this matter should be dismissed.

DATED this 25 day of May, 2006.

Respectfully submitted:

ARTHUR D. CURTIS
Prosecuting Attorney
Clark County, Washington

By: 
MICHAEL C. KINNIE, WSBA #7869
Senior Deputy Prosecuting Attorney

APPENDIX "A"

SCANNED

STAUFFER

S6

SUPERIOR COURT OF WASHINGTON
COUNTY OF CLARK

FILED
MAY 21 2003
JoAnne McBride, Clerk, Clark Co.

STATE OF WASHINGTON, Plaintiff,

v.

RUSSELL JAY DEALY

aka

Defendant.

SID: WA11946005

DOB: 05/21/1963

No. 02-1-00692-2

JUDGMENT AND SENTENCE (JS)

**PRISON - COMMUNITY
PLACEMENT/COMMUNITY CUSTODY**

Clerk's action required Paragraph 5.7

I. HEARING

03 9 02984 9

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (deputy) prosecuting attorney were present.

II. FINDINGS

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

2.1 CURRENT OFFENSE(S): The defendant was found guilty on 1/16/03
(Date)

by plea jury-verdict bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
01	UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE	9.41.040(1)(b)	03/06/2002
02	UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE	9.41.040(1)(b)	03/01/2002
03	UNLAWFUL POSSESSION OF A FIREARM IN THE SECOND DEGREE	9.41.040(1)(b)	10/26/2001 to 12/31/2001
04	POSSESSION OF A CONTROLLED SUBSTANCE - METHAMPHETAMINE	69.50.401(d)	03/06/2003
05	UNLAWFUL ISSUANCE OF BANK CHECKS OR DRAFTS (OVER \$250)	9A.56.060(4)	01/30/2002
06	UNLAWFUL ISSUANCE OF BANK CHECKS OR DRAFTS (OVER \$250)	9A.56.060(4)	12/16/2001

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07	UNLAWFUL ISSUANCE OF BANK CHECKS OR DRAFTS (OVER \$250)	9A.56.060(4)	11/15/2001
08	UNLAWFUL ISSUANCE OF BANK CHECKS OR DRAFTS (OVER \$250)	9A.56.060(4)	12/30/2001
09	TRAFFICKING IN STOLEN PROPERTY IN THE SECOND DEGREE	9A.82.050(1)	07/01/2001 to 03/26/2002

as charged in the (Amended) Information.

- A special verdict/finding for use of **firearm** was returned on Count(s) _____ RCW 9.94A.602, 510
- A special verdict/finding for use of **deadly weapon** other than a firearm was returned on Count(s) _____. RCW 9.94A.602
- A special verdict/finding of **sexual motivation** was returned on Count(s) _____ RCW 9.94A.835
- 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, public transit vehicle, or 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, or in a public housing project designated by a local governing authority as a drug-free zone.
- 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.
- This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130
- The court finds that the offender has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- The crimes charged in Count(s) _____ is/are Domestic Violence offense(s) as that term is defined in RCW 10.99.020:
- A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture was returned on Count(s) _____. RCW 9.94A, RCW 69.50.401(a), RCW 69.50.440.
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are Count(s) _____. RCW 9.94A.589
- Additional misdemeanor crime(s) pertaining to this cause number are contained in a separate Judgment and Sentence.
- Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number): 03-1-00537-8 ID THEFT II; 03-1-00631-9 ID THEFT II.

2.2 CRIMINAL HISTORY (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult, Juv.	TYPE OF CRIME
1. SEE ATTACHED					

- Additional criminal history is attached in Appendix 2.2.

- The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525
- The court finds that the following prior convictions are one offense for purposes of determining the offender score RCW 9.94A.525: _____
- The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520: _____
- The State has moved to dismiss count(s)

2.3 SENTENCING DATA:

COUNT NO.	OFFENDER SCORE	SERIOUS-NESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENTS*	TOTAL STANDARD RANGE (including enhancements)	MAXIMUM TERM
01	9	III	51 MONTHS to 68 MONTHS			5 YEARS \$10000
02	9	III	51 MONTHS to 68 MONTHS			5 YEARS \$10000
03	9	III	51 MONTHS to 68 MONTHS			5 YEARS \$10000
04	9	I	22 MONTHS to 29 MONTHS			5 YEARS \$10000
05	9	I	22 MONTHS to 29 MONTHS			5 YEARS \$10000
06	9	I	22 MONTHS to 29 MONTHS			5 YEARS \$10000
07	9	I	22 MONTHS to 29 MONTHS			5 YEARS \$10000
08	9	I	22 MONTHS to 29 MONTHS			5 YEARS \$10000
09	9	III	51 MONTHS to 68 MONTHS			5 YEARS \$10000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, See RCW 46.61.520

Additional current offense sentencing data is attached in Appendix 2.3.

2.4 EXCEPTIONAL SENTENCE. Substantial and compelling reasons exist which justify an exceptional sentence above within below the standard range for Count(s) See findings. 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.750/753

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are attached as follows: _____ . If no formal written plea agreement exists, the agreement is as set forth in the Defendant's Statement on Plea of Guilty.

III. JUDGMENT

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

3.2 The Court DISMISSES Counts .

\$ _____	Other Costs for: _____	RCW 9.94A.760
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- The above financial obligations do 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.750/753. A restitution hearing:
 - shall be set by the prosecutor
 - is scheduled for _____
- The Department of Corrections may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602
- 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.760
- 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 of \$ _____ RCW 9.94A.760
- 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 10.73.160
- 4.2 DNA TESTING. The defendant shall have a biological sample collected 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
 - HIV TESTING. The defendant shall be tested and counseled for HIV as soon as possible and the defendant shall fully cooperate in the testing and counseling. RCW 70.24.340
- 4.3 The defendant shall not have contact with DOREEN L BRONSON, FORREST W BERRY, BARBARA M WITT, MICHAEL ALLEN MEYER, JENNINGS A ROWAN including, but not limited to, personal, verbal, telephonic, electronic, written or contact through a third party for 5 years (not to exceed the maximum statutory sentence).
 - Supplemental Domestic Violence Protection Order or Antiharassment Order attached as Form 4.3.
- 4.4 OTHER: _____

4.5 **CONFINEMENT OVER ONE YEAR.** The defendant is sentenced as follows:
 (a) **CONFINEMENT.** RCW 9.94A.589. Defendant is sentenced to the following term of confinement in the custody of the Department of Corrections:

- 51 days/months on Count 01
- 51 days/months on Count 02
- 51 days/months on Count 03
- 29 days/months on Count 04

29 days/months on Count 05
29 days/months on Count 06
29 days/months on Count 07
29 days/months on Count 08
51 ~~29~~ days/months on Count 09

Actual number of months of total confinement ordered is: 51 MONTHS
(Add mandatory firearm and deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The term(s) of confinement (sentence) imposed herein shall be served consecutively to any other term of confinement (sentence) which the defendant may be sentenced to under any other cause in either District Court or Superior Court unless otherwise specified herein:

Counts 1-9 are concurrent with each other, but
consecutive to 03-1-00631-9 and 03-1-00637-8 (TOTAL 94 months)

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505.

Credit for _____ days time served prior to this date is given, said confinement being solely related to the crimes for which the defendant is being sentenced.

4.6 ~~COMMUNITY PLACEMENT~~ is ordered on Counts 9 for 12 months

~~COMMUNITY CUSTODY~~ is ordered on Counts 4 for a range from 9 to 12 months or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700/705(9) for community placement offenses which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Community custody follows a term for a sex offense --RCW 9.94A.505. Use paragraph 4.7 to impose community custody following work ethic camp. Community placement/custody shall be for 12 months or for the period of earned early release, whichever is longer, for sex offenses or serious violent offenses committed between 7/1/88 and 7/1/90, Assault 2, Assault of a Child 2, deadly weapon enhancements and drug offenses under RCW 69.50 or 69.52; 24 months or for the period of early earned release, whichever is longer, for sex offenses occurring between 7/1/90 and 6/6/96, serious violent offenses, and vehicular homicides or vehicular assaults; 36 months or for the period of earned early release, whichever is longer, for sex offenses committed after 6/6/96.]

The defendant shall be on community supervision/community custody under the charge of the Department of Corrections and shall follow and comply with the instructions, rules and regulations promulgated by said Department for the conduct of the defendant during the period of community supervision/community custody and any other conditions stated in this Judgment and Sentence.

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by the Department of Corrections; (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections. The residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement. The defendant's conditions of Community Placement/Community Custody include the following:

- The defendant shall not consume any alcohol.
- Defendant shall have no contact with _____
- Defendant shall remain within outside of a specified geographical boundary, to wit:
AS Set B4 D.O.C.
- Other conditions may be imposed by the court or Department during community custody, or are set forth here:

- The conditions of community supervision/community custody shall begin immediately or upon the defendant's release from confinement unless otherwise set forth here:

- Defendant shall not violate any federal, state or local criminal laws, and shall not be in the company of any person known by him/her to be violating such laws.
- Defendant shall not commit any like offenses.
- Defendant shall notify his/her community corrections officer within forty-eight (48) hours of any arrest or citation.
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be convicted felons, or presently on probation, community supervision/community custody or parole for any offense, juvenile or adult, except immediate family. Additionally, the defendant shall not initiate or permit communication or contact with the following persons:

- Defendant shall not have any contact with other participants in the crime, either directly or indirectly.
- Defendant shall not initiate or permit communication or contact with persons known to him/her to be substance abusers.
- Defendant shall not possess, use or deliver drugs prohibited by the Uniform Controlled Substances Act, or any legend drugs, except by lawful prescription. The defendant shall notify his/her community corrections officer on the next working day when a controlled substance or legend drug has been medically prescribed.
- Defendant shall not possess or use any paraphernalia that can be used for the ingestion or processing of controlled substances or that can be used to facilitate the sale or transfer of

controlled substances including scales, pagers, cellular phones, police scanners, and hand held electronic scheduling and data storage devices.

- Defendant shall not frequent known drug activity areas or residences.
- Defendant shall not use or possess alcoholic beverages at all to excess.
The defendant will will not be required to take monitored antabuse per his/her community corrections officer's direction, at his/her own expense, as prescribed by a physician.
- Defendant shall not be in any place where alcoholic beverages are sold by the drink for consumption or are the primary sale item.
- Defendant shall undergo an evaluation for treatment for substance abuse mental health anger management treatment and fully comply with all recommended treatment.
- Defendant shall enter into, cooperate with, fully attend and successfully complete all in-patient and outpatient phases of a substance abuse mental health anger management treatment program as established by the community corrections officer and/or the treatment facility.
- Based upon the Pre-Sentence Report, the court finds reasonable grounds to exist to believe the defendant is a mentally ill person, and this condition was likely to have influenced the offense. Accordingly, the court orders the defendant to undergo a mental status evaluation and participate in outpatient mental health treatment. Further, the court may order additional evaluations at a later date, if deemed appropriate.
- Treatment shall be at the defendant's expense and he/she shall keep his/her account current if it is determined that the defendant is financially able to afford it.
- Defendant shall submit to urine, breath or other screening whenever requested to do so by the treatment program staff and/or the community corrections officer.
- Defendant shall not associate with any persons known by him/her to be gang members or associated with gangs.
- Defendant shall not wear or display any clothing, apparel, insignia or emblems that he/she knows are associated with or represent gang affiliation or membership as determined by the community corrections officer.
- Defendant shall not possess any gang paraphernalia as determined by the community corrections officer.
- Defendant shall not use or display any names, nicknames or monikers that are associated with gangs.
- Defendant shall comply with a curfew, the hours of which are established by the community corrections officer.
- Defendant shall attend and successfully complete a shoplifting awareness educational program as directed by the community corrections officer.
- Defendant shall attend and successfully complete the Victim Awareness Educational Program as directed by the community corrections officer.
- Defendant shall not accept employment in the following field(s):

- Defendant shall not possess burglary tools.
- Defendant's privilege to operate a motor vehicle is suspended/revoked for a period of one year; two years if the defendant is being sentenced for a vehicular homicide.

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten (10) years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A505(5).
- 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.7602. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.7606
- 5.4 **RESTITUTION HEARING.**
 Defendant waives any right to be present at any restitution hearing (sign initials): _____
- 5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.634
- 5.6 **FIREARMS.** You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047
- 5.7 The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The court clerk is directed to immediately forward an Abstract of Court Record to the Department of Licensing, who must revoke the defendant's driver's licenses. RCW 46.20.285.

Cross off if not applicable:

- 5.8 **SEX AND KIDNAPPING OFFENDER REGISTRATION.** RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense or kidnapping offense (e.g., kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in Chapter 9A.40 RCW where the victim is a minor and you are not the minor's parent), you are required to register with the sheriff of the county of the state of Washington where you reside. If you are not a resident of Washington but you are a student in Washington or you are employed in Washington or you carry on a vocation in Washington, you must register with the sheriff of the county of your school, place of employment, or vocation. 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. If you leave this state following your sentencing or release from custody but later while not a resident of Washington you become employed in Washington, carry out a vocation in Washington, or attend school in Washington, you must register within 30 days after starting school in this state or becoming employed or carrying out a vocation in this state, or within 24 hours after doing so if you are under the jurisdiction of this state's Department of Corrections.

If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 72 hours of moving. If you change your residence to a new county within this state, you must send written notice of your change of residence to the sheriff of your new county of residence at least 14 days before moving, register with that sheriff within 24 hours of moving and you must give written notice of your change of address to the sheriff of the county where last registered within 10 days of moving. If you move out of Washington state, you must also send written notice within 10 days of moving to the county sheriff with whom you last registered in Washington state.

If you are a resident of Washington and you are admitted to a public or private institution of higher education, you are required to notify the sheriff of the county of your residence of your intent to attend the institution within 10 days of enrolling or by the first business day after arriving at the institution, whichever is earlier.

Even if you lack a fixed residence, you are required to register. Registration must occur within 24 hours of release in the county where you are being supervised if you do not have a residence at the time of your release from custody or within 48 hours excluding weekends and holidays after ceasing to have a fixed residence. If you enter a different county and stay there for more than 24 hours, you will be required to register in the new county. You must also report weekly in person to the sheriff of the county where you are registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require you to list the locations where you have stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining a sex offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550

If you move to another state, or if you work, carry on a vocation, or attend school in another state you must register a new address, fingerprints, and photograph with the new state within 10 days after establishing a residence, or after beginning to work, carry on a vocation, or attend school in the new state. You must also send written notice within 10 days of moving to the new state or to a foreign country to the county sheriff with whom you last registered in Washington State

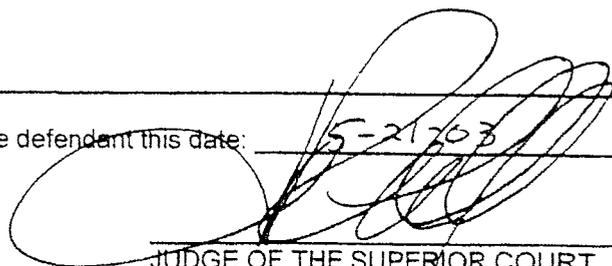
If you apply for a name change, you must submit a copy of the application to the county sheriff of the county of your residence and to the state patrol not fewer than five days before the entry of an order granting the name change. If you receive an order changing your name, you must submit a copy of the order to the county sheriff of the county of your residence and to the state patrol within 5 days of the entry of the order. RCW 9A.44.130(7).

5.9 Persistent Offense

- The crime(s) in count(s) _____ is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030 (28 & 32(a)), 9.94A.505
- The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030 (32)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

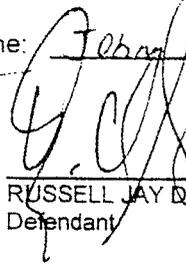
5.10 OTHER: _____

DONE in Open Court and in the presence of the defendant this date: 5-21-03

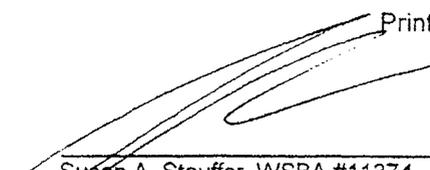


JUDGE OF THE SUPERIOR COURT

Print Name: John Kulle



RUSSELL JAY DEALY
Defendant


James E. David, WSBA #13754
Deputy Prosecuting Attorney
Susan A. Stauffer, WSBA #11374
Attorney for Defendant

Clark County Prosecuting Attorney's Office - Offer of Settlement

To: Defense Attorney: Susan Stauffer

Re: Defendant: **Russell Dealy** Cause No: 02-1-00692-2

Defendant is charged with the following:

Count	Charge	Score	Range	Enhancement	Total Range
1, 3, 5	UP Firearm 1	9+			87 to 116
2, 4, 6	UP Firearm 2	9+			51 to 60
7	UPCS	9+			22 to 29

To resolve the case, the Defendant may plead guilty to the charges set out below. Upon a plea of guilty, the State agrees to make the recommendations shown, on conditions set forth below:

Count	Charge	Score	Range	Enhancement	Total Range
1,2,3	UP Firearm 2	9+			51 to 60
4	UPCS	9+			22 to 29
5,6,7	Felony UIBC	9+			22 to 29
9	Trafficking in Stolen Property 2	9+			51 to 60

The State will also: dismiss counts: **DV Case in District Court.** not file: **Any other UIBC or firearm charges related to the investigation based on report v02-4288, or other UIBC charges occurring in Clark County.**

Request PSI Report May consider DOSA; Work Ethic Camp; SSOSA, if PSI Recommends
If a plea is not entered, the State may _____

Confinement: Recommend a total of **60 months** to be served as:

60 months total confinement (over 12 months to be served at DOC)

Supervision: 1st Offender Option; Suspended sentence on misdemeanor

Serve **9 to 12 months:** Community Custody Misdemeanor Probation

Mandatory Sentence Requirements:

No firearms HIV testing DNA sampling Registration License revocation

Conditions of Supervision:

No similar offenses Report as directed Pay financial obligations No weapons/firearms
 Travel Restrictions Obey all laws Association restrictions Victim Classes

- Employment/School UA/BAC screening Alcohol restrictions Possess only own ID
 Notify DOC before moving or changing jobs No driving w/o license Have only own mail
 No controlled substances or paraphernalia No surveillance equipment at residence
 Evaluation & treatment for: Substance abuse Alcohol Mental health Domestic Violence
 No contact with _____ No checking or demand accounts

Financial Obligations: The Prosecutor will recommend the court impose court costs, crime victim assessment, and applicable court appointed attorney/investigator/expert fees, restitution, extradition costs, appellate costs, jail fees, crime lab fees and other statutory fees. These amounts are requested where applicable, regardless of whether specific amounts are listed below.

\$110.00 Court Costs	\$500.00 Crime Victim Comp.	\$500.00 Fine
\$625.00 Attorney Fee	\$0.00 Defense Investigator	\$0.00 Defense Costs
\$0.00 Witness Fee	\$0.00 Service Fee	\$0.00 Warrant Fee
\$0.00 Drug Fund	\$0.00 Laboratory Fee	\$0.00 Emerg. Resp. Fee
\$0.00 per day jail fee	\$0.00 Extradition Fee	\$100.00 DNA Testing Fee
_____ Restitution paid to: _____		\$0.00 Other

- Restitution as determined by Victim/Witness
 Defendant must agree to pay restitution for dismissed or unfiled counts, including any UIBCs reported to Clark County law enforcement and for any property reported to police as having been stolen from the Family Loan pawn shop after being left at Family Loan on pawn.

Additional Conditions of Offer: This offer is *expressly* based on the Defendant having the criminal history as outlined on the attached page(s). Defendant must acknowledge the criminal history is correct before the plea may occur and disclose any additional criminal history to the court and prosecutor. *Defendant disputes whether they "wash out" or not*
 Attendance in court, law abiding behavior and full disclosure of criminal history by Defendant are conditions of this offer. If a plea is entered and Defendant fails to appear for sentencing, or has additional criminal history than indicated, or commits any additional crimes before sentencing, the Defendant understands that these acts constitute a breach of the agreement on his part. Defendant further understands that if he fails to appear at sentencing, or commits new crimes pending sentencing, that the State will be free to file additional charges.

Partial Confinement recommendations are subject to Defendant qualifying for the program, if not, total confinement is recommended.

Defendant must stipulate to: confinement time, and/or, supervision conditions of this Offer.

Defendant must forfeit: _____

Other: **OK for defendant to request alternatives, such as DOSA or WEC and to remain out of custody pending sentencing.**

Time Limitations on Offer: This offer is withdrawn, unless the Defendant enters a plea of guilty or being referred to Diversion, if offered, before: Arraignment Omnibus _____

Dated 01/16/2003

Deputy Prosecuting Attorney Jim David

APPENDIX "B"

AMENDED



The following information is being supplied to the Washington State Department of Corrections for the purpose of documenting local time served and earned early release credits for individual listed below.

JAIL AND GOOD TIME CERTIFICATION

NAME: DEALY, RUSSELL JAY
 LOCAL ID #: (CFN) 125104

<u>CHARGE</u>	<u>CASE NUMBER</u>
IDENTITY THEFT II	03-1-00637-8
IDENTITY THEFT II	03-1-00631-9
UNLAW POSS FIREARM II	02-1-00692-2
POSS CONT SUB-METH	
UNLAW ISS BANK CHECKS	

DATE (S) OF JAIL CONFINEMENT:

04/22/03 TO 05/23/03(06/09/02 TO 07/30/02*3 days Oregon fugitive awaiting transport
03/14/03 to 03/14/03 04/11/02 to 04/13/02
09/13/02 to 09/24/02 03/26/02 to 03/27/02

TIME SERVED CREDITS:

<u>113</u>	Credit per Judgement and Sentence
<u>2</u>	Days served prior to transfer
<u>115</u>	Total Time Served Eligible for Early Release Credit
<u>20</u>	Early Release Credit Based on Clark County 15% Policy*
<u>0</u>	Credit Lost for Misconduct
<u>20</u>	Total Credit Authorized

Clark County maintains a 15% Good Time Policy. Credit is based on "Total Imposed Sentence" consistent with State v. Williams 121 Wn.2nd 655 (1993).

Effective 10/94

Clark County Sheriff's Office, Records Division

By: BRE/3147

Date:

September 10, 2003

707 W. 13th St. P.O. Box 410 Vancouver, WA 98666

360-397-2211