

Sup. Ct. No. 82431-2

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

JAMES D. RIVARD,

Petitioner.

FILED
DEC - 5 2008
CLERK OF SUPREME COURT
STATE OF WASHINGTON
[Signature]

ANSWER TO PETITION FOR REVIEW

STEVEN J. TUCKER
Prosecuting Attorney
Spokane County

Andrew J. Metts
Deputy Prosecuting Attorney

Attorneys for Respondent

County-City Public Safety Building
West 1100 Mallon
Spokane, Washington 99260
(509) 477-3662

CLERK

FILED AS
ATTACHMENT TO EMAIL

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2008 DEC - 5 P 4: 01
BY RONALD R. CARPENTER

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I. IDENTITY OF PARTY

Respondent, State of Washington, was the plaintiff in the trial court and the respondent in the Court of Appeals.

II. STATEMENT OF RELIEF SOUGHT

Respondent seeks denial of appellant's petition for review.

III. ISSUES PRESENTED

- A. HAS THE DEFENDANT SHOWN THAT DIVISION THREE HAS ISSUED ANY PART OF ITS OPINION IN CONFLICT WITH EXISTING CASELAW OF ANY OTHER COURT?
- B. DOES THIS CASE RAISE AN ISSUE OF SIGNIFICANT PUBLIC INTEREST?

IV. STATEMENT OF THE CASE

The facts of this case are outlined in the Court of Appeals decision.

V. ARGUMENT

- A. THE DEFENDANT HAS NOT SHOWN THAT ANY DIVISION THREE RULING IS IN CONFLICT WITH THE HOLDINGS OF THIS COURT OR ANOTHER DIVISION OF THE COURT OF APPEALS.

At the outset, the State asks the reviewing Court to temporarily take one step away from the legal arguments presented by the defendant. The reason the State makes this rather odd request is that the defendant's arguments are based on issues that actually have nothing whatsoever to do with arriving at the correct solution to the question. The actual answer to the issues in this case are *reality* based rather than a parsing of legal concepts.

To illustrate the situation, the following hypothetical is proposed: Assume that the defendant's gun rights are restored by the trial court (they were, in fact, restored by the trial court in 2006). Then assume the ruling of the trial court, restoring the defendant's rights, is affirmed by higher courts. In the hypothetical, the defendant now has his gun rights as of today's date.

Taking the hypothetical one step further, the defendant takes his newly minted gun rights to the local gun store and attempts to purchase a firearm. The store owner is required by law to have the defendant fill out forms and to obtain a background check. A background check will show

that the defendant was convicted in 1994 of a Vehicular Homicide¹. RCW 9.41.010(12) states that a person with a conviction for Vehicular Homicide, either by intoxication or reckless operation, has committed a "serious offense" for the purposes of the firearms statutes. RCW 9.41.010(12).

RCW 9.41.040(1)(a) states: "A person... is guilty of the crime of unlawful possession of a firearm in the first degree, if the person owns, has in his or her possession, or has in his or her control any firearm after having previously been convicted ... of any serious offense as defined in this chapter."

Returning to the hypothetical, the court, by "restoring" the defendant's gun rights actually "sets up" the defendant to be arrested and convicted under the current version of RCW 9.41.040. The trial court does not have the power to make a person immune to prosecution -- in perpetuity. A court-sanctioned "restoration" of the defendant's gun rights would make a reasonable person believe that they can now own a gun. However, the defendant is no different than any other citizen who undertakes to possess a

¹ The defendant has never claimed that the vehicular homicide upon which he was convicted is a "serious offense." The defendant essentially concedes the point. The State attaches the 1994 information and judgment and sentence showing the defendant was convicted of vehicular homicide under all provisions of the statute. Attachs. A and B.

firearm: the defendant must meet the criteria in the statutes in order to possess a firearm.

The defendant cannot have what he seems to think he is entitled to. The defendant wants the court to accept his arguments that involve the actions of the vehicular homicide court in 1994. The defendant wants this Court to reverse the Court of Appeals and acknowledge that through the process of legal argument, the defendant should have his gun rights restored. As has been shown, the defendant cannot get what he actually *needs*. The defendant needs a ruling that grants immunity from prosecution in perpetuity. There is no authority for such a grant.

The bottom line in this case is the defendant might get his gun rights back, but no matter how many rights he gets back, he will never be able to own or possess a gun so long as there is a vehicular homicide conviction on his record.

So, it can be seen that when a reality overlay is placed upon the arguments in this case, it is apparent that the defendant's arguments are pointless except in the most abstract of constructs. It does not matter if the Vehicular Homicide court overstepped its authority. It does not matter if vehicular homicide was changed from a "B" felony to an "A" felony. (The statutes say nothing about the classification of the disabling felony)

It is important to remember that this case did not begin with a conviction. The defendant originally approached the Superior Court for an order restoring his rights to own/possess firearms. The trial court accepted the defendant's arguments and restored the defendant's gun rights. The trial court cannot do what it purported to do. The defendant can never legally possess a firearm. The instant the defendant picks up a firearm, a *new* crime occurs.

No court can put the defendant in a special class of persons insulated from the operation of the law. Division Three recognized this fact on reconsideration and changed its opinion. This case does not meet any of the criteria for acceptance of review under RAP 13.4(b). The defendant has not shown that Division Three's opinion is contrary to any existing law. Likewise, the defendant has not shown a constitutional law issue or issue of public import. This case is simply one where the defendant continues to run into the same tree.

Any arguments regarding *ex post facto* violations has already been dealt with by *State v. Watkins*, 76 Wn. App. 726, 887 P.2d 492 (1995). *Watkins* squarely states that a subsequent modification of the gun possession laws is not an *ex post facto* situation because the quantum of punishment for

the original crime is not changed. *Id.* at 732. “The statute involved here, however, does not enhance [defendant’s] sentence because it did not alter or increase punishment for an existing crime. Rather, the provision of the statute under which Watkins was charged created a new substantive offense....” *Id.* at 732.

The defendant argues that he should be prosecuted under the laws in effect at the time he committed the crime. The State has no problem with the idea that a person is charged and prosecuted under the laws in effect at the time of the crime. *State v. Schmidt*, 143 Wn.2d 658, 673-74, 23 P.3d 462 (2001). The problem is that the defense refuses to accept that the hearing for restoration of rights occurred in 2006 and had nothing to do with the 1994 case, aside from the 1994 case being a disabling prior conviction.

This Court cannot grant any practical relief to the defendant. Had the defendant been convicted of any of the numerous types of crimes *not* specifically mentioned in RCW 9.41.040, he could get his gun rights restored after the requisite time period had elapsed. In such a case, the arguments raised by the defense might have some relevance. As the situation stands, the defense arguments are *irrelevant*.

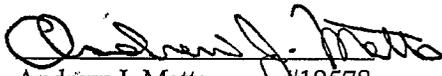
The defendant has not shown that Division Three erred in any way and this PRV should be summarily dismissed.

VI. CONCLUSION

For the reasons stated above, respondent requests that the Court deny petitioner's request for review and affirm Division Three's modified decision reversing the trial court's actions.

Dated this 8th day of December, 2008.

STEVEN J. TUCKER
Prosecuting Attorney



Andrew J. Metts #19578
Deputy Prosecuting Attorney
Attorney for Respondent

APPENDIX A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FILED

IN AND FOR THE COUNTY OF SPOKANE

FEB 08 1994

THOMAS R. FALLOQUIST
SPOKANE COUNTY CLERK

STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 v.)
)
 JAMES DOUGLAS RIVARD.)
 WM 102067)
)
 Defendant(s))

INFORMATION
NO. 94-1-00132-0
STEVEN J. KINN
Deputy Prosecuting Attorney
PA# 94-9-86604-0
RPT# 02-93-98284-0
RCW 46.61.520-F (#23001)

2

Comes now the Prosecuting Attorney in and for Spokane County, Washington, and charges the defendant(s) with the following crime(s):

VEHICULAR HOMICIDE, committed as follows: That the defendant, JAMES DOUGLAS RIVARD, in Spokane County, Washington, on or about December 1, 1993, operated a motor vehicle while under the influence of or affected by intoxicating liquor and any drug, and in a reckless manner, and with disregard for the safety of others, and as a proximate result of operating said vehicle in that manner or condition did cause injuries to James Mecsko, who died on or about December 1, 1993, as a proximate result of the injuries received,


Deputy Prosecuting Attorney

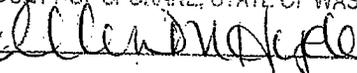
12984
WA St. Bar ID#
Mecsko

DONALD C. BROCKETT
Spokane County Prosecuting Attorney
County-City Public Safety Building
Spokane, WA 99260

I certify that this document is a true and correct copy
of the original on file and of record in my office.

ATTEST DEC 03 2008

THOMAS R. FALLOQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON

BY  DEPUTY

APPENDIX B

90
CREDITOR
SPOKANE CO. CLERK

SUPERIOR COURT OF WASHINGTON
COUNTY OF SPOKANE

FILED

JUN 20 1997

STATE OF WASHINGTON, Plaintiff,

NO. 94-1-00132-0

v.

PA# 94-9-86604-0

THOMAS R. FALLOQUIST
SPOKANE COUNTY CLERK

RPT# 02-93-98284

RCW 46.61.520-F (#23001)

JAMES DOUGLAS RIVARD
WM 102067
Defendant. **DESTOR**

JUDGMENT AND SENTENCE (JS)

SID: 016822802

- Prison
- Persistent Offender
- Jail One Year or Less
- First Time Offender
- Special Sexual Offender Sentencing Alternative
- Special Drug Offender Sentencing Alternative

I. HEARING

72 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 6-20-97 by plea jury verdict bench trial of:

Count No.: I Crime: VEHICULAR HOMICIDE
RCW 46.61.520-F (#23001)
Date of Crime DECEMBER 1, 1993
Incident No. 02-93-98284

COURT COSTS 110
 VICTIM ASSESS. 100
 RESTITUTION _____
 FINE _____
 DRUG ENF. FUND _____
 OTHER COSTS _____

Count No.: Crime:
 RCW
 Date of Crime
 Incident No.

Count No.: Crime:
 RCW
 Date of Crime
 Incident No.

as charged in the Information

- Additional current offenses are attached in Appendix 2.1
- A special verdict/finding for use of a **firearm** was returned on Count(s) _____. RCW 9.94A.125, .310
- A special verdict/finding for use of a **deadly weapon other than a firearm** was returned on Count(s) _____. RCW 9.94A.125, .310

97903476 1

X

- A special verdict/finding of **sexual motivation** was returned on Count(s) _____. RCW 9.94A.127
- A special verdict/finding for **Violation of the Uniform Controlled Substances Act** was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public stop shelter.
- 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
- Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.400):
- Other current conviction listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360)

Crime	Date of Crime	Crime Type	Adult or Juv	Place of Conviction	Sent. Date
<i>no known criminal history</i>					

- 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.360
- The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):

2.3 SENTENCING DATA:

CT NO	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	Plus enhancement for Firearm (F), other deadly weapon finding (D), or VUCSA (V) in a protected zone	Total STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	0	VII	15 to 20 mo		15 to 20 mo	10 YRS / \$20,000

Additional current offense sentencing data 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) _____. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney did did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.142

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

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

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 _____

3.3 The defendant is found **NOT GUILTY** of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of the Court

\$ _____ Restitution to: Restitution paid in full

JASS CODE \$ _____ Restitution to: _____

RTN/RJN \$ _____ Restitution to: _____

(Name and Address-address may be withheld and provided confidentially to Clerk's Office)

PCV \$100.00 Victim Assessment RCW 7.68.035

CRC \$110.00 Court costs, including: RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190

Criminal Filing fee \$ _____ FRC

Witness costs \$ _____ WFR

Sheriff service fees \$ _____ SFR/SFS/SFW/SRF

Jury demand fee \$ _____ JFR

Other \$ _____

PUB \$ _____ Fees for court appointed attorney RCW 9.94A.030

WRF \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.030

FCM \$ _____ Fine RCW 9A.20.021; [] VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/ \$ _____ Drug enforcement fund of _____
FCD/NTF/SAD/SDI RCW 9.94A.030

CLF \$ _____ Crime lab fee [] deferred due to indigency RCW 43.43.690

EXT \$ _____ Extradition costs RCW 9.94A.120

\$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1,000 maximum) RCW 38.52.430

\$ _____ Other costs for: _____

\$ 210.00 TOTAL RCW 9.94A.145

[] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142. A restitution hearing:

[] shall be set by the prosecutor

[] is scheduled for _____

RESTITUTION. Schedule attached, Appendix 4.

Restitution ordered above shall be paid jointly and severally with:
NAME of other defendant CAUSE NUMBER (Victim Name) (Amount\$)

RJN

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

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month-commencing _____.
RCW 9.94A.145

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

The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 10.73

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

4.2 HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing. RCW 70.24.340

Provided further the results of the HIV test are to be confidential but are to be provided to the victim, prosecuting attorney, community corrections officer and the public defender as necessary.

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

4.3 The defendant shall not use, own, or possess firearms or ammunition while under the supervision of the Department of Corrections. RCW 9.94A.120

4.4 The Defendant shall not have contact with _____ (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for _____ years (not to exceed the maximum statutory sentence.)

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

4.5 OTHER _____

4.6 **FIRST TIME OFFENDER WAIVER OF PRESUMPTIVE SENTENCE.**
RCW 9.94A.030, RCW 9.94A.120.

The defendant is a first time offender. The court waives imposition of a sentence within the presumptive sentence range and imposes the following sentence:

(a) **CONFINEMENT.** Defendant is sentenced to the following term of total confinement in the custody of the county jail:

90 (days) (~~months~~) on Count No. I ;
____ (days) (months) on Count No. _____ ;
____ (days) (months) on Count No. _____ .

____ days total confinement (up to 90 days).
RCW 9.94A.110

Confinement shall commence immediately unless otherwise set forth here: Report by copm 7-7-97.

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

work crew RCW 9.94A.135 home detention RCW 9.94A.180, .190 ^{Remainder of sentence}
 work release RCW 9.94A.180 30 days

ALTERNATIVE CONVERSION. RCW 9.94A.380.

____ days of total confinement ordered above are hereby converted to ____ hours of community service (8 hours = 1 day, nonviolent offenders only, 30 days maximum) under the supervision of the Department of Corrections to be completed:

on a schedule established by the defendant's community corrections officer.
 as follows: _____

Alternatives to total confinement were not used because of: _____

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

(b) **COMMUNITY SERVICE.** RCW 9.94A.120.

In addition to the ordered total confinement, defendant shall perform ____ hours of community service as approved by defendant's community corrections officer to be completed:

on a schedule established by the defendant's community corrections officer.
 as follows: _____

See additional pg for other conds of sent)

(c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.120. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: 0 days CTS.

4.7 COMMUNITY SUPERVISION. RCW 9.94A.120.

Defendant shall serve 24 months (up to 24 months) in community supervision. Defendant shall report to the Department of Corrections located at West 1717 Broadway - Second Floor, Spokane, Washington 99201, 456-3260 not later than 72 hours after release from custody and the defendant shall comply with the instructions, rules and regulations of the Department for the conduct of the defendant during the period of community supervision and comply with any other conditions of community supervision stated in this Judgment and Sentence and/or Appendix A:

- devote time to specific employment or occupation
- No use or possession of any ^{drugs or} ~~non-prescribed controlled~~ ^{alcohol} substance(s) and/or legend drug(s) and be monitored by TASC or other approved agency at the discretion of the supervising CCO for UA + BA testing.
- pursue a prescribed course of secular study
- notify the Court or Community Corrections Officer in advance of any change in defendant's address or employment and adhere to the standard Conditions of the Department of Corrections.
- If recommended, undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range for that offense
- See Additional Conditions of Sentencing
- pay all court-ordered legal financial obligations and supervision fee of \$20.00 per month.
- remain within prescribed geographical boundaries

Community supervision conditions: Do not frequent places of business where the primary source of income is from the sale of alcohol.

Do not operate a motor vehicle without a valid driver's license and proof of insurance.
The conditions of community service shall begin immediately unless otherwise set forth here: _____

First year monitoring regularly required at request of TASC or other approved agency
& Second year monitoring at discretion of CCO.

V. NOTICES AND SIGNATURES

- 5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090
- 5.2 **LENGTH OF SUPERVISION.** The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. RCW 9.94A.145.
- 5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030
- 5.4 **RESTITUTION HEARING.**
[] Defendant waives any right to be present at any restitution hearing (sign initials): _____
- 5.5 / Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200

Cross off if not applicable:

5.6 **FIREARMS.** 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

Cross off if not applicable:

~~5.7 SEX OFFENDER REGISTRATION. RCW 9A.44.130, 10.01.200. Because this crime involves a sex offense, you are required to register with the sheriff of the county of the state of Washington where you reside. You must register immediately upon being sentenced unless you are in custody, in which case you must register within 24 hours of your release.~~

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

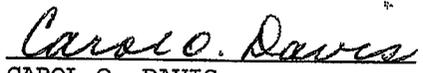
~~If you change your residence within a county, you must send written notice of your change of residence to the sheriff within 10 days of moving. If you change your residence to a new county within this state, you must register with the sheriff of the new county and you must give written notice of your change of address to the sheriff of the county where last registered, both within 10 days of moving. If you move out 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.~~

5.8 OTHER: _____

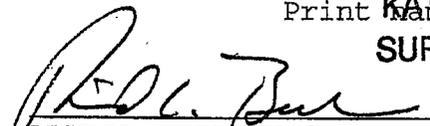
DONE in Open Court in the presence of the defendant this 20 day of June, 1997.



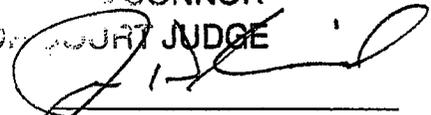
JUDGE
Print name: **KATHLEEN O'CONNOR**
SUPERIOR COURT JUDGE



CAROL O. DAVIS
Deputy Prosecuting Attorney
WSBA # 13244



RICHARD L. BECHTOLT
Attorney for Defendant
WSBA# 11603



JAMES DOUGLAS RIVARD
Defendant

Translator signature/Print name: _____
I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language, which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.

JUDGMENT AND SENTENCE (Felony)

CAUSE NUMBER of this case: 94-1-00132-0.

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

WITNESS my hand and seal of the said Superior Court affixed this date:

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. 016822802 Date of Birth 10/20/1967

(If no SID take fingerprint card for State Patrol)

FBI No. Local ID No. 0224835

PCN No. Other

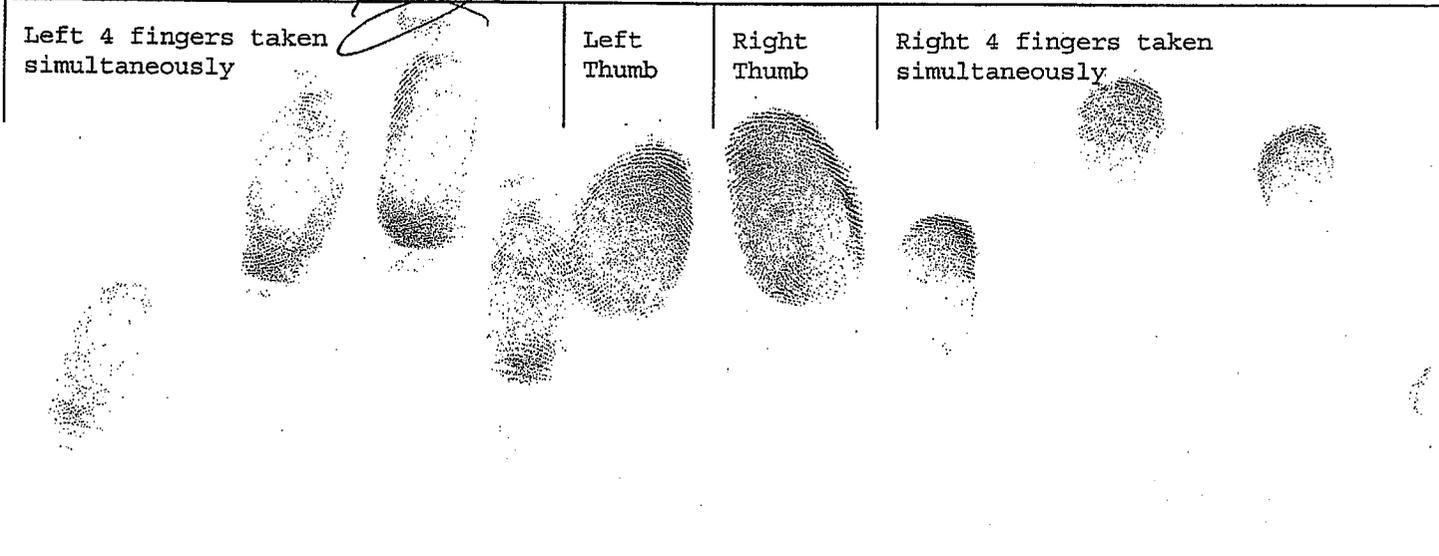
Alias name _____, SSN 537-80-2397, DOB 10/20/1967:

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

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court: Charlotte Orris, Deputy Clerk. Dated: 6-20-97

DEFENDANT'S SIGNATURE: [Signature]

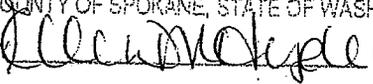


JUDGMENT AND SENTENCE (Felony)

I certify that this document is a true and correct copy
of the original on file and of record in my office.

ATTEST DEC 03 2008

THOMAS R. FALLQUIST, COUNTY CLERK
COUNTY OF SPOKANE, STATE OF WASHINGTON

BY  DEPUTY

OFFICE RECEPTIONIST, CLERK

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, December 05, 2008 4:04 PM
To: 'Owens, Kathleen'
Subject: RE: Rivard, James

Rec 12/5/08

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

From: Owens, Kathleen [mailto:KOWens@spokanecounty.org]
Sent: Friday, December 05, 2008 4:03 PM
To: OFFICE RECEPTIONIST, CLERK
Subject: Rivard, James

Attached is the State's Answer to Petition for Review regarding James D. Rivard (#82431-2)

Kathy Owens, Secretary
for Mark E. Lindsey
Deputy Prosecutor
for Spokane County